

**Highlighted portions are intended to identify provisions recommended by Staff and/or the Planning Board, to differentiate from the applicant's proposal**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO THE  
REGULATION OF OUTDOOR STANDS, ACCESSORY TO SHOPPING  
CENTERS & GROUP DEVELOPMENT**

**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**, an owner of the property within the Town of Nags Head proposed the amendment of the Unified **Development** Ordinance to alter regulations for outdoor stands, accessory to shopping centers and group development; 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 **Sections 7.76.1 and, 7.76.2, 7.76.3, and 7.76.4** of the UDO, be amended as follows:

7.76.1 The principle sale of items at an outdoor stand shall be limited to either fresh produce, hot dogs, coffee, ice cream or Italian ice, **and** fudge, **and** reservations or ticket sales.

**Highlighted portions are intended to identify provisions recommended by Staff and/or the Planning Board, to differentiate from the applicant's proposal**

7.76.2 ~~Only one~~ Sites less than ten (10) acres in area shall be allowed only one stand. Sites ten (10) acres in area and greater shall be allowed up to two outdoor stands ~~shall be allowed per site, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge.~~

The stands shall not be required to be a permanent structure and may, ~~with the exception of stands for reservations or ticket sales,~~ be located upon a trailer. When located upon a trailer, skirting shall be installed around the perimeter to screen the wheels, axles and towing hitch from view.

7.76.3. The stand area, inclusive of display counters and awnings, shall not exceed four hundred (400) square feet for produce stands and shall not exceed one hundred fifty (150) square feet for hot dog, coffee, ice cream and Italian ice, ~~and fudge, and reservations or ticket sales~~ stands. Refrigeration units may be utilized within the stand area. The location of the stand on the site shall comply with minimum district yard regulations for principal use structures, ~~except that stands for reservations or ticket sales shall be located within shopping centers or group developments, such as within common areas or walkways, and shall not be located within any parking area.~~

7.76.4. Produce ~~and reservations or ticket sales~~ stands shall be temporary and may be operated for a period of time not to exceed 180 days annually; ~~the~~ ~~The~~ dates of operation shall be limited to between May 1 and November 1 each year. Hot dog, coffee, ice cream and Italian ice and fudge stands may be operated year round but shall not be left on the property overnight and must be removed daily.

PART II. That the definition of **Outdoor Stand, as contained in Section A.4, Definitions, of Appendix A, Definitions, of the UDO,** be amended as follows:

**Outdoor stand** means an approved area where the sale of produce, hot dogs, coffee, ice cream or Italian ice, ~~and fudge, or reservations or ticket sales~~ occurs from a cart or structure.

PART III. That **Section 10.24.2.8., as contained in Article 10, Performance Standards, Part III, Sign Regulations,** of the UDO, be amended as follows:

10.24.2.8. ~~Each outdoor stand~~ Outdoor stands shall be allowed one (1) temporary sign attached to the stand. ~~The total combined square foot area of all such signs~~ Such sign shall not exceed fifteen (15) square feet in area ~~or and such signs shall not~~ extend above the roof of the stand. This sign area shall be exempt from the calculation of total commercial site sign area limitations imposed by this subsection.

**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

***Highlighted portions are intended to identify provisions recommended by Staff and/or the Planning Board, to differentiate from the applicant's proposal***

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 on the adopted effective date of the Unified Development Ordinance.

\_\_\_\_\_  
Benjamin Cahoon, Mayor  
Town of Nags Head

ATTEST:

\_\_\_\_\_  
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date adopted: \_\_\_\_\_

Motion to adopt by Commissioner \_\_\_\_\_

Motion seconded by Commissioner \_\_\_\_\_

Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYS