



**AN ORDINANCE AMENDING THE TOWN CODE OF ORDINANCE CHAPTER 12 BUSINESSES AND LICENSING AND CHAPTER 8 BEACHES AND WATERWAYS**

**PART I.** That Town Code Chapter 12 BUSINESSES AND LICENSING be amended as follows:

**Sec. 12-226. - Beach equipment concierge service regulations.**

Beach equipment concierge services shall comply with the following regulations:

(1) Beach equipment shall not be set up before ~~7:00 a.m.~~ 6:00 a.m. and shall be removed by ~~6:00 p.m.~~ 8:00 p.m.

(2) Beach equipment shall contain only incidental commercial signage. Specifically, individual beach canopy/umbrella signs shall not exceed 144 square inches in area. There shall not be more than two beach canopy/umbrella signs on any individual piece of equipment. Property identifiers such as initials and numbering shall be located on the interior or underside of a shade structure. Any other signage shall not be visible from the beach.

- a. Sign area means the area of signs composed, in whole or in part, of freestanding letters, devices or sculptured matter not mounted on a measurable surface shall be construed to be the area of the least square, rectangle or circle that will enclose the letters, devices and/or sculptured matter.
- b. Commercial signage shall be approved by the Planning Director or their designee as part of annual permitting and licensing.
- c. In addition to the 144 square inches of sign area allowed, you may also have a maximum two-digit identification number not to exceed six inches in height on equipment.

(3) Placement of beach equipment upon the ocean beach shall not restrict or impede the flow of vehicular, pedestrian or emergency services traffic. All public access points and lifeguard stands shall be free and clear of all obstructions and rental equipment for a minimum distance of 50 feet. For beach accesses, the minimum distance shall be measured from a straight line extending from the dune walkover structure or primary foot path extending to the waters of the ocean.

(4) All transactions/solicitations of business related to the operation of this service, including tips, shall occur off the beach, i.e., west of the dune, and shall not occur at a public beach access. Beach equipment may not be placed on the beach without an advance request for such service by the customer. Beach concierge service providers may not place beach equipment on the beach without an advance request for such service by the beachgoers to be served or someone the request on their behalf.

(5) Under no circumstance shall beach equipment be left on the beach or within the dunes overnight.

(6) At ~~6:00 p.m.~~ 8:00 p.m. each day, the area upon which beach equipment has been placed by the permittee shall be cleaned of all trash and debris.

~~(7) The town prohibits any person from leaving beach equipment on the beach overnight. Generally no beach equipment should be placed on the beach unless it will be used that day. Beach equipment should not be placed on the beach for prospective beachgoers solely as part of a pre-ordered weekly or multi-day arrangement. Beach equipment shall only be set up upon order/request of the customer each day; beach equipment shall not be pre-set.~~

(7) Beach equipment should only be set on the beach on the same day on which it will be used. It is the responsibility of beach concierge services to ensure customers have a method of requesting the setup of beach equipment only for the days it will be used.

(8) Beach tents, canopies, and awnings shall not be greater than 12 foot by 12 foot in area which shall include guy lines, stakes, weights, or any other methods to support or secure the item. Max height of beach tents, canopies, and awnings shall not be higher than 10 feet above the surface of the ocean beach when erected. Beach tents, canopies, and awnings shall not be tied together and shall be placed no closer than ten feet apart.

~~(8)~~(9) Emergency services personnel have the right to move beach equipment as necessary to ensure a clear path for travel and access and a clear line of sight for safety purposes.

~~(9)~~(10) Any violation of these regulations may result in any of the following actions:

- a. Removal and disposal of beach equipment (left on the beach overnight);
- b. Issuance of civil penalty pursuant to section 1-6 of this Code; or
- c. ~~Immediate~~ Revocation of the permit. Three separate violations in one calendar year shall result in immediate revocation of permit for the remainder of the calendar year or a period of nine (9) months, whichever is greater. If any permit is revoked by the Planning Director, the permit holder may appeal to the board of commissioners by filing a notice of appeal with the town clerk within ten days of the adverse action being appealed. Appeals shall be made on a form prescribed by the town. Appeals shall be scheduled for a hearing at the next regular meeting of the board of commissioners held more than 20 days after the appeal is filed with the town clerk. The board of commissioners shall hear each appeal de novo and may take any action that the town manager could have taken prior to the appeal.

## **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:

*Beach canopy* means a temporary, portable shelter commonly used by individuals or groups for protection from sun or other outdoor conditions. A beach canopy commonly consists of a four-sided structure with a metal frame and four corner supports covered by a fabric shade. A beach canopy may also consist of a fabric shade having multiple sides supported by a frame and/or poles. For the purposes of this article, beach canopy and beach tent shall have the same meaning.

*Beach equipment* shall include but is not limited to, beach canopies, tents, umbrellas, beach chairs, coolers, or recreation equipment.

*Beach equipment concierge service* means the activity of providing setup and/or removal of beach equipment for a fee. This may also include the rental of such equipment however the rental of equipment is not required to be considered a beach equipment concierge service. Equipment provided may include but is not limited to, beach canopies, tents, umbrellas, beach chairs, coolers, or recreation equipment.

*Beach umbrella* means a shade structure commonly used on the beach consisting of a single, center pole with a shade fabric affixed to a frame that can be lowered or raised along the pole. Commercial beach umbrellas are rented, either directly through a beach concierge service, or indirectly as a part of a vacation rental accommodation.

*Commercial beach canopy* means a beach canopy that is rented, either directly through a beach concierge service or indirectly as part of a vacation rental accommodation.

*Commercial beach umbrella* means a beach umbrella that is rented, either directly through a beach concierge service or directly as a part of a vacation rental accommodation.

*Ocean beach* means the area adjacent to the ocean and ocean inlets as described in G.S. 77-20(e).

*Sign, beach canopy/umbrella* means a sign affixed, located on or otherwise displayed on any surface of a beach canopy or umbrella in such a manner as to be visible to the public and which conveys a commercial message advertising, marketing, promoting, or describing a business that is providing a service to individuals using the beach canopy, including but not limited to, the placement of beach equipment, the rental of beach equipment, vacation rentals, or other services.

*Guy line* means a cord, string, or strap that is used to secure a tent, canopy, or tarp to the ground.

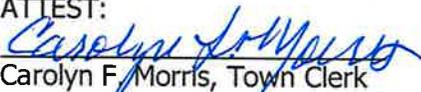
**PART II.** That Town Code Chapter 8 BEACHES AND WATERWAYS be amended as follows:

**Sec. 8-8. Unattended and unsafe equipment, personal property and debris on the ocean beach prohibited.**

- (a) It shall be prohibited for any person to leave unattended equipment, personal property, or debris, including, but not limited to, beach tents, canopies, umbrellas, awnings, chairs, and sporting nets, on the ocean beaches of the Town between 8 p.m. and 7 6 a.m. daily.
- (b) It shall be prohibited for any person to place any item on the beach which:
  - (1) Unreasonably restricts, prevents or disrupts the passage of public works, emergency or ocean rescue vehicles, or the public; or
  - (2) Impedes or obstructs the line of sight to the Atlantic Ocean from lifeguard stands or other surveillance areas used by ocean rescue personnel.
- (c) Beach tents, canopies, and awnings shall not be greater than 12 feet by 12 feet in area or higher than ten feet above the surface of the ocean beach when erected.
- (d) Beach tents, canopies, and awnings shall not be tied together and shall be placed no closer than ten feet apart.
- (e) *Remedies.* Violations of this section shall be subject to the penalties described in town Code subsection 1-6(b). Additionally, violations of this section shall result in the classification of unattended equipment, personal property or debris as abandoned property, litter or unsafe property and said property may be removed by the town.
- (f) *Exceptions.* The town manager may grant exceptions to this section for limited duration special events or other reasons in the general public interest upon presentation of a written request outlining the reasons for the exception and providing a plan for addressing safety issues associated with the request. This section shall not be applicable to development, beach restoration or nourishment, construction or similar activities occurring upon the ocean beach pursuant to and in compliance with all necessary permits issued by the local, state and/or federal agencies having jurisdiction over the work. This section shall not be construed to apply to the removal of permanent residential or commercial structures and appurtenances thereto.

**PART III.** 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 1<sup>st</sup> day of March 2023.

  
Benjamin Cahoon, Mayor  
Town of Nags Head

ATTEST:  
  
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

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John Leidy, Town Attorney

Date adopted: Mar 1, 2023  
Motion to adopt by Commissioner  
Motion seconded by Commissioner  
Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYS

