



**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-381, 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. 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's Code of Ordinances (the "Town Code"); and

WHEREAS, pursuant to N.C.G.S. § 160A-174 the Town may also 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, the Town finds that the redevelopment on a single conforming parcel of land created by recombining multiple non-conforming parcels of land that consists of a cluster of housing utilizing shared driveways, accessways and other infrastructure between them is desirable. Such redevelopment creates a more flexible option for developers with several existing, non-conforming lots to better manage their stormwater, lot coverage, septic and parking plans within a cohesive development approach than would be available for separate development of the pre-existing nonconforming parcels of land; and

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town's Zoning Ordinance and Town Code of Ordinances as stated below.

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 Zoning Ordinance.

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 Sec. 48-404(c)** be amended as follows:

...
(10) Residential Group Development subject to other requirements of this chapter and the following additional requirements which must be shown on a site plan submitted with the conditional use application:

- a. Residential group development shall only be allowed on a single conforming lot that has been created by the recombination of multiple pre-existing non-conforming lots which each had an area less than the minimum lot size of 15,000 square feet.

- b. The dwelling units of the residential development shall meet the zoning district's dimensional yard requirements for single family residential structures as measured from the perimeter of the lot on which the development occurs.
- c. No dwelling unit or accessory structure within a residential group development may be located within 10 feet of another structure.
- d. The number of dwelling units and TOTAL bedrooms ALLOWED per RESIDENTIAL GROUP ARE SHOWN BELOW. EACH DWELLING UNIT MUST HAVE A MINIMUM OF THREE (3) AND MAY HAVE NO MORE THAN FIVE (5) BEDROOMS.

No. of Dwelling Units	Max. NO. of Bedrooms Allowed	Area of Upland Required
1	5	7,500 SQ. FT.
2	10	15,000 SQ. FT.
3	15	22,500 SQ. FT.
4	20	30,000 SQ. FT.

- e. Each dwelling unit shall have access to a public street directly or via a driveway to a shared accessway. The shared accessway must be a minimum of 20 feet in width and meet the reasonable requirements of the Fire Marshall for access by fire fighting apparatus. An accessway width less than 20 feet may be reviewed and approved by the Fire Marshall in conjunction with an approved Alternative Life Safety Plan.
- f. If the dwelling units in a residential group development are submitted to a condominium form of ownership, the developer shall ensure that a condominium association is created to manage and maintain the common elements shared by the dwelling units as defined by the condominium documents and by the North Carolina Condominium Act, including, but not limited to any: streets, driveways, pools, stormwater management systems, sewage systems, water systems and any other amenities and infrastructure. Upon such a submission, the Town shall be provided with copies of all condominium documents and plats as well as future amendments thereof, which evidence that the condominium association has the authority and ability to manage and maintain the common elements.
- g. Any streets or accessways, other than private driveways must be dedicated to public use. However, the continuing maintenance of said streets and accessways remains the responsibility of the property owner, condominium owners and any condominium association unless and until they are affirmatively accepted for maintenance by the Town's Board of Commissioners or otherwise accepted into the State highway system.
- h. Off-street parking and loading facilities for each dwelling unit shall be provided so as not to interfere with the shared accessway or with the access of emergency or service vehicles to the entire property. Shared parking areas may be utilized to accommodate the total parking requirements for the development.
- i. All dwelling units within a Residential Group Development, regardless of number of bedrooms, shall provide a minimum of 75 architectural design points as prescribed by Town Code Section 48-370(d), Residential Design Standards.

PART II. That **Town Code Sec. 48-407(c)** be amended as follows:

...
(30) Residential group development meeting the requirements of section 48-404(c)(10).

ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons and any additional reasons supporting the Town's adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

ARTICLE V. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Nags Head, North Carolina which shall remain in full force and effect.

ARTICLE VI. Effective Date.

This ordinance amendment shall be in full force and effect from and after the 5th day of November 2014.


Robert C. Edwards, Mayor

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney



Date adopted: November 5, 2014
Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: _____ AYES _____ NAYS