

**(DRAFT)**  
**AN ORDINANCE AMENDING THE CODE OF ORDINANCES  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO  
NONCONFORMING HOTELS AND ACCESSORY USES TO PREEXISTING  
FISHING PIERS**

**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 find that the Town of Nags Head 2017 Comprehensive Plan includes an objective supporting the preservation and maintenance of legacy commercial businesses, and advocates for flexibility with respect to legacy type establishments for renovations as a way to retain the character of the Town, specifically of the Beach Road and the Whalebone Junction Character Area; and

**WHEREAS**, the Board of Commissioners find that the Comprehensive Plan with respect to the South Nags Head Character Area supports providing existing hotels/motels and cottage courts with flexibility to repair and renovate, in order to remain relevant in the market; 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 7.12, Hotels, of Article 7., Supplemental Regulations, of the UDO**, be amended by the addition of Section 7.12.3., as follows:

**7.12.3. Nonconforming Hotels.**

Where an existing hotel is considered to be a legally nonconforming use, pursuant to Section 5.6 of the UDO, a conditional use permit may be sought in accordance with Section 3.8, Conditional Use Permits, to modify the use and/or structure, including enlarging or altering the use and/or structure, in a manner that would otherwise be precluded by the provisions of Section 5.6, or subsections thereof. Such hotels shall be subject to the provisions of Section 7.12.1., Dimensional Requirements, and Table 7-2, Dimensional Requirements for Hotels, applicable to hotels located in the C-2 zoning district. A conditional use permit may not be sought or issued under this section following the intentional demolition or to allow for the demolition of more than 75% of the gross floor area of any building wherein a nonconforming hotel use is located; this prohibition shall not apply to buildings determined to have been destroyed due to reasons outside of the control of the owner.

PART II. That **Section 7.50.1. of Section 7.50, Fishing Piers, of Article 7., Supplemental Regulations, of the UDO**, be amended as follows:

**7.50.1.** Fishing piers, which may include accessory restaurant or retail uses, or dwelling units existing as of July 1, 2020, are permitted in the R-2 and CR districts in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided the following conditions are met:

PART XI. That the **Table of Contents to Article 7 be updated to reflect Part I 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.

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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