



**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 has experienced a significant loss of hotels and other forms of short-stay accommodations over the past 20 years; and

WHEREAS, it has been documented by the Outer Banks Visitors Bureau that these types of accommodations are often the entry point for the first time visitor to the Outer Banks and serve to extend the shoulder season by providing less than one week stays; and

WHEREAS, the Town recognizes that a diversity of accommodations is healthy for the economy of the community; and

WHEREAS, the Town amended its regulations in 2004 to facilitate the development of hotels and has seen little hotel development with the enactment of this ordinance; and

WHEREAS, cottage courts have traditionally offered a viable alternative to hotels to provide short-stay accommodations and are a desirable and traditional use found in the town; and

WHEREAS, a zoning ordinance text amendment was drafted by Planning Staff by request of the Board of Commissioners and Planning Board to reinstate cottage courts as a viable use in the Town; and

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; 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 Section **48-7. – Definitions of specific words and terms**, be amended as follows:

Cottage court means multiple residential buildings three or more detached single-family dwellings on one lot. ~~Since August 5, 1985, no such development has been allowed in this jurisdiction. Any such development legally existing on that date became a nonconforming use. Cottage courts shall be designed and intended for transient guests on a rental basis, with the exception of living quarters for the property owner or on-site management.~~

PART II. That Section **48-128, Cottage Courts**, be amended as follows:

Sec. 48-128. – Nonconforming Cottage courts.

- (a) Cottage courts which do not conform to the definition of 'cottage court' contained in Town Code Section 48-7 and also to the provisions of Town Code Section 48-378 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 nonconforming cottage court may be replaced provided that replacement structures conform to the provisions of Town Code Section 48-378 shall be of the same or lesser size and the degree of structure nonconformity is not increased or do not increase the degree of structure or site nonconformity.
 - (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 nonconforming cottage court shall be enlarged, extended, moved or structurally altered; except as provided below:
 - 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 these setbacks can be met in Town Code Section 48-378.~~
 - b. Minor modifications to a nonconforming 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 nonconforming 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 nonconforming cottage court units.
 - d. All improvements must meet the dimensional requirements of the district in which they are located. When a lot coverage non-conformity 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.
 - (5) On any individual dwelling unit in a nonconforming cottage court work may be done on ordinary repairs, or on repair or replacement of nonloadbearing walls, fixtures, wiring or plumbing.
 - (6) If an individual dwelling unit in a nonconforming 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.
 - (7) Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any individual dwelling unit in a nonconforming 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 III. That Section **48-378, Cottage Courts**, be added as follows:

Sec. 48-378. – Cottage Courts.

Cottage Courts are permitted as a conditional use in the CR and C-2 zoning districts, provided the following requirements and conditions are met:

- (a) Location. Cottage Courts shall only be located on properties with frontage on NC 12 or SR 1243 or on properties east of NC 12 or SR 1243.
- (b) Size and arrangement. Individual dwelling units must be designed and arranged for occupancy by one family operating as a housekeeping unit and shall contain at least five hundred (500) but no more than two thousand (2,000) square feet of gross floor area. One structure may be up to 5,000 square feet if it is combined with on-site management or another complementary accessory or principal use. Each cottage court unit shall contain separate sleeping, bathing, and living areas.
- (c) Architectural design.
 - (1) Individual units must receive at least 75 architectural design points based on the criteria established in the Town of Nags Head Residential Design Guidelines (See Appendix A).
 - (2) Individual cottages shall not contain more than one and one-half (1 ½) stories. At least one-third (1/3) of the cottage court units shall not exceed one story.
 - (3) Dwelling units shall meet the minimum roof pitch requirements established in the Town of Nags Head Residential Design Guidelines.
 - (4) Dwelling units shall not contain enclosed attached or detached garages but may contain an open parking area underneath the structure. However, an owner or on-site manager living on the property may have one garage or shed serving their individual unit or living quarters.
 - (5) Cottages shall be oriented towards a common open space or shared drive aisle.
- (d) Density. Cottage courts shall contain at least three (3) but not more than ten (10) individual dwelling units.
- (e) Building separation and setbacks. Dwelling units shall be separated from one another by a minimum of ten (10) feet, including projections. Dwelling units shall have a minimum fifteen (15) foot front yard setback, eight (8) foot side yard setback, and twenty-five (25) foot rear yard setback.
- (f) Minimum lot size. Cottage court lots must be at least 20,000 square feet in area.
- (g) Lot coverage. 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.
 - (1) Permeable pavement:
 - a. For the purposes of determining lot coverage, the total square footage of permeable pavement materials is multiplied by 0.67.
 - b. 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.
 - c. 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.
 - d. 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.
 - (2) In the case of an oceanfront lot, only that area landward of the first line of stable natural vegetation or static vegetation line (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.

- (h) Driveway access. Each dwelling unit shall have access to a shared accessway. The shared accessway must be designed to a minimum width of 20 feet to allow firefighting apparatus to locate within 150 feet of all sides of all structures on the property. The shared accessway may be reduced to a minimum width of 12 feet where it is closer than 150 feet to all sides of all structures on the property. An accessway width less than 20 feet may be reviewed and approved by the fire marshal in conjunction with an approved alternative life safety plan.
- (i) Off-street parking and loading facilities. Individual units shall have a minimum of two (2) parking spaces. Parking spaces 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. Parking spaces and drive aisles shall not be located closer than five (5) feet to side or rear property lines. Parking spaces shall not be located with direct access from the right-of-way.
- (j) Refuse and recycling. Cottage courts shall provide a suitable location for a dumpster as determined by the Director of Public Works. Dumpster areas shall be appropriately screened and shall not be located in the required front yard of the property.
- (k) Pools. Cottage courts may have one community pool serving the all of the units on the property. Individual units may not have pools.
- (l) Utility meters of any type for individual units are prohibited.
- (m) Cottage courts shall operate under a single, unified management operation which arranges for reservations and attends to guest needs. There shall be a uniform key entry system operated by management staff.
- (n) On a site to be used for cottage court development, existing residential structures, which may become nonconforming with respect to the standards of this section, may be permitted to remain however the extent of the nonconformity shall not be increased.

PART IV. That Section **48-405 (c)**, be amended as follows:

Sec. 48-405. - CR commercial residential district.

- (c) Conditional uses. The following uses shall be permitted in the CR district, subject to the requirements of this CR district and additional regulations and requirements imposed by the board of commissioners as provided in article XIV of this chapter:

(8) Cottage Courts, subject to the requirements of Town Code Section 48-378.

PART V. That Section **48-407 (c)**, be amended as follows:

Sec. 48-407. - C-2 general commercial district.

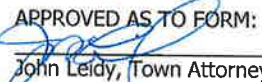
- (c) Conditional uses. The following uses shall be permitted subject to the requirements of this C-2 district and additional regulations and requirements imposed by the board of commissioners as provided in article XIX of this chapter:

(32) Cottage Courts, subject to the requirements of Town Code Section 48-378.

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 2nd day of November 2016.

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney



Date adopted: November 2, 2016

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