



**AN ORDINANCE AMENDING THE CODE OF ORDINANCES  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA**

BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Code of Ordinances shall be amended as follows:

PART I. That **Section 48-446(2)(a), Hotel Overlay District**, be amended to add the following text (underlined):

Setbacks. Small wind energy facility(ies) shall be set back a minimum distance of 1.1 times the wind turbine height from all property lines and rights-of-way. Required setbacks may be waived if an easement agreement is signed by adjacent property owners and recorded in the County Register of Deeds Office. The setback from estuarine waters shall be a minimum of 30 feet measured from the mean high water as determined by CAMA.

PART II. That **Section 48-7, definitions of specific Words and Terms**, be amended to add the following text:

Wind Energy facility, vertical axis means a system where the main rotor shaft is set vertically and the main components are located at the base of the turbine. They are designed to supplement other electricity sources as an accessory use to existing principle buildings or facilities, wherein power generated is used primarily for onsite consumption. A vertical axis wind energy facility consists of a single wind turbine, a tower, and associated control or conversion electronics.

PART III. That **Section 48-402(b)(4), R-1 low density residential district**, be amended as follows:

Customary accessory uses and structures, including private swimming pools, private docks, minor communication towers, dish antennas, roof top wind energy facilities, vertical axis wind energy facilities and home occupations.

PART IV. That **Section 48-403(b)(5), R-2 medium density residential district**, be amended as follows:

Customary accessory uses and structures, including private swimming pools, private docks, minor communication towers, dish antennas, roof top wind energy facilities, vertical axis wind energy facilities and home occupations.

PART V. That **Section 48-404(b)(5), R-3 high density residential district**, be amended as follows:

Customary accessory uses and structures, including private swimming pools, private docks, minor communication towers, dish antennas, roof top wind energy facilities, vertical axis wind energy facilities and home occupations.

PART VI. That **Section 48-405(b)(4), CR commercial residential district**, be amended as follows:

Customary accessory uses and structures, including private swimming pools, minor communication towers, dish antennas, roof top wind energy facilities, vertical axis wind energy facilities and home occupations.

PART VII. That **Section 48-407(b)(6), C-2 general commercial district**, be amended as follows:

Customary accessory uses and structures, including private swimming pools, private docks, minor communication towers, dish antennas and home occupations, vertical axis wind energy facilities and roof top wind energy facilities.

PART VIII. That **Section 48-441(b)(7), SPD-20 Special Planned Development district**, be amended as follows:

Customary accessory uses and structures, including private swimming pools, private docks, minor communication towers, dish antennas, roof top wind energy facilities, vertical axis wind energy facilities and home occupations.

PART IX. That **Section 48-442(d)(8), SED-80 Special Environmental District**, be amended as follows:

Accessory uses and structures limited to private swimming pool, private tennis court, detached garage, storage building, roof top wind energy facilities, vertical axis wind energy facilities, and private dock. Any accessory use or structure shall meet the front, rear and side setbacks required for principal structures, except for water dependent structures, which may be excluded from water-side setback only.

PART X. That **Section 48-865(b)(2), Permitted Uses. SPD-C Village Detached Single-family District**, be amended as follows:

(2) Customary accessory used and structures including roof top wind energy facilities and vertical axis wind energy facilities.

PART XI. That **Section 48-866(b)(3), Permitted Uses. SPD-C Village Attached Single-family District**, be amended as follows:

(3) Customary accessory used and structures including roof top wind energy facilities and vertical axis wind energy facilities.

PART XII. That **Section 48-867(b)(4), Permitted Uses. SPD-C Village Multi-family District**, be amended as follows:

(4) Customary accessory used and structures including roof top wind energy facilities and vertical axis wind energy facilities.

PART XIII. That **Section 48-868(b)(4), Permitted Uses. SPD-C Village Townhouse I District**, be amended as follows:

(4) Customary accessory used and structures including roof top wind energy facilities and vertical axis wind energy facilities.

PART XIV. That **Section 48-373, (b)(6), vertical axis wind energy facility**, be amended as follows:

Vertical axis wind energy facility as an accessory use to principal uses listed in the R-1, R-2, R-3, CR, C2, SED-80, SPD-20 and SPD-C Village detached SF, Village attached SF, Village multi-family and Village Townhouse districts provided the following requirements are met and requirements imposed by the Board of Commissioners as provided in article XIX of this chapter:

a. *Setbacks.* Vertical axis wind energy facility(ies) shall be set back a minimum distance of 1.1 times the wind turbine height from all property lines and rights-of-way. Required setbacks may be waived if an easement agreement is signed by adjacent property owners and recorded in the County Register of Deeds Office. The setback from estuarine waters shall be a minimum of 30 feet measured from the mean high water as determined by CAMA.

**b. Height.** The wind turbine height of a vertical axis wind energy facility shall not exceed the maximum height requirement of the district in which it is located.

**c. Clearance.** Rotor foils on vertical axis wind energy facilities must maintain at least 10 feet of clearance between their lowest point and the ground or any structure other than the supporting tower.

**D. Installation and design.**

**1.** Guy wire towers are prohibited.

**2.** The installation and design of the vertical axis wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute and all applicable local, state and national codes. Installed facilities shall be reinspected every five years by a licensed engineer for structural integrity with an inspection report to be provided to the department of planning and development.

**3.** All structural, electrical and mechanical components of the vertical axis wind energy facility shall conform to relevant and applicable local, state and national codes at the time of application.

**4.** Vertical axis wind energy facilities shall be equipped with a braking device and emergency shutoff to keep the rotor stationary while the turbine is being inspected or maintained or when winds exceed speeds for equipments' design rating.

**5.** All onsite collector wiring shall be placed underground.

**6.** The visual appearance of the vertical axis wind energy facility shall:

**i.** Be a nonobtrusive color such as white, off-white or gray;

**ii.** Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other authority that regulates air safety;

**iii.** Not display advertising except for manufactures identification; and

**iv.** Not have flags, streamers or decoration attached.

**7.** Vertical axis wind energy facilities shall comply with the provisions of [Chapter 16 Article III of this Code].

**e. Decommissioning.**

**1.** The vertical axis wind energy facility owner shall have six months to complete decommissioning of the facility if no electricity is generated for a continuous period of 12 months.

**2.** Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities.

**f. Development permit requirement.**

**1.** No vertical axis wind energy facility, or addition of a wind turbine to an existing vertical axis wind energy facility, shall be constructed unless a development permit has been issued to the facility owner approving construction of the facility under this [section]. Permit application of the expansion shall be based on the total rated capacity, including existing facility but excluding like-kind replacements.

**2.** Any physical modification to an existing and permitted vertical axis wind energy facility that materially alters the size and/or type of wind turbines or other equipment shall require a development permit modification under this [section].

**g. *Development permit application.***

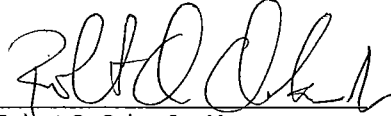
**1.** The development permit application shall contain the following: a narrative describing the proposed wind energy facility, including an overview of the project, the proposed total rated capacity of the wind energy facility, the proposed number, types and height of wind turbines to be constructed; and a description of ancillary facilities;

**2.** A site plan showing the planned location of all wind turbines, property lines demonstrating compliance of the setbacks;

**3.** Other relevant information may be reasonably requested by the town to ensure compliance with the requirements of this [section].

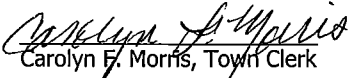
**4.** Decommissioning plans that describe anticipated life of the wind power project, estimated decommissioning costs in current dollars, the method for ensuring funds will be available for decommissioning and restoration, and the anticipated manner in which the wind power project will be decommissioned and the site restored.

PART XV. 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 2<sup>nd</sup> day of **November 2011.**



Robert O. Oakes Jr., Mayor  
Town of Nags Head

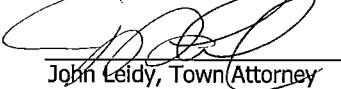
ATTEST:



Carolyn F. Morris, Town Clerk



APPROVED AS TO FORM:



John Leidy, Town Attorney

Date adopted: November 2, 2011

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

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

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

**TOWN OF NAGS HEAD  
STATEMENT OF CONSISTENCY  
WITH THE LAND USE PLAN FOR A ZONING TEXT AMENDMENT**

**BE IT HEREBY RESOLVED** by the Board of Commissioners for the Town of Nags Head, that in accordance with provisions of North Carolina General Statute 160A-383, the Board of Commissioners hereby finds and determines that the adoption of the requested zoning text amendment to:

- Town Code Chapter 48 to allow Vertical Axis Wind Facilities as an acceptable use to promote alternative energy.

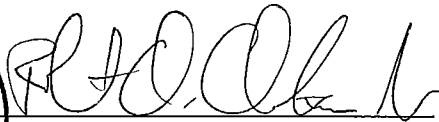
is consistent with the goals, objectives and policies of the Town's adopted Land Use Plan as recommended by the Planning Board,

**AND THAT**, the Board of Commissioners find that this adoption of this Text Amendment is reasonable and in the public interest, because the text amendment:

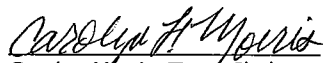
- Reflects consideration of visual impact with the desire to support emerging alternative energy technologies (*2010 Land Use Plan, pp 96*).


**READ, APPROVED AND ADOPTED** by a vote of **5 to 0**, this the **2<sup>nd</sup>** day of November 2011.



  
Robert O. Oakes Jr., Mayor

**ATTEST:**

  
Carolyn Morris, Town Clerk

  
Cliff Ogburn, Town Manager