



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

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-174 the Town may enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town; and

WHEREAS, pursuant to N.C.G.S. § 160A-381, 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. 160A, Art. 19 et. seq, the Town has adopted a comprehensive zoning ordinance (the "Town's Zoning Ordinance") and has codified the same as Chapter 48 of the Town Code; and

WHEREAS, pursuant to N.C.G.S. § 160A-175 the Town may adopt, establish and amend procedures for exercising remedies available for violations of the Town Code; and

WHEREAS, changes in technology have led to a new "sharing" economy where it is becoming more commonplace for individual property owners to provide rentals to individuals on a daily or nightly basis; and

WHEREAS, the Town finds that these rapid changes to the way property owners are using their property have led to unforeseen and unexpected changes in the community; and

WHEREAS, vacation rentals have always been prevalent and represent a significant portion of the local economy; and

WHEREAS, the Town Board of Commissioners has directed the Planning Board and Town Staff to evaluate the desirability and impact of short-term rentals on the community, particularly with respect to new uses which are largely unregulated; and

WHEREAS, the Town finds that property owners who are providing these services should be aware and mindful of their impact to established neighborhoods; and

WHEREAS, the Town finds that property owners should also be aware of and comply with all local, state, and federal laws, including income, sales and occupancy tax requirements; and

WHEREAS, the Town's 2017 Comprehensive Plan page 2-28 states, "In years past the town has experienced the conversion of ground floor areas to additional, illegal, living spaces and over-occupancy of single-family dwellings associated with seasonal workers and vacation rentals. The town should maintain a strong code enforcement presence in these communities and throughout the town to preserve the fabric of neighborhoods and limit nuisances associated with these practices"; and

WHEREAS, the Town finds that it is in the Town's best interest to provide some level of oversight of these uses; and

WHEREAS, the Town is proposing to establish a registration program to assist owners in understanding their responsibilities and obligations as landlords to ensure that these uses remain compatible with established neighborhoods; and

WHEREAS, the Town finds that these text amendments are consistent with the goals, objectives and policies of the Town's adopted Comprehensive Plan, and that this action is reasonable and in the public interest.

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 ellipses ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of the Town Code.

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

PART I. That **Town Code Chapter 12, Businesses and Licensing** be amended to add the following:

Chapter 12 - BUSINESSES AND LICENSING

ARTICLE VII. – SHORT-TERM RENTALS

Sec. 12-224. - Definitions.

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

Short-term rental means the rental of residential property for vacation, leisure, recreation, or other purposes for fewer than thirty (30) days by a person who has a permanent residence to which he/she intends to return.

Residential property means an apartment, studio, condominium, single family home, townhouse, cottage or other property devoted to residential use or occupancy by one or more persons for a definite or indefinite period.

Operator means the proprietor or manager of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, or any other possessory capacity.

Sec. 12-225. - Regulations.

(a) There is hereby established a short-term rental registry. Upon offering any short-term residential rentals, all operators shall register with the town. This shall be an annual registration for each property offered for short-term residential rental. After the initial registration of each short-term rental is complete, the annual registration and fee shall be paid by September 1st of each year. The registration shall require the operator to provide the following information:

- (1) Complete name and address of the operator and any local contact person that would be available to respond to issues related to the operation of the property as a short-term rental.
- (2) Address of each property in the town offered for short-term residential rental by the operator.
- (3) Disclosure of whether or not liability insurance coverage is in effect to operate the residential property as a short-term rental.
- (4) Signed acknowledgement that the owner is aware of all local and state laws pertaining to the operation of a short-term rental, including the North Carolina Vacation Rental Act, and the requirement to pay all sales and occupancy taxes.

(b) Registry exemptions. The following shall not be required to register pursuant to this section:

- (1) Lodging provided by hotels, motels, tourist camps, and other places subject to regulation under Chapter 72 of the North Carolina General Statutes.
- (2) Rentals to persons having no other place of primary residence.

- (3) Rentals for which no more than nominal consideration is given.
- (4) Rentals that are managed by a real estate broker as defined in G.S. 93A-2(a)
- (c) Penalties. Failure to register a property within 30 days of being offered for short-term residential rental shall result in a civil penalty to be paid by the operator in the amount of \$100. Each additional day the property is listed or operated as a short-term rental without registering shall result in a civil penalty of \$50 per day. The town may waive such penalty if the failure to register was due to no fault of the operator. Until such time as the operator pays the penalty and registers such property, the operator may not continue to offer such property for short-term residential rental.

PART II. That Section **48-7, Definitions of Specific Words and Terms**, be amended as follows:

Bed and breakfast means a single-family dwelling that consists of the rental of ~~one or~~ **than two** bedrooms on a daily or weekly basis. The rooms shall not be equipped to allow the preparation of meals, although meals may be provided to overnight guests in a common area by the proprietor of the establishment. The bed and breakfast operation shall be owner occupied and conducted by persons who are full time residents of the single-family dwelling.

Short-term rental, partial house means a resident occupied single-family dwelling that consists of the rental of up to two guest rooms for vacation, leisure, recreation, or other purposes for fewer than thirty (30) days. The partial house short-term rental should be subordinate and incidental to the principal residential use of the dwelling.

Short-term rental, whole house means the rental of an entire single-family dwelling to a group operating as one housekeeping unit for vacation, leisure, recreation, or other purposes for fewer than thirty (30) days.

PART III. That Section **48-167, Required Parking by Use**, be amended as follows:

(1) Residential and Related Uses	Required Parking
<u>Short-term rental, whole house</u>	<u>No additional parking beyond the minimum requirement for single family dwelling.</u>
<u>Short-term rental, partial house</u>	<u>One additional parking space beyond the minimum requirement for single family dwelling.</u>

PART IV. That **Article XI, Schedule of District Regulations** be amended as follows:

(4) Non-Residential Prohibited and Permitted Uses Chart:

	ZONING DISTRICTS											OVERLAY DISTRICTS				COMMENTS
TYPE OF USE	R-1	R-2	R-3	CR	C-1	C-2	C-3	C-4	SP D-C	SP D-20	SE D-80	CO	Hotel	O&S	SRO	
Short-term rental	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	

PART V. Short-term rentals subject to the requirements of this ordinance shall have an initial compliance deadline of December 31, 2019 to register with the Town.

PART VI. 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 **3rd** day of **April 2019**.

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: April 3, 2019

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS