



# Ocracoke, NC: An Exercise in Land Use Regulation and Zoning Enforcement



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**Abstract:** Ocracoke is a remote island town located on the Outer Banks of North Carolina. Founded as a shipping pilot town in colonial times, it also became a pirate haven, and in recent years it has grown significantly, with tourism becoming its main economy. This rapid expansion as a tourist and retirement destination has put stress on the existing infrastructure of the village, and possible solutions are inhibited by a lack of cohesive, and enforceable, zoning and land use regulation on the island. Using case studies of surrounding communities to identify means and methods to improve zoning regulation, our group is assisting the village of Ocracoke's Advisory Planning Board to help manage its growth while maintaining its historical character.

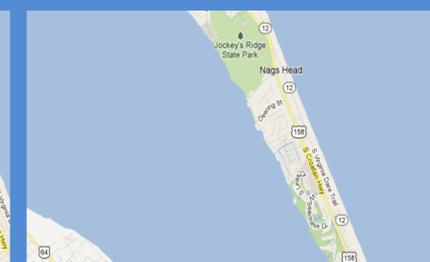
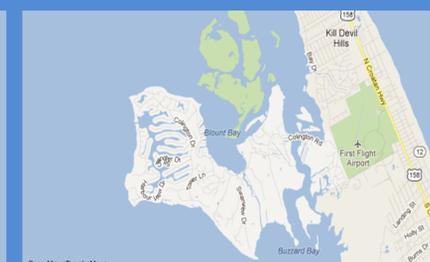
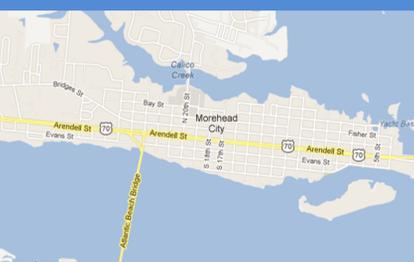
## Recommendations

While we understand that we are less knowledgeable of the actual make-up and goings-on of the Ocracoke community than the people who live there, we feel the strength of our analysis and conclusion comes from our position as objective outsiders. With that said, it is our opinion that Ocracoke's problems involving land use regulation on the island stem from one major issue: structure. What Ocracoke seems to lack is a coherent and effective structure of both ordinance and enforcement that would enable the island to direct its development towards a path deemed beneficial for the entire community.

Regarding ordinances, we feel the best option for Ocracoke would be to shift from its present ordinance structure towards one that utilizes zoning as its structural foundation. We have found that by using the specifics of zoning, the other North Carolina communities studied in this report have been able to create a coherent and clear set of guidelines. The ability to circumscribe and define development boundaries and restrictions allows for these towns to more easily enforce and regulate development. This gives less leeway to potential developers to circumvent restrictions through loopholes and discrepancies, and gives the administrative structure more power in the overall development process.



When it comes to enforcement, we found the problem to be two-fold, involving both the penalties, and the administrative structure that enforces them. The penalties put forth in the Ocracoke Development Ordinance structure seem to lack flexibility, clout, and further enforceability, if necessary, by the village. The best approach displayed by the case studies seems to be one that not only states clear penalties for violation, but one that also allows the administration to enforce preventative and injunctive measures while leaving the decision of damages or reparation up to the courts. To ensure the enforcement of these penalties these other towns have also created administrative enforcement structures that involve and cross several positions, rather than relying on an individual official to recognize, notify, cease, and enforce any violation of the code of ordinances. Whether intended or not, this multilateral approach allows for the dilution of the blame on any individual and spreads it across the administration. This lack of liability, in turn, allows for a more guilt-free and thorough investigation, and recognition of violations, which is the key to controlling and monitoring land use development in a community as close knit as Ocracoke.



### Morehead City

- Permanent population: 8,861
- Median household income: \$28,737
- Median house value: \$214,367
- Population below poverty line: 14.6%

### Bald Head Island

- Permanent population: 173
- Median household income: \$62,083
- Median house value: \$531,300
- Population below poverty line: 5.9%

### Kitty Hawk

- Permanent population: 6,947
- Median household income: \$53,217
- Median house value: \$192,000
- Population below poverty line: 6.5%

### Kill Devil Hills

- Permanent population: 5,897
- Median household income: \$39,713
- Median house value: \$211,507
- Population below poverty line: 8.7%

### Nags Head

- Permanent population: 2,789
- Median household income: \$53,095
- Median house value: \$142,800
- Population below poverty line: 6.1%

### Oak Island

- Permanent population: 8,297
- Median household income: \$50,104
- Median house value: \$306,800
- Population below poverty line: 8.1%



## References:

Bald Head Island Code of Ordinances: [http://www.amllegal.com/next/gateway.dll/North%20Carolina/baldheadisland\\_nc/villageofbaldheadislandnorthcarolina?7=templates\\$fn#default.htm\\$3.05vid=amlegal\\_baldheadisland\\_nc](http://www.amllegal.com/next/gateway.dll/North%20Carolina/baldheadisland_nc/villageofbaldheadislandnorthcarolina?7=templates$fn#default.htm$3.05vid=amlegal_baldheadisland_nc)  
 CIMA (Regional Contact List): <http://dcm2.enr.state.nc.us/permits/polist.htm>  
 Dare County CIMA Policy (environmental impact planning): <http://www.darecountync.com/planning/cimaPRC.asp>  
 Dare County Code of Ordinances: [http://www.amllegal.com/next/gateway.dll/North%20Carolina/dareco\\_nc/darecountyncnorthcarolinacodeofordinances?7=templates\\$fn#default.htm\\$3.05vid=amlegal\\_dareco\\_nc](http://www.amllegal.com/next/gateway.dll/North%20Carolina/dareco_nc/darecountyncnorthcarolinacodeofordinances?7=templates$fn#default.htm$3.05vid=amlegal_dareco_nc)  
 Dare County Land Use Update 2009: <http://www.darecountync.com/Forms/LUSE/LUP.pdf>  
 Highlands County Ordinance Codes: <http://www.highlandscnc.org/ordinances.html>  
 Hyde County Fee Schedule 2010: [http://www.hydecountync.gov/departments/docs/Hyde\\_County\\_Building\\_Permit\\_Fee\\_Schedule.pdf](http://www.hydecountync.gov/departments/docs/Hyde_County_Building_Permit_Fee_Schedule.pdf)  
 Kill Devil Hills (Code of Ordinances): [http://www.amllegal.com/next/gateway.dll/North%20Carolina/killdevilhills/townofkilldevilhillsnorthcarolinacodeoford7=templates\\$fn#default.htm\\$3.05vid=amlegal\\_killdevilhills\\_nc](http://www.amllegal.com/next/gateway.dll/North%20Carolina/killdevilhills/townofkilldevilhillsnorthcarolinacodeoford7=templates$fn#default.htm$3.05vid=amlegal_killdevilhills_nc)  
 Kill Devil Hills (Planning and Inspection): <http://www.kdhinc.com/index.aspx?nid=108>  
 Nags Head (Consolidated Fee Schedule): [http://www.nagsheadnc.gov/index.asp?Type=B\\_BASIC&SEC=11ASCC8F3-D925-4074-B1E1-60C50F507618D5](http://www.nagsheadnc.gov/index.asp?Type=B_BASIC&SEC=11ASCC8F3-D925-4074-B1E1-60C50F507618D5)  
 North Carolina Community Ordinances: <http://www.municode.com/Library/NC>  
 North Carolina Department of Environment and Natural Resources: <http://portal.ncdenr.org/web/guest/enforcement-principles>  
 North Carolina Land Use Laws (Compiled by Students in White Plains New York Pace University): <http://www.pace.edu/~landuse/law.html>  
 Oak Island CIMA Land Use Plan Update: [http://www.oakislandnc.com/Adobe\\_Files/LUP\\_DRAFT.pdf](http://www.oakislandnc.com/Adobe_Files/LUP_DRAFT.pdf)  
 Ocracoke Application Building Application: [http://www.hydecountync.gov/departments/docs/Ocracoke\\_Building\\_Permit\\_Package\\_with\\_ODO.pdf](http://www.hydecountync.gov/departments/docs/Ocracoke_Building_Permit_Package_with_ODO.pdf)  
 Wellman, Joyce. Zoning Officer - Morehead City, NC. Personal Communication. 03/02/2012  
 Watkins, Sandi. Planner - Morehead City, NC. Personal Communication. 03/28/2012

**Conclusion:** None of these communities are exactly like Ocracoke; therefore, no community's specific ordinance should be applied as a "one-size-fits-all" solution to this complex issue. The most sensible plan going forward is for the island's Planning Advisory Board to create or revise the current Ocracoke Development Ordinance with ideas from these case studies. In addition, whatever form the ordinance ends up taking, it must still be free to act independently of the county-level code. This would allow Ocracoke much more flexibility with controlling its planning and zoning processes. Because of Ocracoke's unique geography and the challenges that come with it, this plan would be beneficial towards ensuring a positive future for the island.



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