



AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF NAGS HEAD, NORTH CAROLINA AS IT PERTAINS TO THE APPLICATION OF REGULATORY FLOOD PROTECTION ELEVATION (RFPE) EAST OF NC 12.

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160D-701, 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. 160D-702, 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. § 160D-103, which allows the Town to combine certain land development ordinances into a unified ordinance; and

WHEREAS, staff was requested by the Board of Commissioners to draft a text amendment which would rectify a concern with the application of the Town's RFPE within the Village at Nags Head Special Planned Development District, based upon the alignment of NC 12; and

WHEREAS, the proposed text amendment is consistent with the Town of Nags Head 2017 Comprehensive Plan.

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.

PART I. That **Appendix A, Section A.4 – Definitions**, be amended as follows:

Regulatory flood protection elevation means the Local Elevation Standard (LES). The Local Elevation Standard is a locally adopted elevation level used as the Regulatory Flood Protection Elevation (RFPE) to mitigate flood hazards in the Shaded X, X, AE, AO, VE, as depicted on the FIRMs for Nags Head. These areas may be vulnerable to flooding from storm surge, wind-driven tides, and excessive rainfall. Many of these areas have repetitively flooded and continue to remain at risk to flooding.

Coastal High Hazard Areas (CHHA) - Properties located to the east of NC 12 and SR 1243 are located in an active oceanfront environment that is vulnerable to storm surge, erosion, sea level rise, and other hazards. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, the RFPE is 12 feet NAVD 1988.

Properties west of NC 12 and SR 1243 - The RFPE for properties located west of NC 12 and SR 1243 and in flood zones Shaded X, X, or AE, is 9 feet NAVD 1988. This includes properties abutting US 64, also known as the Causeway.

Within the Village of Nags Head, only parcels with direct frontage on the Atlantic Ocean/ocean beach shall be considered a Coastal High Hazard Area with an RFPE of 12.

PART II. That **Section 11.42.3.1.1. Establishment of Local Elevation Standard (LES), Coastal High Hazard Areas (CHHA)**, be amended as follows:

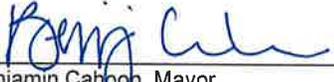
11.42.3.1. In Nags Head the RFPE is defined as:

11.42.3.1.1. Coastal High Hazard Areas (CHHA) – Properties located to the east of NC 12 and SR 1243 are located in an active oceanfront environment that is vulnerable to storm

surge, erosion, sea level rise, and other hazards. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, the RFPE is 12 feet NAVD 1988.

Within the Village of Nags Head, only parcels with direct frontage on the Atlantic Ocean/ocean beach shall be considered a Coastal High Hazard Area with an RFPE of 12.

PART III. 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 2nd day of March 2022.


Benjamin Cahoon, Mayor

ATTEST:


Carolyn F. Morris, Town Clerk



APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: March 2, 2022

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: AYES NAYS

APPENDIX A

SECTION 3.5.4. ACTION BY THE BOARD OF COMMISSIONERS

Pursuant to Section 3.5.4.2. of the UDO, the Board of Commissioners may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

Pursuant to Section 3.5.4.5. of the UDO, prior to voting to adopt or reject the proposed text amendment, the Board should adopt a statement approving the amendment and describing the amendment's consistency with the Town's adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest, a statement rejecting the amendment and describing its inconsistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest, or a statement approving the amendment and containing at least all of the following:

- A declaration that the approval is also deemed an amendment to the Comprehensive Plan. The Board of Commissioners shall not require any additional request or application for amendment to the Comprehensive Plan.
- An explanation of the change in conditions the Board of Commissioners took into account in amending the UDO to meet the development needs of the community.
- Why the action was reasonable and in the public interest.