



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

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that Chapter 26, *Offenses and Miscellaneous Provisions*, of the Code of Ordinances shall be amended as follows:

ARTICLE III. Amendment of Town Code.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina:

ARTICLE I. That the Town Code, is hereby amended by adding a section, to be numbered **Town Code Sec. 26-14. Unmanned aircraft systems**, which such section reads as follows:

(a) Definitions. The following words, terms and phrases, when used in this Section 26-14, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

"Aircraft" means a device that is used or intended to be used for flight in the air.

"Unmanned aircraft" means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

"Small unmanned aircraft" means an unmanned aircraft weighing less than 55 pounds (all-up take-off weight).

"Unmanned aircraft system" means an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the operator/pilot in command to operate the aircraft safely and efficiently.

"Spotter" means a person, or persons, who assist the operator in seeing and avoiding other air traffic or objects aloft or on the ground, and maintaining visual line-of-sight to the small unmanned aircraft.

(b) This Section 26-14 applies to any outdoor use of small unmanned aircraft with a takeoff weight of over 250 grams (0.55 pounds) in the Town of Nags Head.

(c) Operation of unmanned aircraft by government agencies. Operation of unmanned aircraft by government agencies for law enforcement, scientific investigation/research, mapping and evaluating the earth's surface, and investigation/evaluation of agriculture, forestry, and wildlife will be governed by the laws of the State of North Carolina and these United States. The agencies and institutions

mentioned in this paragraph shall coordinate with the town manager prior to all operations. However, if said agencies are operating during a state of emergency called by the federal, state, or local government, the agencies may operate without prior coordination with the town manager.

(d) Operation in and around The Outer Banks Hospital. The use of unmanned aircraft is prohibited, without prior approval from The Outer Banks Hospital, within 250 yards of the hospital's helicopter landing pad or any manned aircraft inbound toward or departing from the said helicopter landing pad.

(e) General operation prohibitions for small unmanned aircraft.

1. Operation of small unmanned aircraft between dusk and dawn is prohibited.

2. Operation of small unmanned aircraft on or over the ocean, beach and the State's estuarine waters, is prohibited from 9AM to 7PM from the start of Memorial Day holiday weekend to the end of the Labor Day holiday weekend, without prior written approval from the town manager. Requests for approval must include proof of required state and federal permits as appropriate. When considering such requests, the town manager may consider, without limitation, the potential benefits and/or risks to the Town, the public, and/or the proposed operator from the proposed use of the small unmanned aircraft on or over the ocean, beach, and/or the State's estuarine waters.

3. Operation of small unmanned aircraft on or over public property is prohibited without prior written approval from the town manager. Requests for approval must include proof of required state and federal permits as appropriate. When considering such requests, the town manager may consider, without limitation, the potential benefits and/or risks to the Town, and the safety and welfare of the public, and/or the proposed operator from the proposed use of the small unmanned aircraft on or over public property.

4. Operation within 200 feet of any public safety incident is prohibited. This zone can be extended to 500 feet or the small unmanned aircraft can be grounded by the public safety agency in command of the incident during the said public safety incident and if reasonably necessary to preserve the public's health, safety, and/or welfare, or as deemed necessary for efficient and safe operation of Town staff in responding to a public safety incident.

5. Small unmanned aircraft with metal-blade propellers are prohibited.

6. Small unmanned aircraft that carry pyrotechnic devices that explode, burn, or produce smoke and small unmanned aircraft that propel a projectile or drop any objects are prohibited.

7. Small unmanned aircraft powered by rocket, missile, turbine, jet, or fossil fuel internal combustion motors are prohibited.

8. Racing, aerobatics, and "3-D" are prohibited, unless at an event permitted by the Town.

(f) Operating requirements for small unmanned aircraft.

1. Operators of small unmanned aircraft must be 17 years or older, unless they hold a current Academy of Model Aeronautics membership or are directly supervised and assisted by a current Academy member, and/or are permitted by the State of North Carolina or the Federal

Aviation Administration. Persons under the age of 17 years may operate a small "toy" unmanned aircraft if they met the manufacturer's recommended minimum age and are supervised by an adult or other person qualified by this paragraph. The age restrictions of this paragraph do not apply to operators of free-flight small unmanned aircraft that are un-powered or powered only by rubber-power sources.

2. Operators of small unmanned aircraft must have at least one spotter during all First-Person-View (FPV) operations. Operations with the assistance of a camera or first person view system are only permitted if a spotter is in visual-line-of-sight of the operator and the unmanned aircraft and has the clear ability to communicate directly with the operator.

3. All small unmanned aircraft, if not already marked with required federal or state identification, must be identified with the name and address, or Academy of Model Aeronautics number, of the owner either on the inside (easily accessible) or outside of the aircraft.

4. Only small unmanned aircraft that are un-powered (e.g. glider) or that are powered only by electric or rubber power sources are permitted.

5. Remote controlled small unmanned operating systems must use radio-control frequencies currently allowed by the Federal Communications Commission. In Nags Head, only the 2.4 GHz spread spectrum frequency and/or the 5.8GHz first-person-view (video data) frequency systems may be used by small unmanned aircraft systems.

6. Operations using autopilot systems are prohibited.

(g) Remedies. Violations of this Section 26-14 shall be subject to the penalties described in Town Code Section 1-6 (b).

(h) Exceptions. The town manager may grant exceptions to this Section 26-14 for limited duration special events or other reasons in the general public interest upon presentation of a written request outlining the reasons for the exception and providing a plan for addressing safety issues associated with the request. When considering such requests, the town manager may consider, without limitation, the potential benefits and/or risks to the Town, the public, and/or the proposed operator from the use of the unmanned aircraft for the proposed exception.

(i) EXCEPT AS OTHERWISE SPECIFICALLY PERMITTED BY THIS SECTION 26-14, OR AS ALLOWED BY CONTROLLING PROVISIONS OF FEDERAL OR STATE LAW, THE USE OF POWERED UNMANNED AIRCRAFT IS PROHIBITED.

(j) To the extent that applicable authority of these United States or the State of North Carolina adopts rules or regulations that conflict with this Section 26-14, the said rules or regulations shall control.

ARTICLE II. 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 Zoning Ordinance or Town Code of the Town of Nags Head, North Carolina which shall remain in full force and effect.

ARTICLE III. Effective Date.

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 ____ day of _____ 2016.

Robert C. Edwards, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: _____

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS