



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

WHEREAS, pursuant to N.C.G.S. § 160A-459 the Town of Nags Head (the "Town") is authorized to adopt and enforce a stormwater control ordinance to protect water quality and control water quantity. Pursuant to this authority, the Town has previously adopted a stormwater management ordinance which is codified as Chapter 34 of the Town's Code of Ordinances (the "Town Code") for that purpose; 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-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, 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, the Town acknowledges that stormwater poses a threat to the public health, safety, and welfare, and;

WHEREAS, the Town has experienced significant localized flooding during heavy and/or frequent rain events that in many cases can be attributed to stormwater and;

WHEREAS, it is the Town's intent to preserve residential neighborhoods and to support local businesses and;

WHEREAS, the Town regulates lot coverage and built-upon area as a means to infiltrate stormwater and reduce the need for engineered stormwater conveyances and;

WHEREAS, the 2017 Comprehensive Plan states that the Town will "Limit the scale and mass of single family residential dwellings to support the town's vision for low density and intensity residential neighborhoods (p. 3-24)" and;

WHEREAS, the Comprehensive Plan suggests that the Town will maintain residential lot coverage at generally 33 percent to further its goal of limiting development intensity and infiltrate stormwater and;

WHEREAS, the Town finds that to protect coastal waters we should limit non-point source pollution attributed to run-off from impervious surfaces such as parking lots and roof tops and;

WHEREAS, the Town finds that as more lots are developed and the built upon area is increased throughout Nags Head, stormwater collection and conveyance systems within the public rights-of-way are being overburdened and must be supplemented with additional management practices on private property and;

WHEREAS, the Town manages resources to protect the public infrastructure, quality of life, environment, and property of the citizens of Nags Head through fair and equitable, cost effective means, and these ordinances seek to improve, enhance, and protect the quality of life for the citizens of Nags Head, 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;

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

PART I. That **Town Code Section 48-402. - R-1 low-density residential district**, be amended as follows:

(d) *Dimensional requirements.* Unless otherwise specified in subsection (c) of this section, the following dimensional requirements in the R-1 district shall apply:

(2) Lot coverage:

- a. The lot coverage shall not exceed 30 percent plus 300 square feet or 33 percent, whichever is greater. When performing lot coverage calculations, the residential lot coverage calculation sheet included with the site development application, as amended, shall be completed and submitted for review and approval.
- b. Permeable pavement:
 - i. For the purposes of determining lot coverage, the total square footage of permeable pavement materials is multiplied by 0.67.
 - ii. Permeable pavement materials include porous concrete, permeable interlocking concrete pavers, concrete grid pavers, Turfstone™, gravel as defined in town Code section 48-7, and other proven technologies available as covered in the NC Best Management Practices Manual and as approved by the town engineer for appropriateness to the site and existing conditions. Porous concrete shall be designed and installed in accordance with ACI specifications, or equivalent standard, with hydrological, operation and maintenance considerations. Installation shall be conducted by a contractor certified in the installation of the type of pavement system chosen.
 - iii. Edge restraints shall be provided on all concrete grid pavers, permeable interlocking concrete pavers, and similar type installations to confine the pavement installation. The pavement surface course structural properties shall be designed to withstand the applied vehicular loading pursuant to the specified application.
 - iv. No porous concrete shall be used east of NC 1243 (South Old Oregon Inlet Road) or NC 12 (South Virginia Dare Trail). Compacted gravel shall not be considered permeable pavement.
- c. In the case of an oceanfront lot, only that area landward of the first line of stable natural vegetation (as defined by CAMA) shall be used for calculating lot coverage. Where an oceanfront lot has little or no stable natural vegetation, the line of such vegetation shall be a line extending between the nearest such vegetation existing north and south of the lot. In the case of lots abutting estuarine waters (as defined by division of marine fisheries and used by CAMA), lot coverage shall be in accordance with the standards listed above, except that in the area waterward of the U.S. Army Corps of Engineers 404 fill line, lot coverage shall not exceed 30 percent. If the Corps of Engineers 404 fill line is not evident or located within the estuarine AEC, as defined by CAMA, lot coverage within the estuarine, AEC shall not exceed 30 percent. Lot coverage allowances shall not be transferred from one portion of the lot to another.
- d. The area necessary for shared accessways in accordance with subsection 48-90(a) shall be excluded from the total lot coverage allowance for an individual lot. Two hundred (200) square feet of lot coverage may be excluded from the lot coverage calculation for individual lots that utilize a shared driveway with an adjoining lot to provide the sole means of access to the lot. In these instances, a shared access easement must be recorded for each lot that utilizes the shared driveway.
- e. For residential uses, the total lot coverage may be increased by five three percent when all runoff from the project's built-upon area is directed into an approved stormwater management system designed to accommodate the volume of runoff generated by a 3.5-inch design storm. The approved stormwater management system shall be designed in accordance with the standards included in Chapter 34 Stormwater, Fill, and Runoff Management. on-site stormwater management facilities are designed, constructed, verified and maintained to retain and infiltrate the runoff from a 3.5-inch, two-hour rainfall event, assuming a standard infiltration rate of ten inches per hour. The stormwater management design standard may be reduced to a three-inch, two-hour rainfall event when more than 15 percent of the lot area is preserved in existing vegetation in accordance with subsection 48-485(b)(1)(3).

PART II. That **Town Code Section 48-403. - R-2, medium-density residential district**, be amended as follows:

(d) *Dimensional requirements.* Unless otherwise specified in subsection (c) of this section, the following dimensional requirements in the R-2 district shall apply:

(2) Lot coverage:

- a. The lot coverage shall not exceed 30 percent plus 300 square feet or 33 percent, whichever is greater. When performing lot coverage calculations, the residential lot coverage calculation sheet included with the site development application, as amended, shall be completed and submitted for review and approval.
- b. Permeable pavement:
 - i. For the purposes of determining lot coverage, the total square footage of permeable pavement materials is multiplied by 0.67.
 - ii. Permeable pavement materials include porous concrete, permeable interlocking concrete pavers, concrete grid pavers, Turfstone™, gravel as defined in town Code section 48-7, and other proven technologies available as covered in the NC Best Management Practices Manual and as approved by the town engineer for appropriateness to the site and existing conditions. Porous concrete shall be designed and installed in accordance with ACI specifications, or equivalent standard, with hydrological, operation and maintenance considerations. Installation shall be conducted by a contractor certified in the installation of the type of pavement system chosen.
 - iii. Edge restraints shall be provided on all concrete grid pavers, permeable interlocking concrete pavers, and similar type installations to confine the pavement installation. The pavement surface course structural properties shall be designed to withstand the applied vehicular loading pursuant to the specified application.
 - iv. No porous concrete shall be used east of NC 1243 (South Old Oregon Inlet Road) or NC 12 (South Virginia Dare Trail). Compacted gravel shall not be considered permeable pavement.
- c. In the case of an oceanfront lot, only that area landward of the first line of stable natural vegetation (as defined by CAMA) shall be used for calculating lot coverage. Where an oceanfront lot has little or no stable natural vegetation, the line of such vegetation shall be a line extending between the nearest such vegetation existing north and south of the lot. In the case of lots abutting estuarine waters (as defined by division of marine fisheries and used by CAMA), lot coverage shall be in accordance with the standards listed above, except that in the area waterward of the U.S. Army Corps of Engineers 404 fill line, lot coverage shall not exceed 30 percent. If the Corps of Engineers 404 fill line is not evident or located within the estuarine AEC, as defined by CAMA, lot coverage within the estuarine, AEC shall not exceed 30 percent. Lot coverage allowances shall not be transferred from one portion of the lot to another.
- d. The area necessary for shared accessways in accordance with subsection 48-90(a) shall be excluded from the total lot coverage allowance for an individual lot. Two hundred (200) square feet of lot coverage may be excluded from the lot coverage calculation for individual lots that utilize a shared driveway with an adjoining lot to provide the sole means of access to the lot. In these instances, a shared access easement must be recorded for each lot that utilizes the shared driveway.
- e. For residential uses, the total lot coverage may be increased by five three percent when all runoff from the project's built-upon area is directed into an approved stormwater management system designed to accommodate the volume of runoff generated by a 3.5-inch design storm. The approved stormwater management system shall be designed in accordance with the standards included in Chapter 34 Stormwater, Fill, and Runoff Management. on-site stormwater management facilities are designed, constructed, verified and maintained to retain and infiltrate the runoff from a 3.5-inch, two-hour rainfall event, assuming a standard infiltration rate of ten inches per hour. The stormwater management design standard may be reduced to a three-inch, two-hour rainfall event when more than 15 percent of the lot area is preserved in existing vegetation in accordance with subsection 48-485 (b)(1)(3).

PART III. That **Town Code Section 48-404. - R-3 high-density residential district**, be amended as follows:

(d) *Dimensional requirements.* Unless otherwise specified in subsection (c) of this section, the following dimensional requirements in the R-3 district shall apply:

(2) Lot coverage:

- a. The lot coverage shall not exceed 30 percent plus 300 square feet or 33 percent, whichever is greater. When performing lot coverage calculations, the residential lot coverage calculation sheet included with the site development application, as amended, shall be completed and submitted for review and approval.
- b. Permeable pavement:
 - i. For the purposes of determining lot coverage, the total square footage of permeable pavement materials is multiplied by 0.67.
 - ii. Permeable pavement materials include porous concrete, permeable interlocking concrete pavers, concrete grid pavers, Turfstone™, gravel as defined in town Code section 48-7, and other proven technologies available as covered in the NC Best Management Practices Manual and as approved by the town engineer for appropriateness to the site and existing conditions. Porous concrete shall be designed and installed in accordance with ACI specifications, or equivalent standard, with hydrological, operation and maintenance considerations. Installation shall be conducted by a contractor certified in the installation of the type of pavement system chosen.
 - iii. Edge restraints shall be provided on all concrete grid pavers, permeable interlocking concrete pavers, and similar type installations to confine the pavement installation. The pavement surface course structural properties shall be designed to withstand the applied vehicular loading pursuant to the specified application.
 - iv. No porous concrete shall be used east of NC 1243 (South Old Oregon Inlet Road) or NC 12 (South Virginia Dare Trail). Compacted gravel shall not be considered permeable pavement.
- c. In the case of an oceanfront lot, only that area landward of the first line of stable natural vegetation (as defined by CAMA) shall be used for calculating lot coverage. Where an oceanfront lot has little or no stable natural vegetation, the line of such vegetation shall be a line extending between the nearest such vegetation existing north and south of the lot. In the case of lots abutting estuarine waters (as defined by division of marine fisheries and used by CAMA), lot coverage shall be in accordance with the standards listed above, except that in the area waterward of the U.S. Army Corps of Engineers 404 fill line, lot coverage shall not exceed 30 percent. If the Corps of Engineers 404 fill line is not evident or located within the estuarine AEC, as defined by CAMA, lot coverage within the estuarine, AEC shall not exceed 30 percent. Lot coverage allowances shall not be transferred from one portion of the lot to another.
- d. ~~The area necessary for shared accessways in accordance with subsection 48-90(a) shall be excluded from the total lot coverage allowance for an individual lot. Two hundred (200) square feet of lot coverage may be excluded from the lot coverage calculation for individual lots that utilize a shared driveway with an adjoining lot to provide the sole means of access to the lot. In these instances, a shared access easement must be recorded for each lot that utilizes the shared driveway.~~
- e. For residential uses, the total lot coverage may be increased by five ~~three~~ percent when all runoff from the project's built-upon area is directed into an approved stormwater management system designed to accommodate the volume of runoff generated by a 3.5-inch design storm. The approved stormwater management system shall be designed in accordance with the standards included in Chapter 34 Stormwater, Fill, and Runoff Management, on-site stormwater management facilities are designed, constructed, verified and maintained to retain and infiltrate the runoff from a 3.5-inch, two-hour rainfall event, assuming a standard infiltration rate of ten inches per hour. The stormwater management design standard may be reduced to a three-inch, two-hour rainfall event when more than 15 percent of the lot area is preserved in existing vegetation in accordance with subsection 48-485 (b)(1)(3).

PART IV. That **Town Code Section 48-405. - CR commercial residential district**, be amended as follows:

- (d) *Dimensional requirements.* Unless otherwise specified in subsection (c) of this section, the following dimensional requirements shall apply in the CR district:
- (4) Lot coverage for all uses other than single-family and two-family uses:
- a. *Lot coverage:* The lot coverage shall not exceed 40 percent. When performing lot coverage calculations, the residential lot coverage calculation sheet included with the site development application, as amended, shall be completed and submitted for review and approval.
 - b. *Permeable pavement:*
 - i. For the purposes of determining lot coverage, the total square footage of permeable pavement materials is multiplied by 0.67.
 - ii. Permeable pavement materials include porous concrete, permeable interlocking concrete pavers, concrete grid pavers, Turfstone™, and other proven technologies available as covered in the NC Best Management Practices Manual and as approved by the town engineer for appropriateness to the site and existing conditions. Porous concrete shall be designed and installed in accordance with ACI specifications, or equivalent standard, with hydrological, operation and maintenance considerations. Installation shall be conducted by a contractor certified in the installation of the type of pavement system chosen.
 - iii. The town encourages use of pervious materials and new technologies that provide for safe and efficient driveway and parking areas and that appropriately address stormwater runoff issues. A minimum of 20 percent of the surface area of the parking area and drive aisles shall be constructed using permeable surface materials, unless it can be demonstrated that a topographic or hydrologic constraint exists that would limit its use and effectiveness.
 - iv. No porous concrete shall be used east of NC 1243 (South Old Oregon Inlet Road) or NC 12 (South Virginia Dare Trail). Compacted gravel shall not be considered permeable pavement.
 - c. In the case of an oceanfront lot, only that area landward of the first line of stable natural vegetation (as defined by CAMA) shall be used for calculating lot coverage. Where an oceanfront lot has little or no stable natural vegetation, the line of such vegetation shall be a line extending between the nearest such vegetation existing north and south of the lot. In the case of lots abutting estuarine waters (as defined by division of marine fisheries and used by CAMA), lot coverage shall be in accordance with the standards listed above, except that in the area waterward of the U.S. Army Corps of Engineers 404 fill line, lot coverage shall not exceed 30 percent. If the Corps of Engineers 404 fill line is not evident or located within the estuarine AEC, as defined by CAMA, lot coverage within the estuarine, AEC shall not exceed 30 percent. Lot coverage allowances shall not be transferred from one portion of the lot to another.
 - d. ~~The area necessary for shared accessways in accordance with subsection 48-90(a) shall be excluded from the total lot coverage allowance for an individual lot. Two hundred (200) square feet of lot coverage may be excluded from the lot coverage calculation for individual lots that utilize a shared driveway with an adjoining lot to provide the sole means of access to the lot. In these instances, a shared access easement must be recorded for each lot that utilizes the shared driveway.~~
 - e. For residential uses, the total lot coverage may be increased by ~~five~~ three percent when all runoff from the project's built-upon area is directed into an approved stormwater management system designed to accommodate the volume of runoff generated by a 3.5-inch design storm. The approved stormwater management system shall be designed in accordance with the standards included in Chapter 34 Stormwater, Fill, and Runoff Management. on-site stormwater management facilities are designed, constructed, verified and maintained to retain and infiltrate the runoff from a 3.5-inch, two-hour rainfall event, assuming a standard infiltration rate of ten inches per hour. The stormwater management design standard may be reduced to a three-inch, two-hour rainfall event when more than 15 percent of the lot area is preserved in existing vegetation in accordance with subsection 48-485 (b)(1)(3).

PART V. That **Town Code Section 48-407. – C-2 general commercial district**, be amended as follows:

(d) *Dimensional requirements.* Unless otherwise specified in subsection (c) of this section, the following dimensional requirements shall apply in the C-2 district:

(3) Lot coverage:

