



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

WHEREAS, pursuant to Article 8 of Chapter 162A of the North Carolina General Statutes, the Town of Nags Head is provided with uniform authority to implement system development fees for public water systems; and

WHEREAS, a system development fee is a charge or assessment for service imposed with respect to new development to fund costs of capital improvements necessitated by and attributable to such new development, to recoup costs of existing facilities which serve such new development, or a combination of those costs; and

WHEREAS, a local government unit may only impose a system development fee based on a written analysis prepared by a financial professional or licensed professional engineer which employs generally accepted accounting or engineering practices and calculates a final system development fee per service unit of new development based on one of three methodologies authorized by statute; and

WHEREAS, the Town has prepared this analysis and calculated a fee which was adopted by the Nags Head Board of Commissioners on June 20, 2018 after the requisite notice and public hearing as prescribed by statute; and

WHEREAS, this ordinance codifies the calculated fee and establishes procedures under which to collect the fee or provide credits for pre-existing water impact fees.

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

PART I. That **Division 5 of Chapter 44 of the Code or Ordinances** be amended as follows:

DIVISION 5. - ~~SYSTEM DEVELOPMENT FEES WATER CONSUMPTION UNITS~~^[3]

Sec. 44-161. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Active water consumption unit means one where associated water impact fees have been paid or where an active water meter account is currently serving an existing principal structure.

Customer service area means an area within a restaurant or restaurant drive-in, open to the general public and designated for the purchase and/or consumption of food, drink, or other similar items. Customer service area shall include indoor and/or outdoor seating areas, indoor and/or outdoor lounge and bar areas, decks, porches, and patios, but shall not include stairs, stair landings, handicapped ramps, restrooms, kitchen and food preparation areas, private offices, loading areas, hallways, exit access and exit discharge areas, and any other areas not open to the general public.

System Development Fee means a charge or assessment for service imposed with respect to new development to fund costs of capital improvements necessitated by and attributable to such new development, to recoup costs of existing facilities which serve such new development, or a combination of those costs. All projects for which a building permit or site plan is issued or otherwise when a building or other structure or use shall be erected, moved, added to or structurally altered after July 1, 2018 will be assessed a system development fee in accordance with section 44-164.

Water consumption unit (WCU) means a fee charged by the town for water service prior to July 1, 2018 based upon a fixed quantity of water (400 gallons per day) used as a standard to establish the daily water consumption of various land uses. Water consumption units required for each land use shall be calculated using the schedule in section 44-164. After July 1, 2018, new water consumption units will no longer be assessed.

Water tap permit means a permit issued by the town to a property owner or developer that specifies the system development fee number of water consumption units required requested for the

proposed development, the size of water tap for the proposed development, amount of ~~water impact~~ system development fee due, and amount of water tap fee due.

Sec. 44-162. - General provisions.

- (a) No building permit may be issued and no site plan may be approved by the town unless all associated water fees have been paid and a water tap permit ~~for the number of water consumption units~~ needed for the proposed project has been issued to the applicant for the building permit or site plan. Water fees shall include the payment of a system development fee which is calculated in accordance with the requirements of section 44-164. Any proposed change of use or increase in occupancy of a structure requiring at least an additional 200 gallons per day of water usage ~~0.5 water consumption unit~~, as determined by section 44-164, shall be regulated by provisions of this division.
- (b) If building permit and/or site plan approval is not required, no building or other structure or use shall be erected, moved, added to or structurally altered until all applicable water fees and water tap permit for the amount of the system development fee ~~number of water consumption units~~ needed for the proposed project have been issued to and paid for by the applicant.
- (c) Authorization of installation of a water tap is issued upon completion of the framing inspection.
- (d) The system development fee schedule ~~Impact fees for water consumption units~~ and tap fees are contained in the town's consolidated fee schedule.
- (e) Exemptions. Requests for refunds or exemptions from the system development fee ~~water impact fee~~ associated with a single-family development site may be considered by the board of commissioners upon petition by the property owner where all of the following criteria are met:
 - (1) The property in question meets the requirements of section 44-63;
 - (2) The board of commissioners determines that due to unique environmental conditions particular to the applicant's property and surrounding property that the benefits of preserving the environment outweigh the advantages of installing a water distribution system to serve the property; and
 - (3) Based on the most recent update of the town's water distribution needs, there are no plans to extend and no reasonable expectation to service the property in question.

Sec. 44-163. - Redevelopment.

- (a) In cases of redevelopment or where water service has been discontinued, credit for active water consumption units shall be equal to one water consumption unit or the number of water consumption units that have been verified by the town. The credit for each active water consumption unit shall equal up to 1700 gallons per day.
- (b) Active water consumption units may not be transferred off-site except as specifically provided herein.
- (c) Active water consumption units may be used as credit against proposed redevelopment on the site up to 100 percent of the redevelopment requirement. Credit must be affirmatively obtained in writing before any redevelopment activity including but not limited to demolition or removal of existing structures.
- (d) Existing water consumption units above the requirement for on-site redevelopment are not transferable, neither can they be used beyond the originally approved redevelopment project for future credit.
- (e) Active water consumption units for one-family and two-family structures may be transferred off-site within one year after the structure has been determined to be in imminent threat of collapse as defined by CAMA, where such involves the physical relocation of a threatened structure (ocean or estuarine).
- (f) Active water consumption units may be transferred off-site where such is a condition of acquisition of property by the town.
- (g) The use of existing water consumption units after having qualified for credit must be applied for and a building permit issued within five years of issuance of the certificate of completion for the demolition or relocation of the existing structure.
- (h) Modification to or change of use to existing structures. Credit will be allowed for present or existing use in accordance with the current fee schedule as if the structure were being built at the time of application for a building permit. The credit will be deducted from the total impact fee

schedule that would apply to the new structure or use. If the credit equals or exceeds the impact fee for the new structure or use, no fee will be charged. However, in no case will a refund be made for a modification to an existing structure or a change of use.

- (i) The renovation, remodeling or expansion of a dwelling, or the construction of an accessory structure that does not require an additional water tap or system development fees ~~water consumption unit~~ shall be exempt from the procedures set out in this division.
- (j) Principal structures proposed for sites on which a water tap already exists shall require a water tap permit. System Development Fees ~~Water consumption units~~ needed for the structures shall be determined in accordance with section 44-164.
- (k) For additions to existing structures, section 44-164 shall be used to determine the needed additional system development fees ~~water consumption units~~.

Sec. 44-164. - Application for water tap permit; calculation of the system development fee determination of number of units needed.


- (a) An application for a water tap permit shall be filed at the time of application for a single-family or duplex building permit or at the time of site plan submission for projects for which site plan approval is required.
- (b) System development fees are calculated based on the daily wastewater design flow rates for each proposed land use in accordance with the schedule established by North Carolina Administrative Code Section 15A NCAC 02T.0114. The system development fee shall equal \$1.77 per gallon per day. For single family dwellings, the flow rate shall equal 120 gallons per bedroom per day. The minimum flow rate for a single-family dwelling shall be 240 gallons per day. Each additional bedroom above two bedrooms shall increase the volume by 120 gallons per day. For other land uses, refer to the schedule for each type of establishment as outlined in 15A NCAC 02T.0114. The following schedule shall be used to calculate the system development fee water consumption units:


(1)	Residential private docks	0.5 water consumption unit per dwelling unit, per private dock
(2)	Dwelling— Less than 3,000 square feet	1 water consumption unit per dwelling
(3)	Dwelling— Less than 3,000 square feet with accessory private dock	1 water consumption unit per dwelling and dock
(4)	Dwelling— 3,000 up to 4,000 square feet	1.5 water consumption units per dwelling
(5)	Dwelling— 4,000 square feet or more	2 water consumption units per dwelling
(6)	Motel/hotel rooms	0.5 water consumption unit per lodging unit or hotel efficiency unit
(7)	Restaurants	0.0875 water consumption unit per every 15 square feet of customer service area
(8)	Retail/wholesale	0.0375 water consumption unit per 100 square feet of gross floor area
(9)	Office space	0.0175 water consumption unit per 100 square feet of gross floor area
(10)	Accessory buildings, when such building does not result in additional water use	0.0 water consumption unit per building
(11)	Land uses not otherwise mentioned	Required water consumption units to be determined by the town
(12)	Indoor raw materials storage and nonwater intensive fabrication	0.0124 water consumption unit per 100 square feet gross floor area
(13)	Hospitals	0.0525 water consumption unit per 100 square feet of gross floor area

Sec. 44-165. - Prepayment.

- (a) ~~The town will only accept prepayment of impact fees in blocks of 500 water consumption units per development. After July 1, 2018, the town shall no longer accept prepayment of impact fees or system development fees for a proposed development prior to the issuance of a building permit or site plan approval.~~
- (b) Existing Prepaid water consumption units prior to July 1, 2018 will not be transferable from one piece of property to another. Water consumption units are tied to a particular site rather than to the party making prepayment.
- (c) The town may refund prepayment of unused water impact fees if surplus funds become available for such a purpose. The town will not commit to any time frame for these refunds nor will it agree to pay any interest on such reimbursements.
- (d) Scheduling of the draw-down of prepaid water consumption units shall be subject to town approval prior to the acceptance of any prepayment of impact fees.
- (e) A refund will nullify the town's commitment to furnish the water represented by the number of water consumption units corresponding to the refund.

PART II. 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 5th day of July 2018.


Benjamin Caroon, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk



APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: July 5, 2018

Motion to adopt by Commissioner
Motion seconded by Commissioner

Vote: _____ AYES _____ NAYS