

(DRAFT)
AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF NAGS HEAD, NORTH CAROLINA AND ADDING LANGUAGE TO CREATE A NEW ZONING DISTRICT, C-5, HISTORIC CHARACTER COMMERCIAL.

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, 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 Unified Development Ordinance 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, on October 19, 2022, the Nags Head Board of Commissioners adopted a moratorium on non-residential development in the area from Danube Street north to Hollowell Avenue, between NC 12 and US Highway 158. Town Ordinance 22-10-020 states that the Planning Board will need three meetings to request adequate research, conduct analyses, complete community engagement activities, and recommend appropriate alternatives. Any recommended ordinances or zoning map amendments will be forwarded to the Board of Commissioners for scheduling a public hearing at their February 1, 2023, regular meeting.

WHEREAS, the 2017 Comprehensive Land Use Plan provides the following policies and actions which should guide the Town’s zoning and development actions:

LU-4d – Identify existing cohesive residential areas that are currently zoned commercial and consider rezoning to residential to preserve their integrity and limit future land use compatibility issues.

LU-4e – Develop regulations that prevent incompatible commercial development adjacent to areas with historical designations or significance.

LU-9b – Evaluate all current commercial zoning districts, based on this plan and the future land use map, to determine if they are functioning as envisioned and make necessary modifications. This should include the review of the existing C-2 district and determine if the C-1 or C-4 districts would be better suited than the current C-2 zoning along NC12, between the highways, and along US 158 (excluding major shopping center developments).

LU10a – Evaluate land uses specified in each zoning district and further clarify which uses are appropriate based on the intent of each district, their overall compatibility with current land uses, and desired future development patterns.

WHEREAS, consistent with Section 3.5.4 of the UDO (and subparts to that section) the Board finds that the proposed text amendment advances the public health, safety, or welfare; will help preserve the residential and historic character of areas of Town where commercial and non-residential uses or increases in or expansions of such uses are not compatible or desirable; is reasonable and in the public interest; and is consistent with the Town of Nags Head Comprehensive Land Use 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 **Section 6.2, Zoning Districts Established**, be amended as follows:

6.2.2. Zoning Districts Established.

In order to implement the purpose and intent of this UDO and the Comprehensive Plan, the following districts are established.

TABLE 6-1: ZONING DISTRICTS ESTABLISHED	
District Name	Abbreviation
Residential Districts:	
Low Density Residential	R-1
Medium Density Residential	R-2
High Density Residential	R-3
Commercial Districts:	
Neighborhood Commercial	C-1
General Commercial	C-2
Commercial Services	C-3
Arts and Culture	C-4
<u>Historic Character Commercial</u>	<u>C-5</u>
Commercial Residential	CR
Special Districts:	
Special Planned Development	SPD-20
Special Environmental	SED-80
Special Planned Development - Community	SPD-C
Ocean and Sound Waters	O&S

PART II. That **Section 6.2.4, Commercial Districts**, be amended as follows:

6.2.4. Commercial Districts.

The Commercial district designation is established to accommodate commercial development located primarily along the two major roadway corridors, US Highway 158 (US 158) and NC Highway 12 (NC 12). Neighborhood Commercial (C-1) is the least intense commercial designation that focuses on less intensive uses that serve the needs of the immediate residential neighborhoods. General Commercial (C-2) allows the broadest range of uses of all the commercial designations and provides both local and regional services. Commercial Services (C-3) is the most intense commercial district allowing warehouse, production, utility and light industrial uses. The C-3 district is the only district that does not adjoin a major roadway corridor. The Arts and Culture (C-4) is established as a neighborhood commercial district with the purpose of encouraging art, galleries, and cultural activities. The Historic Character Commercial (C-5) is established to accommodate neighborhood scale commercial and residential development patterns that are compatible with and protect the surrounding residential areas including Historic Cottage Row. The Commercial Residential (CR) is established to accommodate oceanfront development and associated commercial uses.

Section 6.2.4.6, C-5 Historic Character Commercial District. The C-5 Historic Character Commercial district is intended to accommodate small, neighborhood scale, pedestrian oriented commercial and residential development patterns with single family dwellings and neighborhood serving businesses, consistent with the size and scale of cottages within Historic Cottage Row. Commercial development must be designed in use, scale, character, and intensity to be compatible with and protect the surrounding residential area, including Historic Cottage Row, natural resources and scenic viewsheds. The district shall encourage development of unique, locally owned businesses designed to be reflective of the community's heritage and lifestyle both in scale and massing as well as site layout. Appropriate uses for this area include single-family dwellings (5,000 sq. ft. or less), office, retail, take-out, walk-up and sit-down restaurants, gallery and museums, cottage courts and churches.

PART III. That **Section 6.6, Table of Uses and Activities**, be amended as follows:

Section 6.6 Table of Uses and Activities.

Table Key:

P = Permitted Use

R = Supplemental Regulations

S = Special Use

Blank = Not allowed in that district

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					C-5	Special Districts				Overlay Districts			Supplemental Regulations
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
1	Residential	Cluster Housing		PR															Section 7.1
1	Residential	Cottage Court				SR	SR				SR								Section 7.2
1	Residential	Dwelling, Accessory																	Section 7.3
1	Residential	Dwelling, Large Residential	PR	PR	PR	PR					PR	PR	PR		PR			PR	Section 7.4
1	Residential	Dwelling, Multi-Family						SR											Section 7.5
1	Residential	Dwelling, Single-Family (detached)	P	P	P	P	P	P		P	P	P			P			P	
1	Residential	Dwelling, Two-Family		P	P	P	P	P		P	P								
1	Residential	Granny Pods/Temporary Health Care Structures	PR	PR	PR	PR	PR	PR		PR	PR	PR	PR						Section 7.6
1	Residential	Home Occupation - Class 1	PR	PR	PR	PR	PR	PR		PR	PR	PR							Section 7.7
1	Residential	Home Occupation - Class 2	SR	SR	SR		SR	SR				SR							Section 7.7
1	Residential	Home Occupation - Class 3				SR	SR	SR		SR									Section 7.7
1	Residential	Manufactured Home (as Single-Family Dwelling)							P										
1	Residential>>	Short-term rental	P	P	P	P	P	P		P	P	P	P	P	PR	P	P		

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					C-5	Special Districts				Overlay Districts			Supplemental Regulations
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
1	Residential	Townhouse										SR							Section 7.5
1.1	Residential - Group	Adult Care Home (over six residents)		P	P														
1.1	Residential - Group	Bed and Breakfast				S	S	S		S									
1.1	Residential - Group	Boarding Houses	SR	SR	SR	SR	SR	SR			SR								Section 7.8
1.1	Residential - Group	Child Care Facility, Family Child Care Home			PR														Section 7.9
1.1	Residential - Group	Dormitory						SR					SR						Section 7.10
1.1	Residential - Group	Family Care Homes/Halfway Homes	PR	PR	PR	PR	PR	PR		PR		PR	PR						Section 7.11
1.1	Residential - Group	Family Foster Home	P	P	P	P	P	P		P		P	P						
1.1	Residential - Group	Hotel				SR	SR	SR											Section 7.12
1.1	Residential - Group	Multi-Unit Assisted Housing with Services		P	P														
2	Retail	Art Gallery				P	P	P		P									
2	Retail	Art Gallery - Owner Occupied				P	P	P		P									
2	Retail	Artisan's Workshop (3,000 sq. ft. or less)				PR	PR	PR			PR								Section 7.13
2	Retail	Artisan's Workshop (exceeding 3,000 square feet)				SR	SR	SR		SR									Section 7.13
2	Retail	Auction House						PR											Section 7.14
2	Retail	Beach Recreation Equipment Rentals/Sales				P	P	P		P									
2	Retail	Bicycle Shop (repair, retail, rental)					P	P		P									
2	Retail	Convenience Store					P	P											
2	Retail	Firearms Sales and Service						P											

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					C-5	Special Districts				Overlay Districts			Supplemental Regulations
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
2	Retail	Food/Grocery Store				P	P	P											
2	Retail	Furniture Store						P											
2	Retail	General Retail, including clothing, gifts, candy, toys, shoes, jewelry, notions, beach equipment, bakery, antiques, hobby goods, magazines/comics, crafts, dry goods, gifts, musical instruments, bookstores, sporting goods (and the incidental manufacturing, repair, or service of goods on the premises)				P	P	P		P									
2	Retail	Greenhouse/Plant Nursery					P	P	P										
2	Retail	Hardware Store					P	P											
2	Retail	Pet Shop/Dog Grooming					PR	PR		PR									Section 7.15
2	Retail	Pharmacy					P	P											
2	Retail	Production/Repair/Sales Eyeglasses, Hearing Aids, Prosthetics					P	P	P										
3	Service	Automobile Repair																	Section 7.16
3	Service	Bail Bonds						P											
3	Service	Banking Institution					P	P											
3	Service	Broadcasting Studios						P											
3	Service	Car Washes (Automated and Self-Service)							CS										Section 7.18
3	Service	Carpet Sales and Installation								P									
3	Service	Child Care Facility, Child Care Center					SR		SR										Section 7.9
3	Service	Dry Cleaners and Laundromats (Pickup only)					P	P											
3	Service	Fire Safety Equipment Sales and Service								P									

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					C-4	Special Districts				Overlay Districts			Supplemental Regulations
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
3	Service	Food Bank																	Section 7.19
3	Service	Fueling Station																	Section 7.20
3	Service	Funeral Home																	
3	Service	Group Fitness-Aerobics/Dance/Karate/Yoga						P	P	P	P								
3	Service	Hair Salon						P	P		P								
3	Service	Indoor Fitness/Gymnasium						P	P	P	P								
3	Service	Indoor Public Assembly Facility					S	P	P		P								
3	Service	Locksmiths								P	P								
3	Service	Massage and Bodywork Therapy						PR		PR							PR		Section 7.21
3	Service	Metaphysical Wellness Services								SR									Section 7.22
3	Service	Parking Lots						P	P										
3	Service	Real Estate Rental Management Facility									P								
3	Service	Security System Sales/Service									P								
3	Service	Sexually Oriented Business									SR								Section 7.23
3	Service	Shoe Repair						P	P		P								
3	Service	Spa						P	P		P								
3	Service	Tailor						P	P		P								
3	Service	Tattoo/Body Piercing									S								
3	Service	Taxi/Limousine Service								S									
3	Service	Telecommunications Sales and Service							P	P									
	Service	Tutoring Facility/Learning Center							P										
3	Service	Veterinary Clinic with Animal Boarding								SR									Section 7.24.1
3	Service	Veterinary Clinic with no Animal Boarding						PR		PR									Section 7.24.2

	Use Category/Class	Use Type	Residential Districts			Commercial Districts						Special Districts				Overlay Districts			Supplemental Regulations
			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	
3	Service	Wallpaper Sales and Installation							P										
3	Service	Water Well Drillers Office, Storage, Sales and Install							P										
4	Food Service	Coffee Shop/Juice Bar						PR		PR									Section 7.25
4	Food Service	Food Truck					PR	PR											Section 7.26
4	Food Service	Ice Cream Shop				P	P	P			P								
4	Food Service	Microbreweries						SR											Section 7.27
4	Food Service	Restaurant - Drive In						SR											Section 7.28
4	Food Service	Restaurant - Drive Through							SR										Section 7.29
4	Food Service	Restaurant - Neighborhood					PR	PR	PR										Section 7.30
4	Food Service	Restaurant - Sit Down					PR	PR	PR										Section 7.31
4	Food Service	Restaurant - Take Out				P	P	P			P								
5	Office	Building Contractor's Office							P	P									
5	Office	Office w/Outdoor Storage of Materials/Equip./Vehicles								P									
5	Office	Professional Office, including General Business, Financial, Real Estate Sales, Insurance, Attorney, Accountant, Mortgage						P	P										
5	Office	Trade Association Office								P									
6	Commercial Mixed Uses	Commercial with Accessory Residential						PR		PR									Section 7.32, 7.33
6	Commercial Mixed Uses	Group Development						S	S										Section 7.32
6	Commercial Mixed Uses	Mixed Use Development						SR		SR									Section 7.32, 7.34

