



**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING
TO OFF-STREET PARKING**

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 comprehensive zoning regulations and has codified the same within the Unified Development Ordinance, Part II of the Town Code, adopted pursuant to N.C.G.S. § 160A-363, which allows the Town to combine certain land development ordinances into a unified ordinance; and

WHEREAS, the Board of Commissioners requested preparation of an ordinance amending provisions pertaining to off-street parking requirements associated with alternative and reduced parking, including bicycle parking, and associated conditions use permitting requirements; and

WHEREAS, the Town of Nags Head 2017 Comprehensive Plan includes policies supporting regulations requiring the provision of sufficient parking, as well as those encouraging an increase in the use of nonmotorized transportation, bicycles specifically; and

WHEREAS, the Board of Commissioners finds that these text amendments are consistent with the goals, objectives and policies of the Town's adopted Comprehensive Plan, and that this action is reasonable and in the public interest, and 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 Unified Development Ordinance 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 ellipsis ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of the Unified Development Ordinance.

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

PART I. That **Section 10.14., Minimum Parking Requirements, subsection 10.14.1.**, be amended as follows:

The number of off-street parking spaces required by this section shall be provided on the same lot with the principal use, except as may be permitted and approved pursuant to Section 10.15, Modified and Reduced Parking Requirements, or a variance provided with parking reductions approved as part of shared parking agreements, inter-parcel connections, conditional use permits or variances granted by the Town; ~~or in accordance with the parking reduction schedule in Section 10.15, Alternative and Reduced Commercial Parking Requirements.~~ The required number of off-street parking spaces specified for each use shall be considered as the absolute minimum.

PART II. That **Section 10.15., Alternative and Reduced Commercial Parking Requirements**, be deleted in its entirety and replaced with the following:

SECTION 10.15 MODIFIED AND REDUCED PARKING REQUIREMENTS.

10.15.1. Performance-Based Parking Reduction Methods.

The number of required parking spaces for uses other than single and two-family dwellings may be reduced by the following methods without a conditional use permit.

These methods may be used jointly, but may not be used in conjunction with methods requiring a conditional use permit, except for those permitted by Section 10.15.2.6.

10.15.1.1 Shared Parking Associated with a New Use or New Development on Adjacent Property.

If proposed parking facilities intended to serve any proposed use are to abut and be integrated with existing and conforming parking facilities serving other uses, the parking requirement for the proposed use may be reduced in accordance with this section, provided that:

10.15.1.1.1. Cross-easements are recorded in the Dare County Register of Deeds that allow unrestricted parking and traffic flow between the proposed and existing lots; and

10.15.1.1.2. Accumulated reduction of parking spaces does not exceed 50 percent of the number of spaces in the existing parking lot.

10.15.1.2. Reduction of Required Parking with the Use of Bicycle Racks.
The total parking requirement for a proposed non-residential use may be reduced by up to three parking spaces at a rate of one parking space per bike rack if one or more bicycle racks are located on the site provided that:

10.15.1.2.1. The subject property has frontage along NC12/S. Virginia Dare Trail or NC1243/S. Old Oregon Inlet Road;

10.15.1.2.2. Each bicycle rack must be highly visible and conveniently located in close proximity to the entrance of the principal structure;

10.15.1.2.3. Each bicycle rack must support at least five (5) bicycles; and

10.15.1.2.4. The parking reduction shall not exceed more than one (1) parking space per ten (10) parking spaces provided.

10.15.2. Parking Modification or Reduction Methods Requiring a Conditional Use Permit.

Parking requirements or the number of required parking spaces for uses other than single and two-family dwellings may be modified or reduced by the following methods with a conditional use permit in accordance with Section 3.8, Conditional Use Permits. Only one of these methods may be used to reduce required parking, although other parking requirements may be modified pursuant to 10.15.2.6. in conjunction with a requested reduction. In addition to conditions that may be imposed as authorized by Section 3.8, in acting upon any conditional use permit sought under this Section, the Board of Commissioners may require upgrades or alterations to the existing parking area to address issues associated with stormwater management, backing into Town streets, or to facilitate inter-parcel connectivity.

10.15.2.1. Required Findings.

In addition to the requirements of Section 3.8, Conditional Use Permits, no conditional use permit may be issued for the following methods until the applicant has clearly demonstrated that the request:

10.15.2.1.1. Will not result in increased traffic congestion or otherwise negatively impact existing traffic flow or pedestrian and vehicular safety;

10.15.2.1.2. Will not create parking impacts for adjacent properties or within Town rights-of-way;

10.15.2.1.3. Will not be contrary to the objectives specified in the Comprehensive Plan;

10.15.2.1.4. Is necessary to permit the reasonable use of the subject property; and

10.15.2.1.5. Will not adversely impact adjacent property or the surrounding area.

10.15.2.2. Shared Parking Associated with a Conditional Use Plan or Plan Amendment.

Proposed commercial uses in all commercial zoning districts may share a portion of existing and conforming parking spaces with other commercial uses in commercial zoning districts provided that the following conditions are met:

10.15.2.2.1. The uses should have staggered or different business hours and parking demands, such as an office building open between 9:00 a.m. and 5:00 p.m. and a restaurant open between 5:30 p.m. and 11:00 p.m., or a business open during the week and a church where parking demand peaks on the weekend;

10.15.2.2.2. No more than fifty (50) percent of required parking spaces for the proposed use may be shared with existing and conforming parking spaces of the other commercial use;

10.15.2.2.3. Commercial uses must be abutting and integrated with unrestricted traffic and parking flow between them or may be across a Town street or private easement or alley within the same block;

10.15.2.2.4. When shared parking is devoted to a use other than parking, or business hours of one or more of the uses change to preclude the shared use of the parking spaces, or one or more uses change, increasing the amount of parking spaces required, or other changes in use or parking configuration occur, the conditional use permits for both sites must be amended appropriately; and

10.15.2.2.5. For proposed commercial uses that redevelop existing commercial sites abutting the NC 12 Beach Road corridor from East Gulfstream to Eighth Street, an alternative parking plan may be proposed that provides a ten (10) percent reduction in required parking and may be approved with or without a shared parking arrangement at the discretion of the Board of Commissioners as part of a conditional use plan.

10.15.2.3. Shared Parking When Two or More Commercial Uses Exist on One Commercial Site or Adjoining Commercial Uses on Separate Properties within a Common Development Plan. Proposed commercial uses in commercial zoning district C-3 may share a portion of existing and conforming spaces with other commercial uses on the same or adjoining site provided that the following conditions are met:

10.15.2.3.1. No more than sixty (60) percent of the required spaces for the proposed use may be shared with existing and conforming parking spaces of the other commercial use;

10.15.2.3.2. If, in the event, the proposed use has patrons or clients that are not of legal driving age (e.g., dance class for youths that are not legal driving age) both commercial uses may be in operation at the same time as long as integrated traffic pattern is developed which allows for a safe drop-off site for patrons. Such traffic pattern must be approved by the Town Engineer; and

10.15.2.3.3. If such shared parking is devoted to a use other than parking, or one or more of the uses change, increasing the amount of parking spaces required, or other changes in use or parking configuration occur, the conditional use permits for both sites must be amended appropriately.

10.15.2.4. Off-Site Parking to Meet Use Requirements.

Proposed commercial uses in all commercial zoning districts may use an off-site lot in a commercial zoning district to meet the minimum parking requirements of this section, provided the following conditions are met:

10.15.2.4.1. The off-site lot does not have to adjoin the principal commercial use site, but shall be located no further than three hundred (300) feet from the principal use site and shall not be located on the opposite side of US 158 or US 64/264 from the principal use site. A sidewalk or multi-use path connection must exist between off-site lot and the principal use when located along US 158;

10.15.2.4.2. No more than fifty (50) percent of the required parking for the use shall be permitted off-site. All required parking shall be conforming and constructed in accordance with the minimum requirements of this UDO. Lot coverage requirements for the principal use site and the off-site lot for parking shall be calculated separately;

10.15.2.4.3. Parking shall be the only use of the off-site lot, upon which no other principal or accessory uses shall be allowed; and

10.15.2.4.4. An applicant for off-site parking must prove possession and control of the off-site parking property by the same person or entity having possession and control of the principal commercial use site. Such proof may be provided via copies of deeds or leases showing ownership and/or control of both the off-site parking property and the principal use property. The transfer of ownership or expiration of a lease agreement for either property may be grounds for revocation of the certificates of occupancy for the principal commercial site until additional sufficient off-site parking has been obtained and authorized.

10.15.2.5. Reduction of Required Parking for Commercial Uses with the Use of Bicycle Racks by Conditional Use Permit.

By conditional use permit, total parking requirement for a proposed non-residential use may be reduced by up to three parking spaces at a rate of one parking space per bike rack if one or more bicycle racks are located on the site provided that:

10.15.2.5.1. The subject property has frontage along a two-lane roadway, or a sidewalk or similar path crosses the property or is located along the frontage of the property;

10.15.2.5.2. Each bicycle rack must be highly visible and conveniently located in close proximity to the entrance of the principal structure.

10.15.2.5.3. Each bicycle rack must support at least five (5) bicycles.

10.15.2.5.4. Parking reduction shall not exceed more than one (1) parking space per ten (10) parking spaces provided.

10.15.2.6. Modification of Parking Requirements or General Reduction of Required Parking.

A conditional use permit may be sought to modify any requirements pertaining to parking as contained in Article 10, Part II., Off-Street Parking and Loading Requirements, or Sections 10.91 or 10.92, Street Access, Parking Lot Design, and Pavement Standards, of Article 10, Part VI., Commercial Design Standards, or to reduce the amount of required parking.

PART III. That **Section 10.92, Street Access, Parking Lot Design, and Pavement Standards, subsection 10.92.15., Pedestrian Access/Facilities**, be amended by retitling the subsection as "Pedestrian **and Bicycle** Access/Facilities" and adding subsection 10.92.15.3., as follows:

10.92.15.3. A bike rack shall be provided on all properties in non-residential use with parking lots having ten (10) or more vehicle parking spaces, when such properties are located on the east side of US 158 and have frontage on a two-lane roadway; such bike racks shall support at least five (5) bicycles and be accessible to the public.

PART IV. That the reference to "**section 10.15.6.**" in Section 5.4.4. be changed to "**section 10.15.2.6.**", the reference to "**subsection 10.15.5**" in Section 8.6.6.7.4. be changed to "**subsections 10.15.1.2., 10.15.2.5., and/or 10.92.15.3.**", the title of Section 10.15 as included in Section 7.35.2. be changed to "**Modified and Reduced Parking Requirements**", and the Table of Contents to Article 10 be updated to reflect Parts II and III of this Ordinance.

ARTICLE IV. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Unified Development Ordinance or Town Code of the Town of Nags Head, North Carolina which shall remain in full force and effect.

ARTICLE V. Effective Date.

This ordinance amendment shall be in full force and effect upon the date of adoption by the Board of Commissioners.



Benjamin Carbon, Mayor
Town of Nags Head

ATTEST:


Carolyn F. Morris, Town Clerk



APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: January 8, 2020

Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: _____ AYES _____ NAYS