

Town of Nags Head

Multi-Family Housing Working Group – Draft Multi-Family Ordinance – 5/29/2024

Where the Multi-Family Housing Working Group recommended different ordinance language than that recommended by the Planning Board, staff has color coded the language as follows:

Multi-Family Housing Working Group Recommended language is shown in RED.

Planning Board Recommended language is shown in BLUE.

Proposed language that is unchanged is shown in regular black type.

PART I. Appendix A – Definitions

Dwelling, Multi-Family or Dwelling Unit, Multi-Family means a single-family dwelling unit located within a multi-family development.

Apartment or Apartment Style Design means a residential architectural and planning design characterized by single-family attached dwelling units constructed on multiple floors and separated by shared vertical walls and shared horizontal ceilings, floors, planes, or surfaces. For the purposes of this chapter, a series or group of **Apartment** units shall be considered a multi-family development.

Floor Area Ratio (FAR) means the quotient resulting from division of the gross floor area of all buildings on a lot by the area of the lot.

Townhouse or Townhouse Style Design means a residential architectural and planning design characterized by single-family attached dwelling units constructed in a series or group of units and separated by shared vertical walls. For the purposes of this chapter, a series or group of **Townhouse** units shall be considered a multi-family development.

Multi-Family Development means a development containing no less than three multi-family dwelling units and shall be characterized as either a large multi-family development or a small multi-family development.

Large Multi-Family Development means a development containing more than six multi-family dwelling units.

Large Multi-Family Development means a development containing more than six multi-family dwelling units and less than sixty-one multi-family dwelling units.

Small Multi-Family Development means a development containing no less than three multi-family dwelling units and no more than six multi-family dwelling units.

Long-term occupancy/tenancy means the occupancy of a single-family dwelling by an owner, tenant, or other lawful occupant for a period of ninety (90) consecutive calendar days or more.

***Town of Nags Head
Multi-Family Housing Working Group – Draft Multi-Family Ordinance – 5/29/2024***

Principal Place of Residence means the home or place in which one’s habitation is fixed, and to which one has present intention of returning after a departure or absence therefrom.

Qualified Person means a person working/employed in Dare County, NC. A qualified person includes but is not limited to any person who has an internship with an employer if the employer’s place of business is physically located in Dare County, NC, or a person who works remotely for an employer if the person’s principal place of residence and the employer’s place of business are both physically located in Dare County, NC.

Workforce Housing or workforce housing unit means the following:

- a. A dwelling unit which is occupied by at least one qualified person under a long- term occupancy/tenancy, and
- b. A dwelling unit which is the principal place of residence for at least one qualified person, and
- c. A dwelling unit which has been encumbered by the owner of the dwelling unit with recorded restriction covenants to ensure compliance with this definition and Section 7.5 of the Town Code. The recorded restrictive covenant shall expressly identify the Town as the sole beneficiary of the recorded restrictive covenant, which shall include the express power and authority of the Town to enforce the recorded restrictive both in law and in equity, including the use of judicial injunctive relief. The Town staff shall provide the owner with the exact wording of the restrictive covenant to be recorded by the owner with the Dare County Register of Deeds in order to satisfy this requirement, and Town staff shall verify such recordation. The recorded restrictive covenant shall appear in the recorded chain of title of the dwelling unit and in the case of a multi-family development, the recorded restrictive covenant shall also be contained in the multi-family development’s recorded declaration of covenants establishing the multi-family development.

Nothing in this definition shall preclude employers from purchasing workforce housing units to provide accommodation for their employees, provided the employees are qualified persons who occupy such workforce housing units within Dare County and the workforce housing unit is the employee’s principal place of residence, even if owned by the employer.

PART III. Section 7.5 Dwellings, Multi-Family shall be replaced in its entirety by the following:

Multi-family dwelling units are permitted in accordance with Section 6.6, Table of Uses and Activities, provided that the following additional requirements and conditions are met:

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS		
	Large Multi-Family C-2	Small Multi-Family C-2
Min. Lot Width for Multi-Family Site	150 feet	No minimum
Min. Site Area in Uplands	26,000 square feet	15,000 square feet 16,000 square feet
Location of Multi-Family Site	Properties with frontage on US Hwy 158 only.	On any lot meeting the minimum site area requirements. Properties with frontage on US Hwy 158 only.
Setbacks	All buildings shall be setback a minimum 35 feet to all property lines.	All buildings shall meet the minimum setbacks: Front: 30 feet Side: 12 feet or 15 feet for corner lots Rear: 20% lot depth not to exceed 30 feet.
Townhome orientation	No townhome structure established as part of a multi-family development shall be situated on a site so as to face/front the rear of another townhome structure within the development or on an adjoining property.	
Density/ Building Size	Floor Area Ratio: 0.32 square feet of gross floor area for each 1 square foot of lot area. Maximum gross floor area for a single building is 10,000 square feet. More than one building may be permitted on a site. Minimum 26,000 square feet for first three units; 4,500 square feet of additional lot size for each additional unit.	One (1) unit per every 4,000 square feet of lot area. Maximum building gross floor area is 5,000 square feet. Minimum 16,000 square feet for the first three units; 3,500 square feet of additional lot size for each additional unit.

**Town of Nags Head
Multi-Family Housing Working Group – Draft Multi-Family Ordinance – 5/29/2024**

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS		
	Large Multi-Family C-2	Small Multi-Family C-2
Maximum number of units	75 dwelling units 60 dwelling units	6 dwelling units.
Number of dwelling units per townhome structure	Maximum 6 dwelling units per structure.	No maximum.
Height	Maximum of 35 feet, may be increased to 42 feet with the use of an 8:12 roof pitch or greater. Additionally, no building shall exceed three (3) habitable floors.	Maximum of 35 feet, may be increased to 42 feet with the use of an 8:12 roof pitch or greater. Additionally, no building shall exceed three (3) habitable floors.
Open Space	50% of side yards to remain as open space.	50% of side yards to remain as open space.
Lot Coverage	55%	55%
Deed Restrictions	All multi-family dwelling units within a multi-family development shall be deed restricted for long-term occupancy/tenancy. No less than 60% of all units shall be deed restricted for workforce housing.	All multi-family dwelling units in a multi-family development shall be deed restricted for long term occupancy/tenancy and workforce housing.
Unit Sizes/ Categories	<p>Minimum Unit Sizes/Size Categories:</p> <ul style="list-style-type: none"> • Studio/One Bedroom 500 sq. ft. • Two Bedroom 700 sq. ft. • Three Bedroom 1,000 sq. ft. <p>Maximum unit size 1,750 sq. ft.</p> <p>Minimum 800 square feet; Maximum 1,750 square feet for both small and large multi-family designations.</p>	
Mixture of Units	<p>No more than 60% of the units shall be from any unit size category.</p> <p>All multi-family dwelling buildings shall incorporate building design variations such as varying stories</p>	<p>No requirement</p> <p>All multi-family dwelling buildings shall incorporate building design variations such as varying stories and habitable area.</p>

**Town of Nags Head
Multi-Family Housing Working Group – Draft Multi-Family Ordinance – 5/29/2024**

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS		
	Large Multi-Family C-2	Small Multi-Family C-2
	and habitable area.	
Buffer	In addition to the buffering requirements included in the Commercial Design Standards, a minimum 10-foot-wide commercial transitional protective yard shall be provided consistent with Section 10.93.3.2 and 10.93.3.3 of the UDO.	In addition to the buffering requirements included in the Commercial Design Standards, a 10-foot-wide commercial transitional protective yard shall be provided consistent with Section 10.93.3.2 of the UDO.
Architectural Design Requirements	<p>All multi-family dwelling buildings, regardless of size, shall go through the Sketch Plan process as outlined in Section 10.84 of the UDO.</p> <p>Multi-family dwelling buildings shall meet the requirements of Article 10, Part VI, Commercial Design Standards.</p>	<p>Buildings shall meet the design requirements for a large residential dwelling.</p> <p>Small multi-family structures shall be approved administratively.</p> <p>All multi-family dwelling buildings, regardless of size, shall go through the Sketch Plan process as outlined in Section 10.84 of the UDO.</p> <p>Multi-family dwelling buildings shall meet the requirements of Article 10, Part VI, Commercial Design Standards.</p>
Building Separation	20 40 feet; a sidewalk or boardwalk constructed to provide a grade separation from vehicular traffic of at least six inches shall connect all principal buildings on the site. Separate buildings shall be connected with pedestrian passageways that are striped when crossing traffic lanes.	Buildings shall be separated from one another by a minimum of ten feet, including projections. Separate buildings shall be connected with pedestrian passageways that are striped when crossing traffic lanes.

**Town of Nags Head
Multi-Family Housing Working Group – Draft Multi-Family Ordinance – 5/29/2024**

TABLE 7-1: REQUIREMENTS FOR MULTI-FAMILY DWELLINGS		
	Large Multi-Family C-2	Small Multi-Family C-2
Accessory Uses	<p>Management/sales office, not including a trailer, provided that the management office shall be included as a permanent structure in the project's design or may occupy one of the dwelling units.</p> <p>A management/sales office may include, within the particular project, spaces for maintaining supplies, service products and amenities to be used in connection with the units within the project. There shall be sanitary facilities available for customers and employees.</p> <p>Shed.</p> <p>Pool (only one pool per development),</p> <p>Walls and Fences.</p> <p>Private Park/Playgrounds.</p>	<p>Shed.</p> <p>Pool (only one pool per development).</p> <p>Walls and Fences. Private Park/Playgrounds</p>
Outdoor Amenity Area/Common Area	<p>An area designated on the site plan for multi-family development as "common area" or as an area to be held in separate ownership for the use and benefit of residents occupying the dwelling units shown on such plan provided that it is conveniently accessible to all residents of the development.</p>	

7.5.1. The multi-family development shall have a mandatory homeowners' association, with one of its duties expressed in a recorded declaration of covenants being to ensure compliance with Section [7.5]. This includes a required annual certification to the town of the multi-family development's compliance with the restrictive covenant and workforce housing occupancy requirements, using a required certificate of compliance form provided to the association by town staff upon request.

Town of Nags Head

Multi-Family Housing Working Group – Draft Multi-Family Ordinance – 5/29/2024

7.5.2 Any site improvements, including construction of additions of any size, accessory structures of any size, and landscaping and buffering projects, that occur following the original Board of Commissioners Special Use Approval of a Large Multi-family dwelling development or Administrative Approval of a Small Multi-family dwelling development shall be submitted for consideration by the UDO Administrator to determine whether additional stormwater management measures are necessary.

PART IV. That Section 10.93.3.3, High Impact Uses, be amended as follows:

10.93.3.3. High Impact Uses. High impact uses are particular uses of land, which are considered as a whole because of their peculiar or operational and physical characteristics are expected to have an adverse effect on adjoining or adjacent properties. High impact uses include, but are not limited to:

10.93.3.3.27. Large Multi-Family Dwelling Development.

Options to Allow Multi-Family as Accessory to Commercial Development

Option 1:

Multi-family development may be permitted as an accessory use on any commercially developed property with the following conditions:

- Any new multi-family dwelling development shall meet the setback requirements of the principal use.
- Lot coverage shall not exceed the maximum allowable coverage within the district in which it is permitted.
- Density shall be determined by applying the standard currently set for small multi-family. One (1) unit per every 4,000 square feet of lot area with a cap of 6 units.
- 2 non-deed restricted residential units are still allowed by right under current ordinance (and can use them for workforce housing).

Option 2:

Multi-family development may be permitted as an accessory use on any commercially developed property with the following conditions:

- Any new multi-family dwelling development shall meet the setback requirements of the principal use.
- Lot coverage shall not exceed the maximum allowable coverage within the district in which it is permitted.
- Density shall be determined by applying a floor area ratio of .32 to the site in its entirety, including the gross floor area of all existing buildings.
- All requirements of Section 7.5 of the UDO, Dwellings, Multi=Family must be met, including supplemental requirements noted in Table 7-1.
- Optional: No more than 20 multi-family units can be constructed as an accessory use to commercial development.

Scenario for Option 2:

Shoppes @ 10.5

Parcel A Only (North Lot)

Lot Area: 283,635 square feet.

Building Area (Food Lion, Shops, Bank) = 48,895 square feet

FAR of 0.32 would allow 90,763 square feet of building area.

41,868 square feet of building area could be devoted to multi-family development.

20% of 41,868 = 8,373

1 bedroom = 16 units

2 bedroom (seems to be most desirable/ 25,122sf) = 35 units

3 bedroom = 8 units

***Town of Nags Head
Multi-Family Housing Working Group – Draft Multi-Family Ordinance – 5/29/2024***

This is worst case scenario but with a FAR of .32 Shoppes at 10.5 could have 59 units. The optional provision with a maximum of 20 units would likely dictate density in this circumstance.

Based upon the As-Built Survey they are at 40.4% coverage so, ample lot coverage if needed. Parking and Septic would be the prohibiting factors on this one.

**Town of Nags Head
Multi-Family Housing Working Group – Draft Multi-Family Ordinance – 5/29/2024**

Section 6.6, Table of Permitted Uses and Activities:

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					Special Districts				Overlay Districts			
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4	C-5	SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO
1	Residential	Dwelling, Large Residential	PR	PR	PR	PR		PR			PR	PR	PR		PR			PR
<u>1</u>	<u>Residential</u>	<u>Dwelling, Multi-Family (Small)</u> <u>Townhouse & Apartment Style Design</u>						<u>PR</u> <u>SR</u>										
<u>1</u>	<u>Residential</u>	<u>Dwelling, Multi-Family (Large)</u> <u>Townhouse Style Design Only</u>						<u>SR</u>										
1	Residential	Dwelling, Single-Family (detached)	P	P	P	P	P	P		P	P	P	P		P			P
1	Residential	Dwelling, Two-Family		P	P	P	P	P		P	P							
<u>1</u>	<u>Residential</u>	<u>Townhouse</u>						<u>SR</u>				<u>SR</u>						