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					C-5	Special Districts				Overlay Districts			Supplemental Regulations
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
6	Commercial Mixed Uses	Multiple Principal Uses				SR	SR	SR	SR										Section 7.32, 7.35
6	Commercial Mixed Uses	Shopping Center						SR											Section 7.32
7	Institutional	Adult Day Service Center						SR											Section 7.36
7	Institutional	Cemetery			SR								SR						Section 7.37
7	Institutional	Colleges, Universities, Community Colleges						S											
7	Institutional	Education and Research Facilities					S	S	S										
7	Institutional	School						SR											Section 7.38
7	Institutional	Municipally Operated Farmer's Market						P											
7	Institutional	Fire Station		SR															Section 7.39.1
7	Institutional	Government Administrative Office			P														
7	Institutional	Libraries					S	S											
7	Institutional	Museum					P	P		P		P							
7	Institutional	Nonprofit/Community Outreach Center					P	P											
7	Institutional	Nonprofit/Community Outreach Center w/Outdoor Aquatic Fitness Facility		SR				PR					SR						Section 7.40
7	Institutional	Nursing Home/Medical Offices										SR							Section 7.41
7	Institutional	Police Shooting Range										PR							Section 7.42
7	Institutional	Post Office						P											
7	Institutional	Private Club (Non-Profit)	PR	PR	PR														Section 7.43
7	Institutional	Private Clubhouse for 501(c)8 Fraternal Beneficiary Societies as defined by IRS						PR											
7	Institutional	Public Utility Facility	SR	SR	SR	SR	SR	SR	SR		SR	SR							Section 7.44

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					C-5	Special Districts				Overlay Districts			Supplemental Regulations
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
7	Institutional	Public Works Facility							SR										Section 7.39.2
7	Institutional	Religious Complex		SR	SR			SR	PR		SR	SR							Section 7.45
7	Institutional	Religious Complex w/Accessory School/Daycare		SR	SR			SR	PS		SR	SR							Section 7.45
7	Institutional	Well Fields, Public Water Supply											SR						Section 7.46
7	Institutional	Wastewater Treatment Plants (accessory to pier)						SR											Section 7.47
8	Medical	Alcohol & Drug Outpatient Treatment						P											
8	Medical	Dialysis Center						P											
8	Medical	Medical Office					P	P		P	SR								Section 7.41
9	Recreation	Bowling Alley						S											
9	Recreation	Community Garden	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR							Section 7.48
9	Recreation	Environmental Awareness Area											SR	SR					Section 7.49
9	Recreation	Fishing Pier		SR		SR		SR								SR			Section 7.50
9	Recreation	Indoor Entertainment					PR	PR											Section 7.51
9	Recreation	Nonprofit Private Outdoor Recreation										P							
9	Recreation	Private Beach Access Facilities				SR													Section 7.52
9	Recreation	Public Beach/Sound Access/Bathhouse	P	P	P	P	P	P					S						
9	Recreation	Private Pier/Docks (Principal Use)	PR	PR												PR			Section 7.53
9	Recreation	Private Park/Playgrounds, Accessory to a Residential Subdivision or a Multi-Family Development	PR	PR	PR	PR							PR						Section 7.54
9	Recreation	Municipal Park		SR				PR					SR						Section 7.55

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					C-5	Special Districts				Overlay Districts			Supplemental Regulations
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
9	Recreation	Skate Park Facility																	Section 7.56
9	Recreation	Theater						SR											
9.1	Recreation-Land Dependent	Aerial Adventure Park															SR		Section 7.57
9.1	Recreation—Land Dependent	Designated Public Events Site															SR		Section 7.58
9.1	Recreation—Land Dependent	Go Kart Track															SR		Section 7.59
9.1	Recreation—Land Dependent	Grass Surface Putting Course															SR		Section 7.60
9.1	Recreation—Land Dependent	Mini-Golf															S		
9.1	Recreation—Land Dependent	Outdoor Amusement Rides/Games															SR		Section 7.61
9.1	Recreation—Land Dependent	Outdoor Sport Climbing Wall															SR		Section 7.62
9.2	Recreation—Water Dependent	Parasail Rental														C	C		
9.2	Recreation—Water Dependent	Tour Boat, (49 Passengers or Less)														C	C		
9.2	Recreation—Water Dependent	Watercraft Rental, Non-Powered														SR	SR		Section 7.63
9.2	Recreation—Water Dependent	Watercraft Rental, Powered														SR	SR		Section 7.63
9.2	Recreation—Water Dependent	Watercraft, Personal (Jet-Ski)														SR	SR		
10	Telecommunications	Communication Towers, Major			SR				SR										Section 7.64
10	Telecommunications	Concealed Building mounted Antenna, Installed Flush with Roofline				PR		PR											Section 7.65
10	Telecommunications	Concealed Building mounted Antenna, Not Installed Flush with Roofline						S											
10	Telecommunications	Small Wireless Facilities	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR						Section 7.66

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					Special Districts	Overlay Districts			Supplemental Regulations			
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*		O&S	CO	HO
10	Telecommunications	Telephone Switching Stations and Electric Substations							SR									Section 7.67
11	Warehouse/Light Industrial	Asphalt/Concrete Processing							SR									Section 7.68
11	Warehouse/Light Industrial	Assembly or Packaging of Articles							S									
11	Warehouse/Light Industrial	Beverage Manufacturing, Bottling and Processing							S									
11	Warehouse/Light Industrial	Brick and Masonry Facilities							S									
11	Warehouse/Light Industrial	Canvas, Fabric and Upholstery Fabrication							P									
11	Warehouse/Light Industrial	Commercial Crop Production, Indoor					P	P	P	P								
11	Warehouse/Light Industrial	Electrical Equipment Assembly							S									
11	Warehouse/Light Industrial	Fine Craft and Folk Art Production					P	P	P	P								
11	Warehouse/Light Industrial	Indoor Training Facility for Dog Agility							P									
11	Warehouse/Light Industrial	Junk Yards, Scrap Yards and Salvage Facilities							SR									Section 7.69
11	Warehouse/Light Industrial	Mini Storage (Self-Storage) Complex							SR									Section 7.70
11	Warehouse/Light Industrial	Open Space Infrastructure							P									
11	Warehouse/Light Industrial	Outdoor Storage in Crates, Trailers, etc.							P									
11	Warehouse/Light Industrial	Outdoor Storage of Construction Equip./Materials							S									
11	Warehouse/Light Industrial	Outdoor Storage of Vehicles, Equip. and Other Goods							P									
11	Warehouse/Light Industrial	Screen Printing Facility							SR									Section 7.71

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					C-5	Special Districts				Overlay Districts			Supplemental Regulations
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
11	Warehouse/Light Industrial	Stone Cutting, Shaping and Finishing Facilities							P										
11	Warehouse/Light Industrial	Trade Centers								SR									Section 7.72
11	Warehouse/Light Industrial	Warehousing & Storage Facilities							S										
12	Accessory Uses	Bulkhead/Estuarine Bulkhead	P	P	P	P	P	P	P	P		P	P		P	P		P	
12	Accessory Uses	Customary Accessory Church Facilities		S	S			S	P		IS	S							
12	Accessory Uses	Docking Facility, Accessory to Restaurant						P								P			Section 7.73
12	Accessory Uses	Electric Vehicle Charging Station	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR					Section 7.17
12	Accessory Uses	Electric Vehicle Battery Exchange Station							PR										Section 7.16
12	Accessory Uses	Garage	P	P	P	P	P	P	P	P		P	P			P		P	
12	Accessory Uses	Greenhouses	P	P	P	P	P	P	P	P		P							
12	Accessory Uses	Heliport, Accessory to Hospital and Medical Offices											SR						Section 7.74
12	Accessory Uses	On-site Rental of Beach Chairs & Umbrellas						PR	PR										Section 7.75
12	Accessory Uses	Outdoor Stands - Accessory to Shopping Centers and Group Developments						PR	PR										Section 7.76
12	Accessory Uses	Portable Storage Units/Temporary Construction Trailers	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR						Section 7.77
12	Accessory Uses	Shed	P	P	P	P	P	P	P	P	P	P	P					P	
12	Accessory Uses	Solar Energy Facility, Accessory	P	P	P	P	P	P	P	P	P	P	P					P	
12	Accessory Uses	Swimming Pool	P	P	P	P	P	P		P	P	P	P					P	
12	Accessory Uses	Walls and Fences	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR			PR		PR	Section 7.78
12	Accessory Uses	Wind Energy Facility, Rooftop	PR	PR	PR	PR					PR	PR	PR		PR			PR	Section 7.79.1

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					C-5	Special Districts				Overlay Districts			Supplemental Regulations
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
12	Accessory Uses	Wind Energy Facility, Small	P	P	P	P		P				P	P				SR	P	
12	Accessory Uses	Wind Energy Facility, Vertical Axis	PR	PR	PR	PR						PR	PR					PR	Section 7.79.2
		NOTES: * Refer to Article 9, Section 9.36 Table of Uses and Activities for the SPD-C District.																	

PART IV. That **Section 8.2, Development Standards – Primary Zoning Districts**, be amended as follows:

Section 8.2 Development Standards - Primary Zoning Districts.

8.2.1. Dimensional Requirements.

District	Minimum Lot Area ¹	Minimum Lot Width	Minimum Front Yard Depth	Minimum Side Yard Depth	Minimum Rear Yard Depth	Maximum Building Height ²	Lot Coverage ³
R-1 Low-Density Residential Single-Family Large Residential ⁴	20,000 sq. ft.	75 feet	30 feet	12 feet	20% of lot depth, not to exceed 30 feet ⁵	35 feet, 42 feet if utilizing 8/12 roof pitch	30% plus 300 sq. ft. or 33%, whichever is greater
R-2 Medium-Density Residential Single-Family Two-Family Large Residential ⁴ Lots using individual well/septic tanks	20,000 sq. ft. 30,000 sq. ft. 20,000 sq. ft. per dwelling unit	70 feet	30 feet	10 feet	20% of lot depth, not to exceed 30 feet ⁵	35 feet, 42 feet if utilizing 8/12 roof pitch	30% plus 300 sq. ft. or 33%, whichever is greater
R-3 High-Density Residential Single-Family Two-Family Large Residential ⁴ Lots using individual well/septic tanks	15,000 sq. ft. 22,500 sq. ft. 20,000 sq. ft. per dwelling unit	60 feet	30 feet	8 feet	20% of lot depth, not to exceed 30 feet	35 feet, 42 feet if utilizing 8/12 roof pitch	30% plus 300 sq. ft. or 33%, whichever is greater
CR Commercial Residential¹⁰ Commercial ⁶ Single-Family Two-Family Large Residential ⁴ Lots using individual well/septic tanks	15,000 sq. ft. 15,000 sq. ft. 22,500 sq. ft. 20,000 sq. ft. per dwelling unit	50 feet	See footnote 6 30 feet 30 feet	8 feet	25 feet 20% of lot depth, not to exceed 30 feet ⁸	35 feet, 42 feet if utilizing 8/12 roof pitch	40% 30% plus 300 sq. ft. or 33%, whichever is greater
C-1 Neighborhood Commercial Commercial ⁶ Single-Family Two-Family Large Residential ⁴ Lots using individual well/septic tanks	15,000 sq. ft. 15,000 sq. ft. 22,500 sq. ft. 20,000 sq. ft.	50 feet	See footnote 6 30 feet 30 feet	15 feet ⁷	25 feet 20% of lot depth, not to exceed 30 ft.	35 feet, 42 feet if utilizing 8/12 roof pitch	55% 30% plus 300 sq. ft. or 33%, whichever is greater

District	Minimum Lot Area ¹	Minimum Lot Width	Minimum Front Yard Depth	Minimum Side Yard Depth	Minimum Rear Yard Depth	Maximum Building Height ²	Lot Coverage ³
	per dwelling unit						
C-2 General Commercial Commercial ⁶ Single-Family Two-Family Large Residential ⁴ Lots using individual wells/septic tanks	15,000 sq. ft. 15,000 sq. ft. 22,500 sq. ft. 20,000 sq. ft. per dwelling unit		See footnote 6 30 feet 30 feet	15 feet ⁷ 8 feet 8 feet	25 feet 20% of lot depth, not to exceed 30 ft.	35 feet, 42 feet if utilizing 8/12 roof pitch	55% 30% plus 300 sq. ft. or 33%, whichever is greater
C-3 Commercial Services⁸	25,000 sq. ft.	100 feet	30 feet	20 feet	25 feet	35 feet, 42 feet if utilizing 8/12 roof pitch	⁹
C-4 Arts and Culture Commercial ⁶ Single-Family Two-Family Large Residential ⁴ Lots using individual well/septic tanks	15,000 sq. ft. 15,000 sq. ft. 15,000 sq. ft. 22,500 sq. ft. 20,000 sq. ft.	60 feet	See footnote 6	10 feet	20% of lot depth, not to exceed 30 ft.	35 feet, 42 feet if utilizing 8/12 roof pitch	40% 30% plus 300 sq. ft. or 33%, whichever is greater
<u>C-5 Historic Character Commercial</u> <u>Commercial⁶</u> <u>Single-Family</u> <u>Two-Family</u> <u>Large Residential⁴</u> <u>Lots using individual well/septic tanks</u>	<u>15,000 sq. ft.</u> <u>15,000 sq. ft.</u> <u>22,500 sq. ft.</u> <u>20,000 sq. ft. per dwelling unit</u>	<u>50 feet</u>	<u>See footnote 6</u> <u>30 feet</u> <u>30 feet</u>	<u>15 feet⁷</u> <u>8 feet</u> <u>8 feet</u>	<u>25 feet</u> <u>20 % of lot depth, not to exceed 30 ft.</u>	<u>35 feet, 42 feet if utilizing 8/12 roof pitch</u>	<u>40%⁹</u> <u>30% plus 300 sq. ft. or 33% whichever is greater</u>

