



**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, a zoning ordinance text amendment was drafted by Planning Staff by request of the Board of Adjustment and Planning Board to allow greater flexibility in permitting minor modifications to Nonconforming Cottage Courts.

WHEREAS, the 2010 Land Use Plan states the that the Town desires to support local business owners; and

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

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 Section **48-128, Cottage Courts**, be amended as follows:

Sec. 48-128. - Cottage courts.

(a) Cottage courts which were legal at the time of their placement or construction but which would not be permitted by the regulations imposed by this chapter may continue, subject to the following provisions:

- (1) Existing individual dwelling units in a cottage court may be replaced provided that replacement structures shall be of the same or lesser size and the degree of structure nonconformity is not increased.

(2) All replacement cottage court units, substantially improved and substantially damaged cottage court units shall conform with the provisions of Chapter 22, Article II, Flood Damage Prevention.

(3) For the purpose of this section, structures will be considered individually when determining thresholds for repair, maintenance, and destruction.

(4) No existing individual dwelling unit in a cottage court shall be enlarged, extended, moved or structurally altered; except as provided ~~in subsection (5) of this section.~~
below:

~~(5)~~ (a) For lots abutting the Atlantic Ocean or Roanoke Sound individual dwelling units in a cottage court may be moved in cases where such structures are determined to be in imminent danger of collapse, as defined by CAMA, as a result of erosion by wind or water, provided that such movement does not increase the degree of nonconformity of the structures in any way. When utilizing this provision, a minimum ten-foot separation shall be maintained between individual structures. All structures, when moved shall adhere to the minimum setback requirements prescribed for single-family dwellings in the applicable zoning district if those setbacks can be met.

(b) Minor modifications to a cottage court dwelling unit or cottage court site, may be approved administratively by the Planning Director or his designee. Minor modifications include the addition of detached storage sheds, not to exceed 150 square feet in area, on-grade patios, decks, porches, driveway or parking modifications, or other additions not involving an increase or expansion of the habitable area of existing cottage court dwelling units.

(c) Major modifications to a cottage court dwelling unit or cottage court site, may be approved by the Nags Head Board of Commissioners through the Conditional Use process as set forth in Town Code Section 48-525. Major modifications include any proposal which will result in a net increase in habitable area of cottage court units.

(d) All improvements must meet the dimensional requirements of the district in which they are located. When a lot coverage nonconformity exists on a cottage court site, improvements may be allowed as long as there is no net increase in overall lot coverage. All other nonconformities shall be regulated in accordance with Town Code Section 48-124.

~~(6)~~(5) On any individual dwelling unit in a cottage court work may be done on ordinary repairs, or on repair or replacement of nonloadbearing walls, fixtures, wiring or plumbing.

~~(7)~~(6) If an individual dwelling unit in a cottage court becomes dangerous to life, destroyed or unlawful due to lack of repairs or maintenance, the building inspector shall condemn the structure in accordance with G.S. 160A-426, and the structure may thereafter be restored, repaired, rebuilt or replaced in conformity with the regulations of this chapter and any other applicable federal or state regulations.

~~(8)~~(7) Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any individual dwelling unit in a cottage court or part thereof declared to be dangerous to life by any official charged with protecting the public safety, or upon order of such official when he has determined that there is a clear and immediate danger to the public safety.

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 August 2015.



Robert C. Edwards, Mayor
Town of Nags Head

ATTEST:


Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: August 5, 2015

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS