



**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF NAGS HEAD, NORTH CAROLINA AS IT PERTAINS TO THE FLOOD DAMAGE PREVENTION ORDINANCE REQUIREMENTS FOR ELEVATION AND FREEBOARD.**

**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;

**WHEREAS**, Section 2.4.4.3 of the Unified Development Ordinance provides that the powers and duties of the Planning Board include developing and recommending policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

**WHEREAS**, Section 3.5.1. of the Town Code makes clear that a zoning ordinance text amendment may be initiated by motion of the Board of Commissioners, by motion of the Planning Board, or by application by any person within the zoning jurisdiction of the Town;

**WHEREAS**, a text amendment request has been initiated by the Planning Board to clarify certain provisions of Article 11, Part III, Flood Damage Prevention Ordinance, to ensure consistency in elevation standards and to maintain a minimum of one foot of freeboard throughout the Town, in accordance with the Community Rating System requirements; and

**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 **Section 11.42, Flood Damage Prevention**, General Provisions be amended as follows:

**Article II, Part III. Flood Damage Prevention:**

11.42.3. Establishment of a Local Elevation Standard (LES)

The Local Elevation Standard means 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. Therefore, an elevation standard and other floodplain development standards are needed to meet the objectives of this Section as identified in 11.41.4.

11.42.3.1. In Nags Head the RFPE is as 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, or the Base Flood Elevation (BFE) as designated on the effective FIRM plus one (1) foot of freeboard, whichever is greater.

Within the Village of Nags Head, as defined in Article 9 of the UDO, only parcels with direct frontage on the Atlantic Ocean/ocean beach and those areas designated on the effective FIRM as Zone VE shall be considered a Coastal High Hazard Area (CHHA).

11.42.3.1.2. 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, or the Base Flood Elevation (BFE) as designated on the effective FIRM plus one (1) foot of freeboard, whichever Is greater. This includes properties abutting US 64, also known as the Causeway.

11.42.3.1.3 AO Zones- The RFPE for properties located in the AO zone is 12 feet NAVD or the depth as designated on the effective FIRM plus one (1) foot of freeboard, whichever Is greater.

## PART II.

### Appendix A. – Definitions

**Coastal high hazard area** means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Article 11, Part III, Flood Damage Prevention, as Zone VE, or any property east of NC 12 and SR 1243, except within the Village of Nags Head, as defined in Article 9 of the UDO. Within the Village of Nags Head, only parcels with direct frontage on the Atlantic Ocean/ocean beach and those areas designated on the effective FIRM as Zone VE shall be considered a Coastal High Hazard Area (CHHA).

**Development** means any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in G.S. 160D-802.
- d. The initiation or substantial change in the use of land or the intensity of the use of land.
- e. For the purposes of Article 11, Part III, Flood Damage Prevention, any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**Existing manufactured home park or manufactured home subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) was completed before the effective date of the floodplain management regulations adopted by Nags Head dated, February 3, 1975 (for the purposes of Article 11, Part III, Flood Damage Prevention).

**Reference level is:**

- (1) The reference level is the bottom of the lowest floor or the bottom of the lowest attendant utility including ductwork, whichever is lower, with only flood resistant materials located below the reference level west of NC 12 and SR 1243.
- (2) The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures in AO Zones and Coastal High Hazard Areas (CHHA) east of NC 12 and SR 1243.

**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 located to the east of NC 12 and SR 1243 and those areas designated on the effective FIRM as Zone VE shall be considered a Coastal High Hazard Area (CHHA) with a Regulatory Flood Protection Elevation (RFPE) of 12 feet NAVD 1988, or the Base Flood Elevation (BFE) as designated on the effective FIRM plus one (1) foot of freeboard, whichever is greater.

Within the Village of Nags Head, as defined in Article 9 of the UDO, only parcels with direct frontage on the Atlantic Ocean/ocean beach and those areas designated on the effective FIRM as zone VE shall be considered a Coastal High Hazard Area. with an RFPE of 12.

Properties within the Village of Nags Head that are east of NC 12 and SR 1243 but do not have direct frontage on the Atlantic Ocean or ocean beach and are not located within areas designated as Zone VE on the effective FIRM, are not considered Coastal High Hazard Areas (CHHAs). For these properties, the Regulatory Flood Protection Elevation (RFPE) shall be 9 feet NAVD 1988, or the Base Flood Elevation (BFE) as shown on the effective FIRM plus one (1) foot of freeboard, whichever is greater.

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 or the Base Flood Elevation as designated on the effective FIRM plus one (1) foot of freeboard, whichever Is greater. This includes properties abutting US 64, also known as the Causeway.

AO Zones - The Regulatory Flood Protection Elevation (RFPE) for properties located in the AO Zone is 12 feet NAVD 1988 or the depth as designated on the effective FIRM plus one (1) foot of freeboard, whichever Is greater.

PART III. 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.

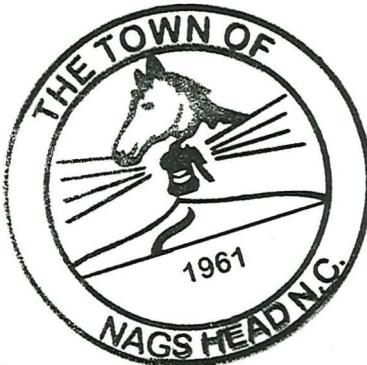
PART IV. Effective Date.

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 3<sup>rd</sup> day of December 2025.

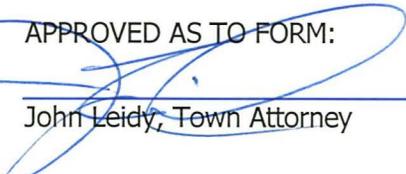
  
Benjamin Cahoon, Mayor

ATTEST:

  
Brittany A. Phillips, Town Clerk



APPROVED AS TO FORM:

  
John Leidy, Town Attorney

Date adopted: December 3, 2025

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

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

Vote:        AYES        NAYS