Footnotes:

¹ Minimum Lot Area - for nonconforming lots, refer to Section 5.2, Nonconforming Lots of Record which establishes regulations under which a structure can be built on a legally nonconforming lot that does not meet the current minimum lot area or width requirements.

² Maximum Building Height - refer also to subsection 8.6.4 Building Height.

³ Lot Coverage - refer also to subsection 8.6.6 Lot Coverage.

⁴ Large Residential Dwelling - refer to Section 7.4 for dimensional requirements.

⁵ Minimum Rear Yard Depth - for oceanfront properties, refer to subsection 8.6.3.3 Oceanfront Property.

⁶ Commercial - refer to Article 10, Part VI, Commercial Design Standards to determine front yard setback and building size.

⁷ Minimum Side Yard Depth - the total combined side yard shall be a minimum of 15 feet. In no instance shall either side yard be less than five feet.

⁸ C-3 Commercial Services District - refer also to Section 8.3 Special Development Standards - Primary Zoning Districts.

⁹ Lot Coverage, C-3 District [and C-5 District](#) - refer to subsection 8.6.6.4 Special Requirements for the C-3 District [and C-5 District](#).

¹⁰ Building Size Limitation in CR- refer to Section 11.44.3 Coastal High Hazard Areas (Zones VE) and Properties East of NC 12 and SR 1243.

PART V. That **Section 7.15, Pet Shop**, be amended as follows:

Pet shop, is permitted in accordance with [Section 6.6](#), Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.15.1. All pens and kennels shall be in an enclosed, air-conditioned building.

7.15.2. Unenclosed runs are prohibited.

7.15.3. Within the C-5, Historic Character Commercial Zoning District, only grooming is allowed.

PART VI. That **Section 8.3, Special Development Standards – Primary Zoning Districts**, be amended as follows:

8.3.2. C-5, Historic Character Commercial District.

8.3.2.1. Where the requirements listed below conflict with other requirements of the Unified Development Ordinance, this Section shall supersede.

8.3.2.1.1. Commercial structures on lots fronting NC 12 shall not exceed 3,500 square feet of habitable building area.

8.3.2.1.2. Commercial structures on lots fronting US Highway 158 shall not exceed 10,000 square feet of habitable building area.

8.3.2.1.3. Commercial structures developed on lots having frontage on both NC 12 and US Highway 158 shall not exceed 3,500 square feet of habitable building area, however, if the entirety of the structure is located 75 feet or greater from the NC 12 right-of-way, the structure size may be increased up to 10,000 square feet of habitable building area.

8.3.2.2. In addition to achieving compliance with the commercial design standards of Article 10, Part VI of the Unified Development Ordinance, the Board of Commissioners must also make a finding that the proposed building design reflects the heritage of “Old Nags Head” and does not diminish the unique architectural character of the Nags Head Beach Cottage Row Historic District or the surrounding properties.

8.3.2.3. All new construction, any increases in building area, customer service area, lot coverage, addition of outdoor storage/customer waiting areas, or change of use of any commercial structure within the C-5 District must be approved via the Special Use Permit/Site Plan Review process.

PART VII. That **Section 8.6.6.4, Special Requirements for the C-3 District** be amended as follows:

8.6.6.4. Special Requirements for the C-3 District *and* C-5 District. ~~In the C-3 district, lot coverage shall be in accordance with the following table:~~

8.6.6.4.1. Within the C-3, Commercial Services Zoning District, lot coverage shall be in accordance with the following table:

Distance from Fresh Pond	Maximum Permeable Pavement	Maximum Impermeable Surface	Minimum Open Space
0—500 feet	25%	30%	45%
Over 500 feet	25%	45%	30%

8.6.6.4.2. Within the C-5, Historic Character Commercial Zoning District, lot coverage shall not exceed 40% of the lot area. Lot coverage may be increased to 50% of the lot area with the use of permeable paving materials.

PART VIII. That **Section 10.82, Commercial Design Standards, Applicability,** be amended as follows:

These design standards shall apply to all building construction or remodeling projects requiring a special use permit or site plan review according to requirements found in this UDO. These standards shall not apply to the following uses:

- Fishing piers
- Public utility facilities
- Single-family dwellings and Two-family dwellings
- Projects located in the C-3, Commercial Services Zoning District.

Except for the uses listed above, all existing principal structures located in the Commercial Residential (CR) District, Neighborhood Commercial (C-1) District, General Commercial (C-2) District, Arts and Culture (C-4) District, Historic Character Commercial (C-5), and The Village at Nags Head SPD-C Commercial 1, Commercial 2, and Hotel zoning districts which do not meet the requirements of this section shall be regulated in accordance with Article 5, Nonconformities of this UDO. Where a project subject to site plan or special use review is associated with an existing building, such as an addition or partial remodeling, these design standards shall apply only to the new construction, or the part of the building being remodeled. These standards shall also apply to any accessory building greater than five hundred (500) square feet located on a site with a principal building that is regulated by this section.

PART IX. That **Section 10.24, Signs Permitted in Commercial Districts and the Commercial/Residential District** be amended as follows:

Signs permitted in the C-1, C-2, C-3, C-4, C-5, and CR districts are as follows:

PART X. That **Section 7.78, Walls and Fences** be amended as follows:

7.78.3. Within any residential district (R-1, R-2, R-3, CR, SED-80, SPD-20, and SPD-C), and within any other district where the existing or proposed principal permitted use of the property is single-family or two-family residential (C-1, C-2, and C-4, and C-5), no wall or fence shall exceed four feet in height within a front yard or the frontward one-half portion of the side yard or six feet in height in a rear yard or the rearward one-half portion of the side yard. In the CR district, a fence located in the front yard and frontward one-half portion of the side yard may be increased to a height not exceeding six feet, provided that the fence meets the minimum required front yard and side yard setback distances established for single-family and two-family uses.

PART XI. That **Section 7.45, Religious Complexes** be amended as follows:

7.45.1. Dimensional Requirements.

The following dimensional requirements shall not apply to religious complexes occupying a tenant space within a building with multiple tenant spaces.

TABLE 7-3: REQUIREMENTS FOR RELIGIOUS COMPLEXES					
	R-2	R-3	SPD-20	C-2	<u>C-5</u>
Building Separation	30 feet				
Setbacks	25 feet property line; 30 feet street or right-of-way				
Ratio of Floor Area to Site Area	1:6	1:4	1:6	1:4	
Lot Coverage	30%; may increase to 45% with stormwater management facilities designed to retain and infiltrate the two-inch storm event			55%	<u>40%; may increase to 50% with permeable paving.</u>

PART XII. That **Section 7.23, Sexually Oriented Businesses** be amended as follows:

7.23.2. No sexually oriented businesses shall be permitted in any building which is:

7.23.2.2. Located within four hundred (400) feet in any direction from a residential zoning district (R-1, R-2, R-3, C-4, C-5, SPD-20, SPD-C, CR).

PART XIII. That **Appendix A – Definitions** be amended as follows:

Commercial transitional protective yard means a buffered protective yard on a commercial (C-1, C-2, C-3, and C-4, and C-5) lot. A commercial transitional protective yard is a required open space other than a court unoccupied and unobstructed by any structure or portion of a structure; provided, however, that fences, poles, posts may be permitted in any commercial transitional protective yard, subject to height limitations and requirements limiting obstruction of visibility or any other requirement of this UDO.

PART XIV. 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 ____ day of ____ 2023.

Benjamin Cahoon, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted: _____

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS