



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

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

PART I. That **Section 48-121(a) Intent, Nonconformities** be amended as follows:  
**Sec.48-121(a), Intent.**

- (a) It is the intent of this chapter to regulate lots, structures, sites and uses of land which were conforming at the time of their creation or construction but, due to changes in district regulations, no longer adhere to the requirements of this chapter. It is the intent of this chapter to allow nonconformities to continue until they are removed, ~~but not to encourage their survival, except in the instance of accidental loss.~~ It is further the intent of this chapter that nonconforming uses and nonconforming portions of structures shall not be enlarged, expanded or extended.

PART II. That **Section 48-123, Nonconforming structure with conforming use**, be amended as follows:

**Sec. 48-123. Nonconforming structure with conforming use.**

~~(a)~~ A nonconforming structure may be continued, subject to the following provisions:

- (1) A nonconforming structure may not be enlarged or altered in a way which increases the degree of nonconformity. ~~An example of an increase in the degree of nonconformity would be to enclose above or below a nonconforming deck whether or not the footprint is increased. Additions above or below nonconforming portions of enclosed habitable floor space shall not constitute an increase in the degree of nonconformity. Reconstruction and additions occurring within the existing building footprint, excluding enclosed space additions above or below open decks, shall be allowed and shall not constitute an increase in structural nonconformity.~~
- (2) ~~Should such nonconforming structure with conforming use, be destroyed by any means other than accidental loss and where such destruction exceeds 50 percent of the physical value of the structure based upon either the annually adjusted assessed tax value or an independent appraisal prepared by a certified professional appraiser, at the time of destruction, it shall not thereafter be reconstructed except in conformity with the provisions of the regulations of the district in which it is located.~~

~~"Accidental loss" for purposes of this section shall not include any act or omission by the owner of a structure that causes damage to that structure.~~

- (2) A nonconforming structure occupied by a conforming principal use ~~destroyed or otherwise modified by accidental loss~~ any means may be repaired, maintained, or replaced with an identical or similar structure regardless of value provided the repair, maintenance or replacement does not create any new structural nonconformities or increase the degree of existing structural nonconformities.
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved, except as provided in subsection (a)(4) of this section.

- (4) Any nonconforming structure located on a lot adjacent to the Atlantic Ocean or Roanoke Sound may be moved on the same lot, provided that such movement does not increase the degree of nonconformity of the structure in any way. However, when dimensional requirements can be met, they shall be met except as provided in section 48-83.
- (b) A nonconforming structure with a conforming use may be repaired and maintained, subject to the following provisions:
- (1) Work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonloadbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of either the annually adjusted assessed tax value or independent appraisal value of the nonconforming structure.
- (2) If a nonconforming structure becomes dangerous to life or unlawful due to lack of repairs and maintenance, where such lack of repairs and maintenance exceeds 50 percent of either the annually adjusted assessed tax value or independent appraisal value, the building inspector shall condemn the structure in accordance with G.S. 160A-426, and the structure shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.
- (35) Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any structure 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. However, when required repairs and maintenance exceed 50 percent of either the annually assessed tax value or independent appraisal value, the building inspector shall condemn the structure in accordance with G.S. 160A-426, and the structure shall not thereafter be restored, repaired or rebuilt except shall be done in conformity with the provisions of this Article or in conformity with the regulations of the district in which it is located.

PART III. That **Section 48-132, Application of residential design standards** be deleted in its entirety.

**Sec. 48-132. Application of residential design standards.**

~~When a single family or duplex dwelling becomes nonconforming as a result of the application of the residential design standards (section 48-370) and when proposed additions or modifications exceed 100 percent of either the annually adjusted assessed tax value or independent appraisal value of the structure, the entire structure shall be brought into conformity with the applicable standards in section 48-370, subsections (d) through (h). However, the addition of bedrooms will require compliance with Article V of this chapter.~~

PART IV. That **Section 48-133, Application of commercial design standards** be amended as follows:

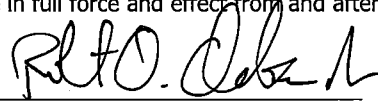
**Sec. 48-133. Application of commercial design standards.**

- (a) ~~When a commercial building that is regulated by section 48-371, Commercial design standards, becomes structurally nonconforming as a result of the application of the commercial design standards and when the proposed additions or modifications exceed 50 percent of either the annually adjusted assessed tax value or independent appraisal value of the structure, the entire structure shall be brought into conformity with the applicable standards in section 48-371, subsections (c) through (e).~~
- (b) ~~When a commercial building that is regulated by section 48-371 becomes structurally nonconforming as a result of the application of the commercial design standards and when the proposed repairs exceed 100 percent of either the annually adjusted assessed tax value or independent appraisal value of~~

~~the structure, the entire structure shall be brought into conformity with the applicable standards in section 48-371, subsections (c) through (e).~~

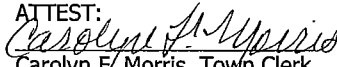
(e) Change of use of any commercial structure or building, in and of itself, shall not require adherence to the provisions of section 48-371.

PART V. 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 20<sup>th</sup> day of October, 2010.

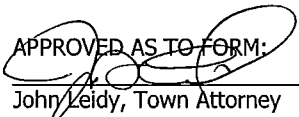


Robert O. Oakes, Jr., Mayor  
Town of Nags Head

ATTEST:

  
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

  
John Leidy, Town Attorney

Date adopted: October 20, 2010

Motion to adopt by Commissioner \_\_\_\_\_

Motion seconded by Commissioner \_\_\_\_\_

Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYS

