



**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA**

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Nags Head (the "Town") may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted a comprehensive zoning ordinance (the "Town's Zoning Ordinance") and has codified the same as Chapter 48 of the Town's Code of Ordinances (the "Town Code"); and

WHEREAS, pursuant to N.C.G.S. § 160A-174 the Town may also enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town; and

WHEREAS, a zoning ordinance text amendment was drafted by Planning Staff and initiated by the Planning Board as relates to landscaping and buffering requirements for commercial uses within the Town; and

WHEREAS, the Town finds that these text amendments are consistent with the goals, objectives and policies of the Town's adopted Land Use Plan, and that this action is reasonable and in the public interest; and

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town's Zoning Ordinance and Town Code of Ordinances as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipses ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Town Code shall be amended as follows:

PART I. That Section **Sec. 48-483. - Buffer regulations (a)**, be replaced in its entirety with the following language:

~~(a) General requirements. Any new use of land shall provide a buffer yard if required by this chapter in accordance with the following provisions:~~

- ~~(1) When a buffer yard of a minimum width of five feet is required, one row of planting material shall be required.~~
- ~~(2) When a buffer yard of a minimum width of ten feet is required, two rows of planting material at least four feet apart shall be required.~~
- ~~(3) Within each row all shrubs, forbs, and grasses shall be placed on five foot centers and all trees shall be placed on ten foot centers.~~
- ~~(4) At a minimum, 80 percent of the number of plants shall be locally adapted, live evergreen tree species that are a minimum height of three feet and one inch in diameter measured at one half foot above grade when planted and are expected to reach or exceed the specified height in the required time period. The remainder of the buffer may be live forbs and shrubs that are a minimum height of one and one half feet when planted and expected to reach or exceed the specified height in the required time period. The number of forbs shall not exceed five percent of the total number of plants.~~

(a) General requirements. Any new use of land shall provide a buffer yard if required by this chapter in accordance with the following provisions:

- (1) Buffer yards are defined as at least five feet wide. The total number of plants required by the table below shall be doubled for every additional five feet of required buffer width.
- (2) The table below defines the required number of plants for each 100 feet of buffer yard length according to planting zone.

| Number and Type of Required Plants for each 100 feet of Buffer Yard Length | | | |
|---|--------------|---------------|--|
| <u>Planting Zone</u> | <u>Trees</u> | <u>Shrubs</u> | <u>Ornamental Grasses/ Herbaceous Plants</u> |
| <u>Beach</u> | | <u>30</u> | <u>50</u> |
| <u>Highway or Soundside</u> | <u>5</u> | <u>20</u> | <u>50</u> |
| <u>*The total number of plants required by this table shall be doubled for every additional five feet of required buffer width.</u> | | | |

- (3) Required species of plant material and appropriate planting zones are defined by the Town of Nags Head Vegetative Planting Guidelines, which can be obtained from the Town of Nags Head Planning and Development Department.
- (4) Ornamental grasses that will grow to a mature height of at least three feet may be substituted for required shrubs in the Beach planting zone.
- (5) Except as otherwise specified herein, at a minimum, 50 percent of the number of plants shall be locally adapted, evergreen species. Trees shall be a minimum height of five feet and one inch in diameter measured at one-half foot above grade when planted and are expected to reach or exceed the specified height in the required time period. Shrubs shall be a minimum height of one and one half feet when planted and expected to reach or exceed the specified height in the required time period.
- (6) Except where necessary to provide a commercial transitional protective yard or opaque screen to separate different land uses, clustering and/or random spacing of plants and trees is encouraged to produce a natural appearance in the landscape.
- (7) Landscaping plans are encouraged to include a variety of species to promote overall diversity of plant materials within the Town. Applicants may propose other plant material not included in the Town of Nags Head Vegetative Planting Guidelines if it can be demonstrated that it is equal to or exceeds the plant material in the Guidelines in terms of size, hardiness, and overall quality.
- (8) Landscaping plans must include installation specifications and a maintenance plan to address long-term viability of proposed landscaping.
- (9) Properties that provide for drip irrigation of landscape materials or a landscape plan that consists entirely of native planting materials as specified in the Town of Nags Head Vegetative Planting Guidelines may reduce the overall number of required plantings by 10 percent.

PART II. That Section **Sec. 48-371. - Commercial design standards (g)** be amended as follows:

- (g) Open space preservation/landscaping requirements. Except when necessary to provide access to a site or to ensure the safety and security of people and property, any existing healthy trees that are 6 inches or greater in caliper, located within a public right-of-way or undeveloped required yard shall be retained unless approved for removal during site plan review. In addition, every reasonable effort shall be made to protect and retain existing trees and shrubs not actually lying in planned roadways, drainageways, building foundation sites and construction activity areas.

~~In addition to the above requirement,~~ All permitted and conditional uses, except for those located in the C-3 commercial services district, for which site plan review is required by the Planning Board and site plan approval is required by the Board of Commissioners shall comply with one of the following requirements, or a combination of both using the ratios provided in the table below. The following requirements shall be applied separate of any required buffer yard, with the exception that preserved natural vegetation may be applied towards both.

PART III. That **Sec. 48-485. - Preservation of existing vegetation** be amended as follows:

- (a) The provisions of this subsection may be applicable only in instances where the site does not abut a residential use or district.

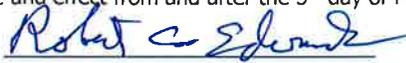
(b) For uses which are required to install buffer yards in accordance with the provisions of this chapter, the number of trees, forbs, and shrubs required within the buffer yard may be satisfied through the preservation of significant specimens of existing native vegetation in accordance with the following provisions:

(1) Areas designated for the preservation of existing vegetation shall contain examples of significant native or locally adaptive vegetation, which may include, but shall not be limited to, combinations of trees, shrubs, forbs, and grasses that are listed in the following table

Town of Nags Head Vegetative Planting Guidelines:

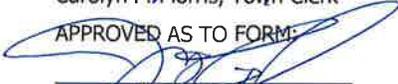
| Trees | Shrubs & Forbs | Grasses and Dune Plants |
|---|--|--|
| Naturally Occurring | Naturally Occurring | Naturally Occurring |
| Eastern Red Cedar (<i>Juniperus virginiana</i>) | Northern Bayberry (<i>Myrica pensylvanica</i>) | American Beachgrass (<i>Ammophila breviligulata</i>) |
| Live Oak (<i>Quercus virginiana</i>) | Southern Wax Myrtle (<i>Myrica cerifera</i>) | Seashore Elder (<i>Iva imbricata</i>) |
| Loblolly Pine (<i>Pinus taeda</i>) | Yucca (<i>Yucca sp.</i>) | Sea Oats (<i>Uniola paniculata</i>) |
| Southern Red Oak (<i>Quercus falcata</i>) | Red Bay (<i>Persea sp.</i>) | Seaside Goldenrod (<i>Solidago sempervirens</i>) |
| Flowering Dogwood (<i>Cornus florida</i>) | Black Cherry (<i>Prunus serotina</i>) | Bitter Panicum (<i>Panicum amarum</i>) |
| American Holly (<i>Ilex opaca</i>) | Locally Adaptive | Locally Adaptive |
| Sweetgum (<i>Liquidambar styraciflua</i>) | Pittosporum, Green or Variegated (<i>Pittosporum tobira</i>) | Seaholly (<i>Eryngium maritimum</i>) |
| Yaupon Holly (<i>Ilex vomitoria</i>) | Oleander (<i>Nerium oleander</i>) | |
| Locally Adaptive | Pampasgrass (<i>Cortaderia selloana</i>) | |
| Japanese Black Pine (<i>Pinus thunbergii</i>) | Indian Hawthorne (<i>Raphiolepis sp.</i>) | |
| Saltcedar (<i>Tamarix ramosissima</i>) | Pyracantha (<i>Pyracantha sp.</i>) | |
| | Dwarf Yaupon Holly (<i>Ilex vomitoria 'Nana'</i>) | |
| | Shore Juniper (<i>Juniperus conferta</i>) | |
| | Thorny Elaeagnus (Russian Olive <i>Elaeagnus pungens</i>)* | |
| | Evergreen Euonymus (<i>Euonymus japonicus</i>) | |
| | Wax Leaf Privet (<i>Ligustrum japonicum</i>) | |
| | Chinese Privet (<i>Ligustrum lucidum</i>) | |

PART IV. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the 3rd day of February 2016.


 Robert C. Edwards, Mayor

ATTEST:


 Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

 John Leidy, Town Attorney



Date adopted: February 3, 2016
 Motion to adopt by Commissioner _____
 Motion seconded by Commissioner _____
 Vote: _____ AYES _____ NAYS