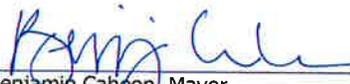
- a. The lot coverage shall not exceed 55 percent. When performing lot coverage calculations, the residential lot coverage calculation sheet included with the site development application, as amended, shall be completed and submitted for review and approval.
- b. Permeable pavement:
 - i. For the purposes of determining lot coverage, the total square footage of permeable pavement materials is multiplied by 0.67.
 - ii. Permeable pavement materials include porous concrete, permeable interlocking concrete pavers, concrete grid pavers, Turfstone™, and other proven technologies available as covered in the NC Best Management Practices Manual and as approved by the town engineer for appropriateness to the site and existing conditions. Porous concrete shall be designed and installed in accordance with ACI specifications, or equivalent standard, with hydrological, operation and maintenance considerations. Installation shall be conducted by a contractor certified in the installation of the type of pavement system chosen.
 - iii. The town encourages use of pervious materials and new technologies that provide for safe and efficient driveway and parking areas and that appropriately address stormwater runoff issues. A minimum of 20 percent of the surface area of the parking area and drive aisles shall be constructed using permeable surface materials, unless it can be demonstrated that a topographic or hydrologic constraint exists that would limit its use and effectiveness.
 - iv. No porous concrete shall be used east of NC 1243 (South Old Oregon Inlet Road) or NC 12 (South Virginia Dare Trail). Compacted gravel shall not be considered permeable pavement.
- c. In the case of an oceanfront lot, only that area landward of the first line of stable natural vegetation (as defined by CAMA) shall be used for calculating lot coverage. Where an oceanfront lot has little or no stable natural vegetation, the line of such vegetation shall be a line extending between the nearest such vegetation existing north and south of the lot. In the case of lots abutting estuarine waters (as defined by division of marine fisheries and used by CAMA), lot coverage shall be in accordance with the standards listed above, except that in the area waterward of the U.S. Army Corps of Engineers 404 fill line, lot coverage shall not exceed 30 percent. If the Corps of Engineers 404 fill line is not evident or located within the estuarine AEC, as defined by CAMA, lot coverage within the estuarine, AEC shall not exceed 30 percent. Lot coverage allowances shall not be transferred from one portion of the lot to another.
- d. The area necessary for shared accessways in accordance with subsection 48-90(a) shall be excluded from the total lot coverage allowance for an individual lot. Two hundred (200) square feet of lot coverage may be excluded from the lot coverage calculation for individual lots that utilize a shared driveway with an adjoining lot to provide the sole means of access to the lot. In these instances, a shared access easement must be recorded for each lot that utilizes the shared driveway.
- e. For residential uses, the total lot coverage may be increased by five three percent when all runoff from the project's built-upon area is directed into an approved stormwater management system designed to accommodate the volume of runoff generated by a 3.5-inch design storm. The approved stormwater management system shall be designed in accordance with the standards included in Chapter 34 Stormwater, Fill, and Runoff Management. on-site stormwater management facilities are designed, constructed, verified and maintained to retain and infiltrate the runoff from a 3.5-inch, two-hour rainfall event, assuming a standard infiltration rate of ten inches per hour. The stormwater management design standard may be reduced to a three-inch, two-hour rainfall event when more than 15 percent of the lot area is preserved in existing vegetation in accordance with subsection 48-485 (b)(1)(3).

PART VI. That **Town Code Section 48-441. – SPD-20 special planned development district**, be amended as follows:

(d) *Dimensional requirements.* Unless otherwise specified in subsection (c) of this section, the following dimensional requirements shall apply in the SPD-20 district:

- (1) A minimum lot area of 20,000 square feet is required for single-family dwellings.
- (2) Lot coverage:
 - a. The lot coverage shall not exceed 30 percent plus 300 square feet or 33 percent, whichever is greater. When performing lot coverage calculations, the residential lot coverage calculation sheet included with the site development application, as amended, shall be completed and submitted for review and approval.
 - b. Permeable pavement:
 - i. For the purposes of determining lot coverage, the total square footage of permeable pavement materials is multiplied by 0.67.
 - ii. Permeable pavement materials include porous concrete, permeable interlocking concrete pavers, concrete grid pavers, Turfstone™, gravel as defined in town Code section 48-7, and other proven technologies available as covered in the NC Best Management Practices Manual and as approved by the town engineer for appropriateness to the site and existing conditions. Porous concrete shall be designed and installed in accordance with ACI specifications, or equivalent standard, with hydrological, operation and maintenance considerations. Installation shall be conducted by a contractor certified in the installation of the type of pavement system chosen.
 - iii. Edge restraints shall be provided on all concrete grid pavers, permeable interlocking concrete pavers, and similar type installations to confine the pavement installation. The pavement surface course structural properties shall be designed to withstand the applied vehicular loading pursuant to the specified application.
 - iv. No porous concrete shall be used east of NC 1243 (South Old Oregon Inlet Road) or NC 12 (South Virginia Dare Trail). Compacted gravel shall not be considered permeable pavement.
 - c. Two hundred (200) square feet of lot coverage may be excluded from the lot coverage calculation for individual lots that utilize a shared driveway with an adjoining lot to provide the sole means of access to the lot. In these instances, a shared access easement must be recorded for each lot that utilizes the shared driveway.

PART VII. 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 **14th** day of **March 2018**.


Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:


Carolyn F. Morris, Town Clerk



APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: March 14, 2018

Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: _____ AYES _____ NAYS