



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 text amendment has been filed with the Town to add "Docking Facilities" as a permissible use within the Town of Nags Head. This use would allow restaurants (and other businesses) to have accessory piers with boats slips to allow patrons to visit by boat; and

WHEREAS, the 2017 Comprehensive Plan states that the Town shall "review regulations in the Ocean and Sound Waters Overlay District and the Commercial Outdoor Recreation Overlay District to ensure proper use of the ocean and sound waters, including islands that adjoin the Town, to ensure the continued scenic, conservation and recreational value that these waters provide to the Town, its residents, visitors and the surrounding area (LU-7)." This shall include a "review of regulations for commercial boating and personal watercraft to maintain compatibility with adjacent uses and the estuarine environment" (LU-7a); and

WHEREAS, the 2017 Comprehensive Plan states that the Town shall "ensure proposals for future commercial uses in the sound are not detrimental to the marsh, sound bottom, and submerged aquatic vegetation. Compatible sound uses will not increase turbidity in the water and will maintain overall water quality" (LU-8); and

WHEREAS, the area affected by the proposed amendment is designated by the 2017 Comprehensive Plan as a Soundside Activity Node which will support a variety of uses such as mixed-use development, restaurant, and hotel uses as well as land and water dependent recreation uses; and

WHEREAS, the Town has historically been concerned with the environmental impacts as well as the safety and nuisances associated with water dependent uses; and

WHEREAS, the Town must evaluate the competing goals of the Comprehensive Plan to ensure that recreation uses and activities for the enjoyment of residents and visitors maintain the Town's high standards for safety and environmental protection; and

WHEREAS, the proposal to allow docking facilities includes sufficient conditions and safeguards **(if the applicant's revisions are adopted)** to ensure that the policies and actions contained in the 2017 Comprehensive Plan are preserved; and

WHEREAS, the Town finds that the proposed amendment is/is not consistent with the Comprehensive Plan and the Town's desired development patterns and uses; 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 **48-7, Definitions of Specific Words and Terms**, be amended as follows:

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial marina means any publicly or privately owned dock, basin or wet storage facility constructed to accommodate mooring for ~~more than four boats which are not for the exclusive use of the landowner and~~ or providing, but not limited to, any of the following services for a fee: Permanent or temporary transient docking spaces, dry storage, fueling facilities, haul-out facilities and repair service. Site plans which have been approved by the board of commissioners for outdoor recreational uses are not considered a commercial marina.

Docking Facility means any publicly or privately owned dock, basin or wet storage facility constructed to accommodate mooring for four or less boats as an accessory to a principal commercial use.

PART II. That **Section 48-407, C-2 General Commercial District**, be amended as follows:

(c) *Conditional uses*. The following uses shall be permitted by right in the C-2 district:


(14) Docking facility as an accessory use to a restaurant only, provided that the following conditions are met:

- a. There shall not be more than one docking facility per lot.
- b. Docking facilities may not provide any of the following services: permanent docking spaces, overnight mooring, dry storage, fueling facilities, haul-out facilities, repair services, or any other water dependent commercial-outdoor recreational use.
- c. Boats slips shall not utilized to satisfy the required parking for the principal use.
- d. Piers and slips shall be limited in length to 200 feet measured perpendicular to the shoreline from the normal water line. This distance is not inclusive of the platform at the end of the facility.
- e. There shall be 30 inches of water depth relative to the normal water level adjacent to all boat slips and boat access areas.
- f. The docking facility shall include a designated No Wake Zone that shall be extended 600 feet measured perpendicular to the shoreline from the normal water line. There shall be a No Wake Zone sign conspicuously posted on the facility.

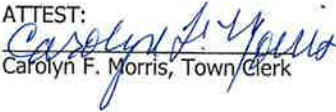
PART III. That Section 48-401, (4) Non-Residential Prohibited and Permitted Uses Chart, be amended as follows:

TYPE OF USE	ZONING DISTRICTS										OVERLAY DISTRICTS				COMMENTS		
	R-1	R-2	R-3	CR	C-1	C-2	C-3	C-4	SPD -C	SPD -20	SED -80	CO	Hotel	O&S		SRO	
Water-Dependent Commercial Outdoor Recreational Uses																	
Commercial Marina	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	Accessory to Restaurant Only
Docking Facility	X	X	X	X	X	P	X	X	X	X	X	P	X	X	X	X	

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 6th day of **February 2019**.


Benjamin Carhoon, Mayor
Town of Nags Head



ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: February 6, 2019

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS