Town of Southern Shores
Special Meeting
January 22, 2016

The Town of Southern Shores Council met in the Pitts Center located at 5375 N. Virginia Dare Trail at 3:00 p.m. on Friday, January 22, 2016.

COUNCIL PRESENT: Mayor Bennett, Mayor Pro Tem Fred Newberry, Council Members Leo Holland, Chris Nason and Gary McDonald.

COUNCIL ABSENT: None

OTHERS PRESENT: Town Manager Peter Rascoe, Town Attorney Ben Gallop and Town Clerk Sheila Kane.

CALL TO ORDER / PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE
Mayor Bennett called the meeting to order at 3:00 p.m., led the Pledge of Allegiance, and held a moment of silence.

GENERAL PUBLIC COMMENT
Mayor Bennett called on public comment and the following citizen's offered comment:

- Jim Widmer, Southern Shores property owner - Zoning Change Proposed
- Robin Morgan, Southern Shores property owner - Zoning Changes
- Andrew Darling, Southern Shores property owner - Zoning
- Debbie Newberry, Southern Shores property owner - Zoning
- Andy Ward, Southern Shores property owner

[Clerk's Note: A copy of the general public comment sheet is hereby attached as Exhibit A].

The first Special Meeting purpose was addressed:

TO CONSIDER AND POTENTIALLY ADOPT OR DENY, UPON SECOND READING, THE FOLLOWING PROPOSED ORDINANCES, EACH OF SAME HAVING RECEIVED FIRST READING AND APPROVAL BY MAJORITY OF THE COUNCIL MEMBERS AT ITS JANUARY 5, 2016 REGULAR MEETING PURSUANT TO PUBLIC HEARINGS HELD ON SAME DATE:

Application for Zoning Text Amendment ZTA-15-03 : Drive Through Facilities
MOTION: Mayor Bennett moved to approve zoning text amendment ZTA-15-03 Drive-Through Facilities as presented. The motion was seconded by Council Member Holland. The motion passed unanimously (5-0).

Application for Zoning Text Amendment ZTA-15-04: Group Developments

MOTION: Mayor Bennett moved to approve zoning text amendment ZTA-15-04 Group Developments as presented. The motion was seconded by Council Member Nason. The motion passed unanimously (5-0).

Application for Zoning Text Amendment ZTA-15-05: Pervious Pavement &Lot Coverage

After discussion allowed prior to a motion, all Council Members were in agreement that applicant Ashton properties should be able to move forward with improvements to the Marketplace shopping center, but were divided on how they wanted to remedy the lot coverage situation.

MOTION: Council Member Holland moved to approve zoning text amendment ZTA-15-05 Pervious Pavement & Lot Coverage as presented. The motion was seconded by Council Member Nason.

MOTION: Council Member Newberry moved to amend the original motion to state applicant be required to reduce the Marketplace's current lot coverage of 67% to 60% , being the current maximum allowed by the Town Code, with allowable credit from pervious surface materials within a five-year time frame. The motion to amend was seconded by Council Member McDonald. The motion to amend the original motion failed (2-3) with Council Member Newberry and Council Member McDonald voting AYE; Mayor Bennett, Council Member Nason and Council Member Holland voting NO.

MOTION: Council Member McDonald then moved to amend the original motion to allow grandfathering the Marketplace's current lot coverage of 67% and to modify proposed Section 36-207(5) b. of the proposed Zoning Text Amendment from 70% to 65% lot coverage.
The motion was seconded by Council Member Holland. The motion failed (2-3) with Council Member McDonald and council member Holland voting AYE; Mayor Bennett, Council Member Newberry and Council Member Nason voting NO.

MOTION: Council Member Nason moved, as a substitute motion for the original motion, to retain the current maximum 60% lot coverage but to amend proposed Section 36-207(5) b. to state "Group Developments which incorporate the use of permeable pavement as outlined in excess of 5% of the total lot coverage shall be allowed a maximum allowable lot coverage by principal use and all accessory structures of no greater than 67 percent." The motion was seconded by Council Member Holland. The motion passed (3-2) with the Mayor, Council Member Nason, and Council Member Holland voting AYE; Council Members Newberry and McDonald voting NO.

[Clerk's Note: A copy of the proposed zoning text amendments are hereby attached as Exhibit B].

The next Special Meeting purpose was addressed:

A PUBLIC HEARING FOR EACH OF THE FOLLOWING, AND REVIEW, CONSIDER, MODIFY, AND POTENTIALLY ADOPT OR NOT ADOPT, ANY (OR COMBINATION) OF THE FOLLOWING DIFFERENT PROPOSALS FOR ZONING ORDINANCE AMENDMENTS DESIGNED TO REGULATE LARGE HOMES IN COMPLIANCE WITH RECENT LEGISLATIVE AMENDMENTS.

Being considered are:

Staff proposed zoning text amendment ZTA-16-02: Large Structures 14 person-occupancy;

Staff proposed zoning text amendment ZTA-16-03: Large Structures Maximum Square Footage of 6,000 sf; and

Staff proposed zoning text amendment ZTA-16-04: Large Structures Graduated Square Footage Limits and Maximums.

The Town Attorney opened the public hearing to consider public comment on all three proposed zoning text amendments and he stated all three before Council were designed to address large homes event facilities. They were originally drafted as directed by Council due to concerns of possible large homes event facilities. All three (3) of the proposed zoning text amendments consist of a second version which re-defines “event facility”. The Town Attorney also stated the three proposed zoning text amendments were previously brought to Council by Staff as directed and referred to the Planning Board for its consideration and recommendation.

As a part of the Public Hearing, Planning Board Chair Sam Williams presented the Planning Board report and recommendation. The Planning Board recommended approval of ZTA-16-02 Large Structures 14 person-occupancy.

During this portion of the Public Hearing, Council Member Newberry spoke that he keeps hearing the Town Attorney’s assessment of potential risk for enforcing these proposed zoning text amendments and asked Chairman Williams what is the rational for the Planning Board picking the proposed 14 occupants zoning text amendment.

Planning Board Chair Sam Williams stated there was a concern raised during the Planning Board’s public comment section about building and what a property owner is allowed to do on his own property, as well as comments and discussion about ways a property owner could get around the 6,000 square foot limit. The Planning Board felt the proposed 14 person occupancy zoning text amendment would be easier to defend than the other two proposed zoning text amendments.

Council Member Newberry stated this response goes back to his original statement that the Town Attorney’s opinion is just the opposite.

Planning Board Chair Sam Williams stated the Town Attorney was not present at the Planning Board meeting to hear the public comments.

Council Member Newberry then asked Planning Board Chairman Williams what is the makeup of the people on the Planning Board, what are their occupations, if are they residents, and if are they builders.

Planning Board Chairman Sam Williams stated the Planning Board is made up of all Town residents. He stated there is one real-estate agent, a couple of retired members, a semi-retired builder, and he was not sure of the others’ occupations. He also stated there are two alternate members, one being a builder and he was not aware of the other alternate’s occupation.

Council Member Newberry further stated during the Public Hearing the reason he asked was during the public comment period it was stated that limiting the size of the home was critical. He stated the people do not want big houses, they do not want to look like Pine Island. Most

people in Southern Shores are here for a reason and that is to preserve the ambiance of the community. It is a quiet community and even the tourists that come here come because of that. He stated he did not see limiting occupancy as a viable option, and limiting the size is the only way to prevent big houses. He also stated that he realizes Southern Shores is mostly an undeveloped area, and most builders and developers see it as an opportunity to make a lot of money. He stated that as far as he is concerned Southern Shores is not a place to make money, it is a place for residents.

Planning Board Chair Sam Williams stated the Planning Board came to the conclusion they did after consideration of the facts.

Council Member Holland stated during the Public Hearing that limiting buildings to 6,000 square feet is not going to limit occupancy, and he stated he believed that is what Council was trying to do.

The Town Attorney asked for any public comments during the Public Hearing and the following citizen's offered comment:

- Gerri Sullivan, Southern Shores property owner -
- Andy Ward, Southern Shores property owner
- Mark Martin, Southern Shores property owner
- Debbie Newberry, Southern Shores property owner
- Jake Overton, President of Outer Banks Home Builders Association
- Andrew Darling, Southern Shores property owner
- Tommy Karole, Southern Shores property owner
- Brad Beacham, representing owners of #3 Ninth Avenue- Mr. & Mrs. Andreotta

The Town Attorney stated that from a legal side he is more confident defending ZTA-16-03 Large Structures Maximum Square Footage of 6,000 sf or ZTA 16-04 Large Structures Graduated Square Footage Limits and Maximums should the issue ever go to court. He stated the zoning text amendment restricting the septic size would be harder to enforce.

Council Member McDonald stated the Council's original goal was to fix the big house issue, not the event issue. He stated the Town needed to fix the authority that Senate Bill 25 took away and he felt limiting occupancy was not going to stop the large homes. Both Council Member Newberry and Council Member Nason agreed.

Council Member Nason stated the event issue is secondary and density should be addressed rather than occupancy.

Council Member Nason asked the Town Planner for a clarification of the term "enclosed living space". Council Member McDonald also asked if the square footage of a detached garage is considered as a part of the allowed square footage of proposed ZTA16-03 and ZTA 16-04.

Town Planner Wes Haskett stated livable space is defined as heated and cooled space. He also stated a detached garage is not included in the square footage of the proposed ZTAs.

The Council acknowledged the current Town Code - with respect to the Town's zoning ordinance, allows that any existing homes currently exceeding the proposed maximum square footage (non-conforming) may be rebuilt to their original approved square footage should a structure be destroyed or damaged greater than 50% of replacement cost by fire, flood, windstorm or natural disaster, essentially grandfathering, for zoning ordinance purposes, the original approved square footage of the dwelling.

MOTION: Council Member McDonald moved to adopt zoning text amendment ZTA-15-03 V0002 Large Structures Maximum Square Footage of 6,000 sf as recommended by the Planning Board - excepting however the Planning Board 's additional recommendation of increased parking space dimension requirements. The motion was seconded by Council Member Newberry. The motion passed (3-2) with the Council Member McDonald, Council Member Newberry and Council Member Holland voting AYE; Mayor Bennett and Council Member Nason voting NO.

ADJOURN

MOTION: Council Member Nason moved to adjourn. The motion was seconded by Council Member McDonald. The motion passed unanimously (5-0). The time was 6:01 p.m.

ATTEST: Respectfully submitted,

_____ _____

Thomas G. Bennett, Mayor Sheila Kane, Town Clerk

PUBLIC COMMENT SIGN-UP SHEET
JANUARY 22, 2016

We encourage your public comments. All speakers must recognize the utmost importance of maintaining the decorum of Town meetings and of the need for all to have an opportunity to speak in a timely and uninterrupted manner. Please limit your comments to 3 minutes and speak courteously and respectfully to the Council as a whole. The 3 minute time allotted is your time to speak. You may choose to use all of it or less, but it is not transferrable to anyone else. Public comment is your opportunity to provide input on Town matters. It is not meant to be a dialogue exchange between you, members of the Council, or others in the audience.

NAME	MAILING ADDRESS OF RESIDENT	TOPIC
2:15 Jim Widmer	14 Wild Pony Lane	Zoning Change Propose
Robin Morgan	57 Deer Path	Zoning Changes
Andrew Darling	232 N Dogwood	Zoning.
Debbie Newberry	267 N Dogwood	Zoning
~~[illegible]~~	~~[illegible]~~	~~[illegible]~~
Andy Ward	147 Bayberry	

STAFF REPORT

To: Southern Shores Town Council
Date: January 21, 2016
Case: ZTA-16-02
Prepared By: Wes Haskett, Town Planner/Code Enforcement Officer

GENERAL INFORMATION

Applicant: Town Staff

Requested Action: Amendment of the Town Zoning Ordinance by amending Section 36-57, Definitions of Specific Terms and Words; 36-202, RS-1 Single-family Residential District; Section 36-203, RS-8 Residential District; Section 36-204, RS-10 Residential District; 36-205, R-1 Low Density Residential District; Section 36-207, C General Commercial District; and Section 36-163, Off-street Parking Requirements.

ANALYSIS

Town Staff is proposing a Zoning Text Amendment (ZTA) to amend all of the aforementioned Sections of the Town Code to address large homes. As a result of Senate Bill 25 which was passed last year by the North Carolina General Assembly, municipalities are prohibited from restricting the number and type of rooms in single-family and two-family dwellings. The proposed ZTA revises Section 36-57, Definitions of Specific Terms and Words and the Schedule of District Regulations for all of the residential zoning districts and the General Commercial zoning district in an attempt to regulate large homes by limiting the septic capacity in single-family and two-family dwellings to no more than 14 occupants (similar to current requirements). In addition, Town Staff is also proposing to amend the definitions of Event Facility and Family in order to address special events held in residential zoning districts and the commercial zoning district (please note that there are two versions of the proposed ZTA with a different definition of Event Facility). Finally, Town Staff is proposing to amend Section 36-163, Off-street parking requirements in order to be in compliance with Senate Bill 25 by requiring parking spaces for single-family and two-family dwellings based on septic capacity instead of the number of bedrooms. The Town Planning Board recommended amendments (which have been highlighted) which include changes to the definition of event facility proposed by Town Staff, an increase in the number of required parking spaces proposed by Town Staff, and an increase in the required parking space dimensions for all residential uses.

The Town's currently adopted Land Use Plan contains the following Goal and Policy that are applicable to the proposed ZTA:

- **Goal 2:** Protect, enhance and support land uses that are compatible with surrounding land uses and maintain the existing character of Southern Shores.
- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low density (1–3 units per acre) residential community comprised of single family dwellings on large lots (20,000 square feet or larger) served by a small commercial district (56 acres out of 2,175 acres) for convenience shopping and services located at the southern end of the Town. This

blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

RECOMMENDATION

The Town Planning Board unanimously (5-0) recommended approval of the application with amendments. Town Staff has determined that the proposed amendment is consistent with the Town's currently adopted Land Use Plan although we do not recommend increasing the required parking space dimensions.

Town of Southern Shores
5375 N. Virginia Dare Trail, Southern Shores, NC 27949
Phone 252-261-2394 / Fax 252-255-0876
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ZTA-16-02 Large Structures 14 Occupancy v002

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ARTICLE I. Purpose(s) and Authority.

WHEREAS, the Town of Southern Shores (the "Town") is a predominately single-family residential community for families and retirees, as well as a vacation destination for seasonal visitors who rent single-family dwellings; and

WHEREAS, The Town is a quiet seaside residential community comprised primarily of small low density neighborhoods consisting of single family homes primarily on large lots (i.e., at least 20,000 sq ft); and

WHEREAS, the Town has long desired to maintain its low density residential character by not permitting large oversized homes, increased commercial development and increased density. The Town recognizes that increases in density increase the need for public services related to safety, fire prevention, water supply, schools and traffic congestion; and

WHEREAS, the Town recognizes that property owners enjoy the use of their property for parties and family related events on a regular basis and that such use should continue long into the future. However, the Town also recognizes that a growing trend on the Outer Banks and other coastal areas in North Carolina and nationally, is to construct large buildings on residentially zoned properties which purport to be single-family dwellings, but which are often designed for and after construction and permitting advertised, maintained and used as commercial event facilities; and

WHEREAS, the Town's residential areas have limited means of access due to the layout of roads and limited number of major thoroughfares in the Town. The road layout and limited number of thoroughfares already cause numerous traffic problems, particularly during the high traffic tourist season from approximately Memorial Day to Labor Day each year. The use of single-family residences in residentially zoned areas for pre-planned events, community uses and private parties increases traffic and safety hazards to the attendees, owners, neighbors and visitors to the Town; and

WHEREAS, pursuant to North Carolina General Statutes § 160A-174 the Town may 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 may define and abate nuisances; 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 height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, 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 36 of the Town's Code of Ordinances (the "Town Code"); and

WHEREAS, pursuant to N.C.G.S. § 160A-383, the Town may use zoning regulations to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. In doing so, the Town may take into account the character of the Town's zoning districts and their peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town; and

WHEREAS, 2015 N.C. Sess. Law 86 made substantial changes to the text of N.C.G.S. § 160A-381 which purport to limit the Town's authority to regulated "building design elements." In particular, the changes to N.C.G.S. § 160A-381 prohibit the Town from regulating density or use of residential structures through restrictions on the number of bedrooms as the Town has historically regulated such density. These changes require that the Town's Zoning Ordinance be updated accordingly; and

WHEREAS, the Town finds that in order to effectively regulate the density of population within the Town following the adoption of 2015 N.C. Sess. Law 86 the Town must regulate and limit the occupancy of single-family dwellings; and

WHEREAS, the Town finds that setting a reasonable maximum design limitation for septic systems on single-family dwellings remains a fair and equitable balancing of the Town's interests to regulate population density and to maintain the historical and residential character of developed areas of Town compared with property owners' interests in using their property for residential purposes; and

WHEREAS, the Town does not desire for commercial event facilities to operate within its residentially zoned districts and the Town finds that the following amendments are necessary to further clarify the delineation between such event facility usage and single-family residential dwellings; and

WHEREAS, the Town finds that a lack of regulation of the maximum design for septic systems of dwellings and the use of the residential properties for pre-planned events, community uses and private parties will result in a decrease in value of buildings and lands

within the Town due to the Town's unique single-family residential nature and character; 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 Town Council of the Town of Southern Shores, North Carolina, that the Town Code shall be amended as follows:

PART 1. That **Sec 36-57. Definitions of specific terms and words.** be amended as follows:

...

Dwelling, large home, means any residential structure ~~home~~ designed or constructed to have ~~containing more than seven bedrooms (or rooms that could be considered as bedrooms using the county criteria for determining septic system design) or~~ septic system capacity for more than 14 people. Large home dwellings are not a permitted use in any zoning district unless expressly authorized by that district's regulations.

...

Dwelling, single-family, means a detached building designed for or occupied exclusively by one family. Large home dwellings having septic system capacity for more than 14 people are not included within the term "single-family dwelling."

Dwelling, two-family (duplex), means a detached building, divided horizontally or vertically, and designed for or occupied by two single-family housekeeping units contained entirely under one roof and having one dividing partition common to each unit, or having the ceiling structure of the lower unit and the floor structure of the unit above. Large home dwellings having septic system capacity for more than 14 people are not included within the term "two-family dwelling."

...

Event facility means an establishment, structure or property ~~designed, maintained,~~ advertised ~~or actually used~~ for the ~~primary~~ purpose of hosting pre-planned events. The term "events", includes, but is not limited to, private parties, community uses, weddings, rehearsal dinners, corporate meetings, retreats, sporting events, cultural events, musical events, celebrations, festivals, fairs, carnivals, circuses or similar events that are planned

in advance of their occurrence. The term "community uses" means meetings of charitable, political, governmental or civic groups. The term "private parties" means events that are not open to the public, and are held by or on behalf of an individual or organization for the primary purpose of socializing or gathering. On site sales of ~~F~~food and/or beverages at an event facility ~~service for purchase by individual patrons from the establishment owner, whether seated or non-seated,~~ shall constitute a restaurant as defined in section 36-57 which shall require a conditional use permit. The term "event facility" does not include the use of a residential structure or property on which a residential structure is located for non-commercial social gatherings or for traditional family events. The term "traditional family events" includes, but is not limited to, holiday parties and meals, birthday parties, funeral services, religious ceremonies and weddings for family members related by blood or marriage to: (i) any of the individual holders of legal title to the property; (ii) a majority of the owners of a business entity holding legal title to the property; or (iii) the beneficiaries of a trust holding legal title to the property.

Family means one or more persons occupying a single-family dwelling unit, provided that unless all members are related by blood or marriage or that the dwelling unit is being used as a vacation rental under the North Carolina Vacation Rental Act (N.C.G.S. Chap. 42A), then no such family shall contain more than five persons.

PART 2. That **Sec 36-202. RS-1 single-family residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwelling ~~consisting of no more than seven bedrooms or septic system capacity for more than 14 people~~.

PART 3. That **Sec 36-203. RS-8 residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

…

(9) ~~Dwellings shall consist of no more than seven bedrooms or septic system capacity for more than 14 people.~~

PART 4. That **Sec 36-204. RS-10 residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwellings ~~shall consist of no more than seven bedrooms or septic system capacity for more than 14 people~~.

PART 5. That **Sec 36-205. R-1 low-density residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwelling~~ consisting of no more than seven bedrooms or septic capacity for more than 14 people~~.

PART 6. That **Sec 36-207. C general commercial district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

…

(4) Detached ~~S~~single-family dwellings, two-family (duplexes) dwellings, multifamily dwellings, large home dwellings, and accessory buildings, according to the dimensional requirements of RS-8 multifamily residential district. Large home dwellings shall be exempt from section 36-203(d)(8) requirements. For multifamily dwellings, the lot coverage shall not exceed 40 percent.

…

(10) ~~Dwelling, large homes.~~

~~(11)~~ Event facilities.

PART 7. That **Sec 36-163. Off-street parking requirements** be amended as follows:

…

(3) *Minimum parking requirements.* …

a. *Residential and related uses.*

1. Detached ~~S~~single-family dwelling units, two-family ~~detached~~ dwelling units and townhouses: three parking spaces for each dwelling unit with up to ~~four bedrooms (including all areas used for sleeping),~~ eight (8) persons of septic capacity and one additional space for each additional two (2) persons of septic capacity ~~two bedrooms (including areas useable for sleeping)~~, or fraction thereof, in excess of ~~four~~ eight (8) person septic capacity up to 12 person septic capacity and 1 additional space for each person of septic capacity over 12.

(i) ~~Bedrooms and/or areas useable for sleeping shall be defined and~~ The number of persons of septic capacity shall be determined by the county health department in establishing residence occupancy limits for wastewater/septic system.

…

(iii) Each parking space shall have a minimum length of 18 feet and a minimum width of ~~eight~~ ten feet.

4. Dwelling, large home: one parking space for each ~~bedroom~~ two (2) persons of septic capacity as ~~. Bedrooms and/or areas useable for sleeping shall be defined and~~ determined by the county health department in establishing residence occupancy limits for wastewater/septic system. …

ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons, any reasons stated during the meetings at which this ordinance amendment was considered and any additional reasons supporting the Town's adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

ARTICLE V. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

ARTICLE VI. Effective Date.

This ordinance amendment shall be in full force and effect from and after the ____day of _____, 2016.

_____,
Tom Bennett, Mayor

ATTEST:

_____
Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

Date adopted:

_____
Motion to adopt by Councilmember:

_____
Motion seconded by Councilmember:

Vote:___AYES___NAYS

Town of Southern Shores
5375 N. Virginia Dare Trail, Southern Shores, NC 27949
Phone 252-261-2394 / Fax 252-255-0876
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ZTA-16-02 Large Structures 14 Occupancy

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ARTICLE I. Purpose(s) and Authority.

WHEREAS, the Town of Southern Shores (the "Town") is a predominately single-family residential community for families and retirees, as well as a vacation destination for seasonal visitors who rent single-family dwellings; and

WHEREAS, The Town is a quiet seaside residential community comprised primarily of small low density neighborhoods consisting of single family homes primarily on large lots (i.e., at least 20,000 sq ft); and

WHEREAS, the Town has long desired to maintain its low density residential character by not permitting large oversized homes, increased commercial development and increased density. The Town recognizes that increases in density increase the need for public services related to safety, fire prevention, water supply, schools and traffic congestion; and

WHEREAS, the Town recognizes that property owners enjoy the use of their property for parties and family related events on a regular basis and that such use should continue long into the future. However, the Town also recognizes that a growing trend on the Outer Banks and other coastal areas in North Carolina and nationally, is to construct large buildings on residentially zoned properties which purport to be single-family dwellings, but which are often designed for and after construction and permitting advertised, maintained and used as commercial event facilities; and

WHEREAS, the Town's residential areas have limited means of access due to the layout of roads and limited number of major thoroughfares in the Town. The road layout and limited number of thoroughfares already cause numerous traffic problems, particularly during the high traffic tourist season from approximately Memorial Day to Labor Day each year. The use of single-family residences in residentially zoned areas for pre-planned events, community uses and private parties increases traffic and safety hazards to the attendees, owners, neighbors and visitors to the Town; and

WHEREAS, pursuant to North Carolina General Statutes § 160A-174 the Town may 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 may define and abate nuisances; 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 height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, 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 36 of the Town's Code of Ordinances (the "Town Code"); and

WHEREAS, pursuant to N.C.G.S. § 160A-383, the Town may use zoning regulations to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. In doing so, the Town may take into account the character of the Town's zoning districts and their peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town; and

WHEREAS, 2015 N.C. Sess. Law 86 made substantial changes to the text of N.C.G.S. § 160A-381 which purport to limit the Town's authority to regulated "building design elements." In particular, the changes to N.C.G.S. § 160A-381 prohibit the Town from regulating density or use of residential structures through restrictions on the number of bedrooms as the Town has historically regulated such density. These changes require that the Town's Zoning Ordinance be updated accordingly; and

WHEREAS, the Town finds that in order to effectively regulate the density of population within the Town following the adoption of 2015 N.C. Sess. Law 86 the Town must regulate and limit the occupancy of single-family dwellings; and

WHEREAS, the Town finds that setting a reasonable maximum design limitation for septic systems on single-family dwellings remains a fair and equitable balancing of the Town's interests to regulate population density and to maintain the historical and residential character of developed areas of Town compared with property owners' interests in using their property for residential purposes; and

WHEREAS, the Town does not desire for commercial event facilities to operate within its residentially zoned districts and the Town finds that the following amendments are necessary to further clarify the delineation between such event facility usage and single-family residential dwellings; and

WHEREAS, the Town finds that a lack of regulation of the maximum design for septic systems of dwellings and the use of the residential properties for pre-planned events, community uses and private parties will result in a decrease in value of buildings and lands

within the Town due to the Town's unique single-family residential nature and character; 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 Town Council of the Town of Southern Shores, North Carolina, that the Town Code shall be amended as follows:

PART 1. That **Sec 36-57. Definitions of specific terms and words.** be amended as follows:

...

Dwelling, large home, means any residential structure ~~home~~ designed or constructed to have ~~containing more than seven bedrooms (or rooms that could be considered as bedrooms using the county criteria for determining septic system design) or~~ septic system capacity for more than 14 people. Large home dwellings are not a permitted use in any zoning district unless expressly authorized by that district's regulations.

...

Dwelling, single-family, means a detached building designed for or occupied exclusively by one family. Large home dwellings having septic system capacity for more than 14 people are not included within the term "single-family dwelling."

Dwelling, two-family (duplex), means a detached building, divided horizontally or vertically, and designed for or occupied by two single-family housekeeping units contained entirely under one roof and having one dividing partition common to each unit, or having the ceiling structure of the lower unit and the floor structure of the unit above. Large home dwellings having septic system capacity for more than 14 people are not included within the term "two-family dwelling."

...

Event facility means an establishment, structure or property designed, maintained, advertised or actually used during any continuous twelve-month period for (i) any number of pre-planned events, (ii) four or more community uses; or (iii) four or more private parties having between twenty-five (25) and seventy-five (75) attendees. The term "pre-planned events", includes, but is not limited to, private parties of greater than seventy-five (75)

attendees, weddings, rehearsal dinners, corporate meetings, retreats, sporting events, cultural events, musical events, celebrations, festivals, fairs, carnivals, circuses or similar events. The term "community uses" means meetings of charitable, political, governmental or civic groups. The term "private parties" means events that are not open to the public, and are held by or on behalf of an individual or organization for the primary purpose of socializing or gathering. On site sales of ~~F~~food and/or beverages at an event facility ~~service for purchase by individual patrons from the establishment owner, whether seated or non-seated,~~ shall constitute a restaurant as defined in section 36-57 which shall require a conditional use permit. The term "event facility" does not include the use of a residential structure or property on which a residential structure is located for social gatherings of less than twenty-five attendees or for traditional family events. The term "traditional family events" includes, but is not limited to, holiday parties and meals, birthday parties, funeral services, religious ceremonies and weddings for family members related by blood or marriage to: (i) any of the individual holders of legal title to the property; (ii) a majority of the owners of a business entity holding legal title to the property; or (iii) the beneficiaries of a trust holding legal title to the property.

Family means one or more persons occupying a single-family dwelling unit, provided that unless all members are related by blood or marriage or that the dwelling unit is being used as a vacation rental under the North Carolina Vacation Rental Act (N.C.G.S. Chap. 42A), then no such family shall contain more than five persons.

PART 2. That **Sec 36-202. RS-1 single-family residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwelling ~~consisting of no more than seven bedrooms or septic system capacity for more than 14 people~~.

PART 3. That **Sec 36-203. RS-8 residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

…

(9) ~~Dwellings shall consist of no more than seven bedrooms or septic system capacity for more than 14 people.~~

PART 4. That **Sec 36-204. RS-10 residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwellings ~~shall consist of no more than seven bedrooms or septic system capacity for more than 14 people~~.

PART 5. That **Sec 36-205. R-1 low-density residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwelling~~ consisting of no more than seven bedrooms or septic capacity for more than 14 people~~.

PART 6. That **Sec 36-207. C general commercial district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

…

(4) Detached ~~S~~single-family dwellings, two-family (duplexes) dwellings, multifamily dwellings, large home dwellings, and accessory buildings, according to the dimensional requirements of RS-8 multifamily residential district. Large home dwellings shall be exempt from section 36-203(d)(8) requirements. For multifamily dwellings, the lot coverage shall not exceed 40 percent.

…

(10) ~~Dwelling, large homes.~~

~~(11)~~ Event facilities.

PART 7. That **Sec 36-163. Off-street parking requirements** be amended as follows:

…

(3) *Minimum parking requirements*. …

a. *Residential and related uses.*

1. Detached ~~S~~single-family dwelling units, two-family ~~detached~~ dwelling units and townhouses: three parking spaces for each dwelling unit with up to ~~four bedrooms (including all areas used for sleeping),~~ eight (8) persons of septic capacity and one additional space for each additional four (4) persons of septic capacity ~~two bedrooms (including areas useable for sleeping)~~, or fraction thereof, in excess of ~~four~~ eight (8) person septic capacity.

(i) ~~Bedrooms and/or areas useable for sleeping shall be defined and~~ The number of persons of septic capacity shall be determined by the county health department in establishing residence occupancy limits for wastewater/septic system.

…

4. Dwelling, large home: one parking space for each ~~bedroom~~ two (2) persons of septic capacity as ~~. Bedrooms and/or areas useable for sleeping shall be defined and~~ determined by the county health department in establishing residence occupancy limits for wastewater/septic system. …

ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that

is applicable. For all of the above-stated reasons, any reasons stated during the meetings at which this ordinance amendment was considered and any additional reasons supporting the Town's adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

ARTICLE V. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

ARTICLE VI. Effective Date.

This ordinance amendment shall be in full force and effect from and after the ____day of _____, 2016.

_____,
Tom Bennett, Mayor

ATTEST:

_____
Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

Date adopted:

_____
Motion to adopt by Councilmember:

_____
Motion seconded by Councilmember:

1
2

Vote:___AYES___NAYS

Town of Southern Shores
5375 N. Virginia Dare Trail, Southern Shores, NC 27949
Phone 252-261-2394 / Fax 252-255-0876
info@southernshores-nc.gov
www.southernshores-nc.gov

ZTA-16-02 Large Structures 14 Occupancy v002

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ARTICLE I. Purpose(s) and Authority.

WHEREAS, the Town of Southern Shores (the "Town") is a predominately single-family residential community for families and retirees, as well as a vacation destination for seasonal visitors who rent single-family dwellings; and

WHEREAS, The Town is a quiet seaside residential community comprised primarily of small low density neighborhoods consisting of single family homes primarily on large lots (i.e., at least 20,000 sq ft); and

WHEREAS, the Town has long desired to maintain its low density residential character by not permitting large oversized homes, increased commercial development and increased density. The Town recognizes that increases in density increase the need for public services related to safety, fire prevention, water supply, schools and traffic congestion; and

WHEREAS, the Town recognizes that property owners enjoy the use of their property for parties and family related events on a regular basis and that such use should continue long into the future. However, the Town also recognizes that a growing trend on the Outer Banks and other coastal areas in North Carolina and nationally, is to construct large buildings on residentially zoned properties which purport to be single-family dwellings, but which are often designed for and after construction and permitting advertised, maintained and used as commercial event facilities; and

WHEREAS, the Town's residential areas have limited means of access due to the layout of roads and limited number of major thoroughfares in the Town. The road layout and limited number of thoroughfares already cause numerous traffic problems, particularly during the high traffic tourist season from approximately Memorial Day to Labor Day each year. The use of single-family residences in residentially zoned areas for pre-planned events, community uses and private parties increases traffic and safety hazards to the attendees, owners, neighbors and visitors to the Town; and

WHEREAS, pursuant to North Carolina General Statutes § 160A-174 the Town may 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 may define and abate nuisances; 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 height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, 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 36 of the Town's Code of Ordinances (the "Town Code"); and

WHEREAS, pursuant to N.C.G.S. § 160A-383, the Town may use zoning regulations to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. In doing so, the Town may take into account the character of the Town's zoning districts and their peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town; and

WHEREAS, 2015 N.C. Sess. Law 86 made substantial changes to the text of N.C.G.S. § 160A-381 which purport to limit the Town's authority to regulated "building design elements." In particular, the changes to N.C.G.S. § 160A-381 prohibit the Town from regulating density or use of residential structures through restrictions on the number of bedrooms as the Town has historically regulated such density. These changes require that the Town's Zoning Ordinance be updated accordingly; and

WHEREAS, the Town finds that in order to effectively regulate the density of population within the Town following the adoption of 2015 N.C. Sess. Law 86 the Town must regulate and limit the occupancy of single-family dwellings; and

WHEREAS, the Town finds that setting a reasonable maximum design limitation for septic systems on single-family dwellings remains a fair and equitable balancing of the Town's interests to regulate population density and to maintain the historical and residential character of developed areas of Town compared with property owners' interests in using their property for residential purposes; and

WHEREAS, the Town does not desire for commercial event facilities to operate within its residentially zoned districts and the Town finds that the following amendments are necessary to further clarify the delineation between such event facility usage and single-family residential dwellings; and

WHEREAS, the Town finds that a lack of regulation of the maximum design for septic systems of dwellings and the use of the residential properties for pre-planned events, community uses and private parties will result in a decrease in value of buildings and lands

within the Town due to the Town's unique single-family residential nature and character; 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 Town Council of the Town of Southern Shores, North Carolina, that the Town Code shall be amended as follows:

PART 1. That **Sec 36-57. Definitions of specific terms and words.** be amended as follows:

...

Dwelling, large home, means any residential structure ~~home~~ designed or constructed to have ~~containing more than seven bedrooms (or rooms that could be considered as bedrooms using the county criteria for determining septic system design) or~~ septic system capacity for more than 14 people. Large home dwellings are not a permitted use in any zoning district unless expressly authorized by that district's regulations.

...

Dwelling, single-family, means a detached building designed for or occupied exclusively by one family. Large home dwellings having septic system capacity for more than 14 people are not included within the term "single-family dwelling."

Dwelling, two-family (duplex), means a detached building, divided horizontally or vertically, and designed for or occupied by two single-family housekeeping units contained entirely under one roof and having one dividing partition common to each unit, or having the ceiling structure of the lower unit and the floor structure of the unit above. Large home dwellings having septic system capacity for more than 14 people are not included within the term "two-family dwelling."

...

Event facility means an establishment, structure or property designed, maintained, advertised or actually used for the primary purpose of hosting pre-planned events. The term "events", includes, but is not limited to, private parties, community uses, weddings, rehearsal dinners, corporate meetings, retreats, sporting events, cultural events, musical events, celebrations, festivals, fairs, carnivals, circuses or similar events that are planned

in advance of their occurrence. The term "community uses" means meetings of charitable, political, governmental or civic groups. The term "private parties" means events that are not open to the public, and are held by or on behalf of an individual or organization for the primary purpose of socializing or gathering. On site sales of ~~F~~food and/or beverages at an event facility ~~service for purchase by individual patrons from the establishment owner, whether seated or non-seated,~~ shall constitute a restaurant as defined in section 36-57 which shall require a conditional use permit. The term "event facility" does not include the use of a residential structure or property on which a residential structure is located for non-commercial social gatherings or for traditional family events. The term "traditional family events" includes, but is not limited to, holiday parties and meals, birthday parties, funeral services, religious ceremonies and weddings for family members related by blood or marriage to: (i) any of the individual holders of legal title to the property; (ii) a majority of the owners of a business entity holding legal title to the property; or (iii) the beneficiaries of a trust holding legal title to the property.

Family means one or more persons occupying a single-family dwelling unit, provided that unless all members are related by blood or marriage or that the dwelling unit is being used as a vacation rental under the North Carolina Vacation Rental Act (N.C.G.S. Chap. 42A), then no such family shall contain more than five persons.

PART 2. That **Sec 36-202. RS-1 single-family residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwelling ~~consisting of no more than seven bedrooms or septic system capacity for more than 14 people~~.

PART 3. That **Sec 36-203. RS-8 residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

…

(9) ~~Dwellings shall consist of no more than seven bedrooms or septic system capacity for more than 14 people.~~

PART 4. That **Sec 36-204. RS-10 residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwellings ~~shall consist of no more than seven bedrooms or septic system capacity for more than 14 people~~.

PART 5. That **Sec 36-205. R-1 low-density residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwelling~~ consisting of no more than seven bedrooms or septic capacity for more than 14 people~~.

PART 6. That **Sec 36-207. C general commercial district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

…

(4) Detached ~~S~~single-family dwellings, two-family (duplexes) dwellings, multifamily dwellings, large home dwellings, and accessory buildings, according to the dimensional requirements of RS-8 multifamily residential district. Large home dwellings shall be exempt from section 36-203(d)(8) requirements. For multifamily dwellings, the lot coverage shall not exceed 40 percent.

…

(10) ~~Dwelling, large homes.~~

~~(11)~~ Event facilities.

PART 7. That **Sec 36-163. Off-street parking requirements** be amended as follows:

…

(3) *Minimum parking requirements.* …

a. *Residential and related uses.*

1. Detached ~~S~~single-family dwelling units, two-family ~~detached~~ dwelling units and townhouses: three parking spaces for each dwelling unit with up to ~~four bedrooms (including all areas used for sleeping),~~ eight (8) persons of septic capacity and one additional space for each additional four (4) persons of septic capacity ~~two bedrooms (including areas useable for sleeping)~~, or fraction thereof, in excess of ~~four~~ eight (8) person septic capacity.

(i) ~~Bedrooms and/or areas useable for sleeping shall be defined and~~ The number of persons of septic capacity shall be determined by the county health department in establishing residence occupancy limits for wastewater/septic system.

…

4. Dwelling, large home: one parking space for each ~~bedroom~~ two (2) persons of septic capacity as ~~. Bedrooms and/or areas useable for sleeping shall be defined and~~ determined by the county health department in establishing residence occupancy limits for wastewater/septic system. …

ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons, any reasons stated during the meetings at which this ordinance amendment was considered and any additional reasons supporting the

Town's adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

ARTICLE V. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

ARTICLE VI. Effective Date.

This ordinance amendment shall be in full force and effect from and after the ____day of _____, 2016.

_____,
Tom Bennett, Mayor

ATTEST:

_____
Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

Date adopted:

_____
Motion to adopt by Councilmember:

_____
Motion seconded by Councilmember:

Vote:___AYES___NAYS

STAFF REPORT

To: Southern Shores Planning Board
Date: January 21, 2016
Case: ZTA-16-03
Prepared By: Wes Haskett, Town Planner/Code Enforcement Officer

GENERAL INFORMATION

Applicant: Town Staff

Requested Action: Amendment of the Town Zoning Ordinance by amending Section 36-57, Definitions of Specific Terms and Words; 36-202, RS-1 Single-family Residential District; Section 36-203, RS-8 Residential District; Section 36-204, RS-10 Residential District; 36-205, R-1 Low Density Residential District; Section 36-207, C General Commercial District; and Section 36-163, Off-street Parking Requirements.

ANALYSIS

Town Staff is proposing a Zoning Text Amendment (ZTA) to amend all of the aforementioned Sections of the Town Code to address large homes. As a result of Senate Bill 25 which was passed last year by the North Carolina General Assembly, municipalities are prohibited from restricting the number and type of rooms in single-family and two-family dwellings. The proposed ZTA revises Section 36-57, Definitions of Specific Terms and Words and the Schedule of District Regulations for all of the residential zoning districts and the General Commercial zoning district in an attempt to regulate large homes by limiting the maximum size of single-family dwellings to 6,000 sq. ft. In addition, Town Staff is also proposing to amend the definitions of Event Facility and Family in order to address special events held in residential zoning districts and the commercial zoning district (please note that there are two versions of the proposed ZTA with a different definition of Event Facility). Finally, Town Staff is proposing to amend Section 36-163, Off-street parking requirements in order to be in compliance with Senate Bill 25 by requiring parking spaces for single-family and two-family dwellings based on septic capacity instead of the number of bedrooms.

The Town's currently adopted Land Use Plan contains the following Goal and Policy that are applicable to the proposed ZTA:

- **Goal 2:** Protect, enhance and support land uses that are compatible with surrounding land uses and maintain the existing character of Southern Shores.
- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low density (1–3 units per acre) residential community comprised of single family dwellings on large lots (20,000 square feet or larger) served by a small commercial district (56 acres out of 2,175 acres) for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

RECOMMENDATION

The Town Planning Board unanimously (5-0) recommended disapproval of the application. Town Staff has determined that the proposed amendment is consistent with the Town's currently adopted Land Use Plan.

Town of Southern Shores
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info@southernshores-nc.gov
www.southernshores-nc.gov

ZTA-16-03 Large Structures Max. Sq. Ft.

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ARTICLE I. Purpose(s) and Authority.

WHEREAS, the Town of Southern Shores (the "Town") is a predominately single-family residential community for families and retirees, as well as a vacation destination for seasonal visitors who rent single-family dwellings; and

WHEREAS, The Town is a quiet seaside residential community comprised primarily of small low density neighborhoods consisting of single family homes primarily on large lots (i.e., at least 20,000 sq ft); and

WHEREAS, the Town has long desired to maintain its low density residential character by not permitting large oversized homes, increased commercial development and increased density. The Town recognizes that increases in density increase the need for public services related to safety, fire prevention, water supply, schools and traffic congestion; and

WHEREAS, the Town recognizes that property owners enjoy the use of their property for parties and family related events on a regular basis and that such use should continue long into the future. However, the Town also recognizes that a growing trend on the Outer Banks and other coastal areas in North Carolina and nationally, is to construct large buildings on residentially zoned properties which purport to be single-family dwellings, but which are often designed for and after construction and permitting advertised, maintained and used as commercial event facilities; and

WHEREAS, the Town's residential areas have limited means of access due to the layout of roads and limited number of major thoroughfares in the Town. The road layout and limited number of thoroughfares already cause numerous traffic problems, particularly during the high traffic tourist season from approximately Memorial Day to Labor Day each year. The use of single-family residences in residentially zoned areas for pre-planned events, community uses and private parties increases traffic and safety hazards to the attendees, owners, neighbors and visitors to the Town; and

WHEREAS, pursuant to North Carolina General Statutes § 160A-174 the Town may 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 may define and abate nuisances; 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 height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, 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 36 of the Town's Code of Ordinances (the "Town Code"); and

WHEREAS, pursuant to N.C.G.S. § 160A-383, the Town may use zoning regulations to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. In doing so, the Town may take into account the character of the Town's zoning districts and their peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town; and

WHEREAS, 2015 N.C. Sess. Law 86 made substantial changes to the text of N.C.G.S. § 160A-381 which purport to limit the Town's authority to regulated "building design elements." In particular, the changes to N.C.G.S. § 160A-381 prohibit the Town from regulating density or use of residential structures through restrictions on the number of bedrooms as the Town has historically regulated such density. These changes require that the Town's Zoning Ordinance be updated accordingly; and

WHEREAS, the Town finds that in order to effectively regulate the density of population within the Town following the adoption of 2015 N.C. Sess. Law 86 the Town must regulate the size and bulk of residential structures within its jurisdiction; and

WHEREAS, the Town finds that setting a reasonable maximum size limitation of single-family dwellings is a fair and equitable balancing of the Town's interests to regulate size and population density and to maintain the historical and residential character of developed areas of Town compared with property owners' interests in using their property for residential purposes; and

WHEREAS, the Town does not desire for commercial event facilities to operate within its residentially zoned districts and the Town finds that the following amendments are necessary to further clarify the delineation between such event facility usage and single-family residential dwellings; and

WHEREAS, the Town finds that a lack of regulation of the size of dwellings and the use of the residential properties for pre-planned events, community uses and private parties will result in a decrease in value of buildings and lands within the Town due to the Town's unique single-family residential nature and character; 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 Town Council of the Town of Southern Shores, North Carolina, that the Town Code shall be amended as follows:

PART 1. That **Sec 36-57. Definitions of specific terms and words.** be amended as follows:

...

Dwelling, large home, means any residential structure ~~home~~ exceeding the maximum size for such structures in the zoning district in which it is located ~~containing more than seven bedrooms (or rooms that could be considered as bedrooms using the county criteria for determining septic system design) or septic system capacity for more than 14 people~~. Large home dwellings are not a permitted use in any zoning district.

...

Event facility means an establishment, structure or property designed, maintained, advertised or actually used during any continuous twelve-month period for (i) any number of pre-planned events, (ii) four or more community uses; or (iii) four or more private parties having between twenty-five (25) and seventy-five (75) attendees. The term "pre-planned events", includes, but is not limited to, private parties of greater than seventy-five (75) attendees, weddings, rehearsal dinners, corporate meetings, retreats, sporting events, cultural events, musical events, celebrations, festivals, fairs, carnivals, circuses or similar events. The term "community uses" means meetings of charitable, political, governmental or civic groups. The term "private parties" means events that are not open to the public, and are held by or on behalf of an individual or organization for the primary purpose of socializing or gathering. On site sales of ~~F~~food and/or beverages at an event facility ~~service for purchase by individual patrons from the establishment owner, whether seated or non-seated,~~ shall constitute a restaurant as defined in section 36-57 which shall require a conditional use permit. The term "event facility" does not include the use of a residential structure or property on which a residential structure is located for social gatherings of less than twenty-five attendees or for traditional family events. The term "traditional family events" includes, but is not limited to, holiday parties and meals, birthday parties, funeral services, religious ceremonies and weddings for family members related by blood or

PART 5. That **Sec 36-205. R-1 low-density residential district.** be amended as foll

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwelling ~~consisting of no more than seven bedrooms or septic capacity for more than 14 people~~.

…

(d) *Dimensional requirements.*

…

(10) Maximum Size of Single-Family Dwelling: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space.

PART 6. That **Sec 36-207. C general commercial district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

…

(4) Detached ~~S~~single-family dwellings, two-family (duplexes) dwellings, multifamily dwellings, ~~large-home dwellings~~, and accessory buildings, according to the dimensional requirements of RS-8 multifamily residential district. ~~Large-home dwellings shall be exempt from section 36-203(d)(8) requirements.~~ For multifamily dwellings, the lot coverage shall not exceed 40 percent.

…

(10) ~~Dwelling, large homes.~~

~~(11)~~ Event facilities.

…

(d) *Dimensional requirements.*

…

(10) Maximum Size of Single-Family Dwelling: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space.

PART 7. That **Sec 36-163. Off-street parking requirements** be amended as follows:

…

(3) *Minimum parking requirements.* …

a. *Residential and related uses.*

1. Detached ~~S~~single-family dwelling units, two-family ~~detached~~ dwelling units and townhouses: three parking spaces for each dwelling unit with up to ~~four bedrooms (including all areas used for sleeping),~~ eight (8) person septic capacity and one additional space for each additional four (4) persons of septic capacity ~~two bedrooms (including areas useable for sleeping)~~, or fraction thereof, in excess of ~~four~~ eight (8) person septic capacity.

(i) ~~Bedrooms and/or areas useable for sleeping shall be defined and~~ The number of persons of septic capacity shall be determined by the county health department in establishing residence occupancy limits for wastewater/septic system.

…

~~4. Dwelling, large home: one parking space for each bedroom. Bedrooms and/or areas useable for sleeping shall be defined and determined by the county health department in establishing residence occupancy limits for wastewater/septic system. A ten-foot-wide drive aisle shall be provided, which must be separate from any parking spaces, such that no vehicle will be required to back into the public right-of-way. Each parking space shall have a minimum length of 18 feet and minimum width of ten feet. The drive aisle and one-half of the required parking spaces shall have an improved surface of concrete or asphalt. Other required and additional spaces may be either gravel, perforated paving blocks, or polymer open cell soil stabilization systems. Such porous parking areas shall be excluded from lot coverage calculations.~~

ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons, any reasons stated during the meetings at which this ordinance amendment was considered and any additional reasons supporting the Town's adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

ARTICLE V. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

ARTICLE VI. Effective Date.

This ordinance amendment shall be in full force and effect from and after the ____day of _____, 2016.

_____,
Tom Bennett, Mayor

ATTEST:

_____

Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

Date adopted:

_____
Motion to adopt by Councilmember:

_____
Motion seconded by Councilmember:

Vote:___AYES___NAYS

APPROVED AS TO FORM:

_____
Town Attorney

Date adopted:

_____
Motion to adopt by Councilmember:

_____
Motion seconded by Councilmember:

Vote:___AYES___NAYS

STAFF REPORT

To: Southern Shores Planning Board
Date: January 21, 2016
Case: ZTA-16-04
Prepared By: Wes Haskett, Town Planner/Code Enforcement Officer

GENERAL INFORMATION

Applicant: Town Staff

Requested Action: Amendment of the Town Zoning Ordinance by amending Section 36-57, Definitions of Specific Terms and Words; 36-202, RS-1 Single-family Residential District; Section 36-203, RS-8 Residential District; Section 36-204, RS-10 Residential District; 36-205, R-1 Low Density Residential District; Section 36-207, C General Commercial District; and Section 36-163, Off-street Parking Requirements.

ANALYSIS

Town Staff is proposing a Zoning Text Amendment (ZTA) to amend all of the aforementioned Sections of the Town Code to address large homes. As a result of Senate Bill 25 which was passed last year by the North Carolina General Assembly, municipalities are prohibited from restricting the number and type of rooms in single-family and two-family dwellings. The proposed ZTA revises Section 36-57, Definitions of Specific Terms and Words and the Schedule of District Regulations for all of the residential zoning districts and the General Commercial zoning district in an attempt to regulate large homes by establishing a maximum square footage for single-family dwellings based on lot size as follows:

- Lots with square footage up to 10,000 square feet: single-family dwellings shall not exceed 2,000 sq. ft. of enclosed living space;
- Lots with square footage from 10,001 to 20,000 square feet: single-family dwellings shall not exceed 4,000 sq. ft. of enclosed living space;
- Lots with square footage from 20,001 to 35,000 square feet: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space; and
- Lots with square footage greater than or equal to 35,001: single family dwellings shall not exceed 8,600 sq. ft. of enclosed living space.

In addition, Town Staff is also proposing to amend the definitions of Event Facility and Family in order to address special events held in residential zoning districts and the commercial zoning district (please note that there are two versions of the proposed ZTA with a different definition of Event Facility). Finally, Town Staff is proposing to amend Section 36-163, Off-street parking requirements in order to be in compliance with Senate Bill 25 by requiring parking spaces for single-family and two-family dwellings based on septic capacity instead of the number of bedrooms.

The Town's currently adopted Land Use Plan contains the following Goal and Policy that are applicable to the proposed ZTA:

- **Goal 2:** Protect, enhance and support land uses that are compatible with surrounding land uses and maintain the existing character of Southern Shores.
- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low density (1–3 units per acre) residential community comprised of single family dwellings on large lots (20,000 square feet or larger) served by a small commercial district (56 acres out of 2,175 acres) for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

RECOMMENDATION

The Town Planning Board unanimously (5-0) recommended disapproval of the application. Town Staff has determined that the proposed amendment is consistent with the Town's currently adopted Land Use Plan.

Town of Southern Shores
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info@southernshores-nc.gov
www.southernshores-nc.gov

ZTA-16-04 Large Structures Graduated Sq. Ft.

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ARTICLE I. Purpose(s) and Authority.

WHEREAS, the Town of Southern Shores (the "Town") is a predominately single-family residential community for families and retirees, as well as a vacation destination for seasonal visitors who rent single-family dwellings; and

WHEREAS, The Town is a quiet seaside residential community comprised primarily of small low density neighborhoods consisting of single family homes primarily on large lots (i.e., at least 20,000 sq ft); and

WHEREAS, the Town has long desired to maintain its low density residential character by not permitting large oversized homes, increased commercial development and increased density. The Town recognizes that increases in density increase the need for public services related to safety, fire prevention, water supply, schools and traffic congestion; and

WHEREAS, the Town recognizes that property owners enjoy the use of their property for parties and family related events on a regular basis and that such use should continue long into the future. However, the Town also recognizes that a growing trend on the Outer Banks and other coastal areas in North Carolina and nationally, is to construct large buildings on residentially zoned properties which purport to be single-family dwellings, but which are often designed for and after construction and permitting advertised, maintained and used as commercial event facilities; and

WHEREAS, the Town's residential areas have limited means of access due to the layout of roads and limited number of major thoroughfares in the Town. The road layout and limited number of thoroughfares already cause numerous traffic problems, particularly during the high traffic tourist season from approximately Memorial Day to Labor Day each year. The use of single-family residences in residentially zoned areas for pre-planned events, community uses and private parties increases traffic and safety hazards to the attendees, owners, neighbors and visitors to the Town; and

WHEREAS, pursuant to North Carolina General Statutes § 160A-174 the Town may 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 may define and abate nuisances; 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 height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, 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 36 of the Town's Code of Ordinances (the "Town Code"); and

WHEREAS, pursuant to N.C.G.S. § 160A-383, the Town may use zoning regulations to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. In doing so, the Town may take into account the character of the Town's zoning districts and their peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town; and

WHEREAS, 2015 N.C. Sess. Law 86 made substantial changes to the text of N.C.G.S. § 160A-381 which purport to limit the Town's authority to regulated "building design elements." In particular, the changes to N.C.G.S. § 160A-381 prohibit the Town from regulating density or use of residential structures through restrictions on the number of bedrooms as the Town has historically regulated such density. These changes require that the Town's Zoning Ordinance be updated accordingly; and

WHEREAS, the Town finds that in order to effectively regulate the density of population within the Town following the adoption of 2015 N.C. Sess. Law 86 the Town must regulate the size and bulk of residential structures within its jurisdiction; and

WHEREAS, the Town finds that adjusting the size limitations of single-family dwellings based upon the size of the lots where the structures are to be located is a fair and equitable balancing of the Town's interests to regulate size and population density and to maintain the historical and residential character of developed areas of Town compared with property owners' interests in using their property for residential purposes; and

WHEREAS, the Town does not desire for commercial event facilities to operate within its residentially zoned districts and the Town finds that the following amendments are necessary to further clarify the delineation between such event facility usage and single-family residential dwellings; and

WHEREAS, the Town finds that a lack of regulation of the size of dwellings and the use of the residential properties for pre-planned events, community uses and private parties will result in a decrease in value of buildings and lands within the Town due to the Town's unique single-family residential nature and character; 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 Town Council of the Town of Southern Shores, North Carolina, that the Town Code shall be amended as follows:

PART 1. That **Sec 36-57. Definitions of specific terms and words.** be amended as follows:

...

Dwelling, large home, means any residential structure ~~home~~ exceeding the maximum size for such structures in the zoning district in which it is located ~~containing more than seven bedrooms (or rooms that could be considered as bedrooms using the county criteria for determining septic system design) or septic system capacity for more than 14 people~~. Large home dwellings are not a permitted use in any zoning district.

...

Event facility means an establishment, structure or property designed, maintained, advertised or actually used during any continuous twelve-month period for (i) any number of pre-planned events, (ii) four or more community uses; or (iii) four or more private parties having between twenty-five (25) and seventy-five (75) attendees. The term "pre-planned events", includes, but is not limited to, private parties of greater than seventy-five (75) attendees, weddings, rehearsal dinners, corporate meetings, retreats, sporting events, cultural events, musical events, celebrations, festivals, fairs, carnivals, circuses or similar events. The term "community uses" means meetings of charitable, political, governmental or civic groups. The term "private parties" means events that are not open to the public, and are held by or on behalf of an individual or organization for the primary purpose of socializing or gathering. On site sales of ~~F~~food and/or beverages at an event facility ~~service for purchase by individual patrons from the establishment owner, whether seated or non-seated,~~ shall constitute a restaurant as defined in section 36-57 which shall require a conditional use permit. The term "event facility" does not include the use of a residential structure or property on which a residential structure is located for social gatherings of less than twenty-five attendees or for traditional family events. The term "traditional family events" includes, but is not limited to, holiday parties and meals, birthday parties, funeral services, religious ceremonies and weddings for family members related by blood or

marriage to: (i) any of the individual holders of legal title to the property; (ii) a majority of the owners of a business entity holding legal title to the property; or (iii) the beneficiaries of a trust holding legal title to the property.

Family means one or more persons occupying a single-family dwelling unit, provided that unless all members are related by blood or marriage or that the dwelling unit is being used as a vacation rental under the North Carolina Vacation Rental Act (N.C.G.S. Chap. 42A), then no such family shall contain more than five persons.

PART 2. That **Sec 36-202. RS-1 single-family residential district.** be amended as follows:

...

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwelling ~~consisting of no more than seven bedrooms or septic system capacity for more than 14 people~~.

...

(d) *Dimensional requirements.*

...

(9) Maximum Size of Single-Family Dwelling:

a. Lots with square footage up to 10,000 square feet: single-family dwellings shall not exceed 2,000 sq. ft. of enclosed living space.

b. Lots with square footage from 10,001 to 20,000 square feet: single-family dwellings shall not exceed 4,000 sq. ft. of enclosed living space.

c. Lots with square footage from 20,001 to 35,000 square feet: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space.

d. Lots with square footage greater than or equal to 35,001: single family dwellings shall not exceed 8,600 sq. ft. of enclosed living space.

PART 3. That **Sec 36-203. RS-8 multifamily residential district.** be amended as follows:

...

(b) Permitted uses. The following uses shall be permitted by right:

...

~~(9) Dwellings shall consist of no more than seven bedrooms or septic system capacity for more than 14 people.~~

...

(d) *Dimensional requirements.*

...

(10) Maximum Size of Single-Family Dwelling:

a. Lots with square footage up to 10,000 square feet: single-family dwellings shall not exceed 2,000 sq. ft. of enclosed living space.

b. Lots with square footage from 10,001 to 20,000 square feet: single-family dwellings shall not exceed 4,000 sq. ft. of enclosed living space.

c. Lots with square footage from 20,001 to 35,000 square feet: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space.

d. Lots with square footage greater than or equal to 35,001: single family dwellings shall not exceed 8,600 sq. ft. of enclosed living space.

PART 4. That **Sec 36-204. RS-10 residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwellings~~ shall consist of no more than seven bedrooms or septic system capacity for more than 14 people~~.

…

(d) *Dimensional requirements.*

…

(10) Maximum Size of Single-Family Dwelling:

a. Lots with square footage up to 10,000 square feet: single-family dwellings shall not exceed 2,000 sq. ft. of enclosed living space.

b. Lots with square footage from 10,001 to 20,000 square feet: single-family dwellings shall not exceed 4,000 sq. ft. of enclosed living space.

c. Lots with square footage from 20,001 to 35,000 square feet: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space.

d. Lots with square footage greater than or equal to 35,001: single family dwellings shall not exceed 8,600 sq. ft. of enclosed living space.

PART 5. That **Sec 36-205. R-1 low-density residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwelling ~~consisting of no more than seven bedrooms or septic capacity for more than 14 people~~.

…

(d) *Dimensional requirements.*

…

(10) Maximum Size of Single-Family Dwelling:

a. Lots with square footage up to 10,000 square feet: single-family dwellings shall not exceed 2,000 sq. ft. of enclosed living space.

b. Lots with square footage from 10,001 to 20,000 square feet: single-family dwellings shall not exceed 4,000 sq. ft. of enclosed living space.

c. Lots with square footage from 20,001 to 35,000 square feet: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space.

d. Lots with square footage greater than or equal to 35,001: single family dwellings shall not exceed 8,600 sq. ft. of enclosed living space.

PART 6. That **Sec 36-207. C general commercial district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

…

(4) Detached ~~S~~single-family dwellings, two-family (duplexes) dwellings, multifamily dwellings, ~~large home dwellings~~, and accessory buildings, according to the dimensional requirements of RS-8 multifamily residential district. ~~Large home dwellings shall be exempt from section 36-203(d)(8) requirements.~~ For multifamily dwellings, the lot coverage shall not exceed 40 percent.

…

(10) ~~Dwelling, large homes.~~

~~(11)~~ Event facilities.

…

(d) *Dimensional requirements.*

…

(10) Maximum Size of Single-Family Dwelling:

a. Lots with square footage up to 10,000 square feet: single-family dwellings shall not exceed 2,000 sq. ft. of enclosed living space.

b. Lots with square footage from 10,001 to 20,000 square feet: single-family dwellings shall not exceed 4,000 sq. ft. of enclosed living space.

c. Lots with square footage from 20,001 to 35,000 square feet: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space.

d. Lots with square footage greater than or equal to 35,001: single family dwellings shall not exceed 8,600 sq. ft. of enclosed living space.

PART 7. That **Sec 36-163. Off-street parking requirements** be amended as follows:

…

(3) *Minimum parking requirements. …*

a. *Residential and related uses.*

1. Detached ~~S~~single-family dwelling units, two-family ~~detached~~ dwelling units and townhouses: three parking spaces for each dwelling unit with up to ~~four bedrooms (including all areas used for sleeping),~~ eight (8) person septic capacity and one additional space for each additional four (4) persons of septic capacity ~~two bedrooms (including areas useable for sleeping)~~, or fraction thereof, in excess of ~~four~~ eight (8) person septic capacity.

(i) ~~Bedrooms and/or areas useable for sleeping shall be defined and~~ The number of persons of septic capacity shall be determined by the county health department in establishing residence occupancy limits for wastewater/septic system.

…

~~4. Dwelling, large home: one parking space for each bedroom. Bedrooms and/or areas useable for sleeping shall be defined and determined by the county health department in establishing residence occupancy limits for wastewater/septic system. A ten foot wide drive aisle shall be provided, which must be separate from any parking spaces, such that no vehicle will be required to back into the public right-of-way. Each parking space shall have a minimum length of 18 feet and minimum width of ten feet. The drive aisle and one-half of the required parking spaces shall have an improved surface of concrete or asphalt. Other required and additional spaces may be either gravel, perforated paving blocks, or~~

~~polymer open-cell soil stabilization systems. Such porous parking areas shall be excluded from lot coverage calculations.~~

ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons, any reasons stated during the meetings at which this ordinance amendment was considered and any additional reasons supporting the Town's adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

ARTICLE V. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

ARTICLE VI. Effective Date.

This ordinance amendment shall be in full force and effect from and after the ____day of _____, 2016.

_____,
Tom Bennett, Mayor

ATTEST:

_____
Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

Date adopted:

_____

Motion to adopt by Councilmember:

_____

Motion seconded by Councilmember:

Vote:___AYES___NAYS

Town of Southern Shores
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ZTA-16-04 Large Structures Graduated Sq. Ft. v002

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ARTICLE I. Purpose(s) and Authority.

WHEREAS, the Town of Southern Shores (the "Town") is a predominately single-family residential community for families and retirees, as well as a vacation destination for seasonal visitors who rent single-family dwellings; and

WHEREAS, The Town is a quiet seaside residential community comprised primarily of small low density neighborhoods consisting of single family homes primarily on large lots (i.e., at least 20,000 sq ft); and

WHEREAS, the Town has long desired to maintain its low density residential character by not permitting large oversized homes, increased commercial development and increased density. The Town recognizes that increases in density increase the need for public services related to safety, fire prevention, water supply, schools and traffic congestion; and

WHEREAS, the Town recognizes that property owners enjoy the use of their property for parties and family related events on a regular basis and that such use should continue long into the future. However, the Town also recognizes that a growing trend on the Outer Banks and other coastal areas in North Carolina and nationally, is to construct large buildings on residentially zoned properties which purport to be single-family dwellings, but which are often designed for and after construction and permitting advertised, maintained and used as commercial event facilities; and

WHEREAS, the Town's residential areas have limited means of access due to the layout of roads and limited number of major thoroughfares in the Town. The road layout and limited number of thoroughfares already cause numerous traffic problems, particularly during the high traffic tourist season from approximately Memorial Day to Labor Day each year. The use of single-family residences in residentially zoned areas for pre-planned events, community uses and private parties increases traffic and safety hazards to the attendees, owners, neighbors and visitors to the Town; and

WHEREAS, pursuant to North Carolina General Statutes § 160A-174 the Town may 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 may define and abate nuisances; 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 height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, 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 36 of the Town's Code of Ordinances (the "Town Code"); and

WHEREAS, pursuant to N.C.G.S. § 160A-383, the Town may use zoning regulations to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. In doing so, the Town may take into account the character of the Town's zoning districts and their peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town; and

WHEREAS, 2015 N.C. Sess. Law 86 made substantial changes to the text of N.C.G.S. § 160A-381 which purport to limit the Town's authority to regulated "building design elements." In particular, the changes to N.C.G.S. § 160A-381 prohibit the Town from regulating density or use of residential structures through restrictions on the number of bedrooms as the Town has historically regulated such density. These changes require that the Town's Zoning Ordinance be updated accordingly; and

WHEREAS, the Town finds that in order to effectively regulate the density of population within the Town following the adoption of 2015 N.C. Sess. Law 86 the Town must regulate the size and bulk of residential structures within its jurisdiction; and

WHEREAS, the Town finds that adjusting the size limitations of single-family dwellings based upon the size of the lots where the structures are to be located is a fair and equitable balancing of the Town's interests to regulate size and population density and to maintain the historical and residential character of developed areas of Town compared with property owners' interests in using their property for residential purposes; and

WHEREAS, the Town does not desire for commercial event facilities to operate within its residentially zoned districts and the Town finds that the following amendments are necessary to further clarify the delineation between such event facility usage and single-family residential dwellings; and

WHEREAS, the Town finds that a lack of regulation of the size of dwellings and the use of the residential properties for pre-planned events, community uses and private parties will result in a decrease in value of buildings and lands within the Town due to the Town's unique single-family residential nature and character; 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.

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ARTICLE III. Amendment of Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern Shores, North Carolina, that the Town Code shall be amended as follows:

PART 1. That **Sec 36-57. Definitions of specific terms and words.** be amended as follows:

...

Dwelling, large home, means any residential structure ~~home~~ exceeding the maximum size for such structures in the zoning district in which it is located ~~containing more than seven bedrooms (or rooms that could be considered as bedrooms using the county criteria for determining septic system design) or septic system capacity for more than 14 people~~. Large home dwellings are not a permitted use in any zoning district.

...

Event facility means an establishment, structure or property designed, maintained, advertised or actually used for the primary purpose of hosting pre-planned events. The term "events", includes, but is not limited to, private parties, community uses, weddings, rehearsal dinners, corporate meetings, retreats, sporting events, cultural events, musical events, celebrations, festivals, fairs, carnivals, circuses or similar events that are planned in advance of their occurrence. The term "community uses" means meetings of charitable, political, governmental or civic groups. The term "private parties" means events that are not open to the public, and are held by or on behalf of an individual or organization for the primary purpose of socializing or gathering. On site sales of ~~F~~food and/or beverages at an event facility ~~service for purchase by individual patrons from the establishment owner, whether seated or non-seated,~~ shall constitute a restaurant as defined in section 36-57 which shall require a conditional use permit. The term "event facility" does not include the use of a residential structure or property on which a residential structure is located for non-commercial social gatherings or for traditional family events. The term "traditional family events" includes, but is not limited to, holiday parties and meals, birthday parties, funeral services, religious ceremonies and weddings for family members related by blood or marriage to: (i) any of the individual holders of legal title to the property; (ii) a majority of

the owners of a business entity holding legal title to the property; or (iii) the beneficiaries of a trust holding legal title to the property.

Family means one or more persons occupying a single-family dwelling unit, provided that unless all members are related by blood or marriage or that the dwelling unit is being used as a vacation rental under the North Carolina Vacation Rental Act (N.C.G.S. Chap. 42A), then no such family shall contain more than five persons.

PART 2. That **Sec 36-202. RS-1 single-family residential district.** be amended as follows:

...

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwelling ~~consisting of no more than seven bedrooms or septic system capacity for more than 14 people~~.

...

(d) *Dimensional requirements.*

...

(9) Maximum Size of Single-Family Dwelling:

a. Lots with square footage up to 10,000 square feet: single-family dwellings shall not exceed 2,000 sq. ft. of enclosed living space.

b. Lots with square footage from 10,001 to 20,000 square feet: single-family dwellings shall not exceed 4,000 sq. ft. of enclosed living space.

c. Lots with square footage from 20,001 to 35,000 square feet: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space.

d. Lots with square footage greater than or equal to 35,001: single family dwellings shall not exceed 8,600 sq. ft. of enclosed living space.

PART 3. That **Sec 36-203. RS-8 multifamily residential district.** be amended as follows:

...

(b) Permitted uses. The following uses shall be permitted by right:

...

~~(9) Dwellings shall consist of no more than seven bedrooms or septic system capacity for more than 14 people.~~

...

(d) *Dimensional requirements.*

...

(10) Maximum Size of Single-Family Dwelling:

a. Lots with square footage up to 10,000 square feet: single-family dwellings shall not exceed 2,000 sq. ft. of enclosed living space.

b. Lots with square footage from 10,001 to 20,000 square feet: single-family dwellings shall not exceed 4,000 sq. ft. of enclosed living space.

c. Lots with square footage from 20,001 to 35,000 square feet: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space.

d. Lots with square footage greater than or equal to 35,001: single family dwellings shall not exceed 8,600 sq. ft. of enclosed living space.

PART 4. That **Sec 36-204. RS-10 residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwellings~~ shall consist of no more than seven bedrooms or septic system capacity for more than 14 people~~.

…

(d) *Dimensional requirements.*

…

(10) Maximum Size of Single-Family Dwelling:

a. Lots with square footage up to 10,000 square feet: single-family dwellings shall not exceed 2,000 sq. ft. of enclosed living space.

b. Lots with square footage from 10,001 to 20,000 square feet: single-family dwellings shall not exceed 4,000 sq. ft. of enclosed living space.

c. Lots with square footage from 20,001 to 35,000 square feet: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space.

d. Lots with square footage greater than or equal to 35,001: single family dwellings shall not exceed 8,600 sq. ft. of enclosed living space.

PART 5. That **Sec 36-205. R-1 low-density residential district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

(1) Detached single-family dwelling ~~consisting of no more than seven bedrooms or septic capacity for more than 14 people~~.

…

(d) *Dimensional requirements.*

…

(10) Maximum Size of Single-Family Dwelling:

a. Lots with square footage up to 10,000 square feet: single-family dwellings shall not exceed 2,000 sq. ft. of enclosed living space.

b. Lots with square footage from 10,001 to 20,000 square feet: single-family dwellings shall not exceed 4,000 sq. ft. of enclosed living space.

c. Lots with square footage from 20,001 to 35,000 square feet: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space.

d. Lots with square footage greater than or equal to 35,001: single family dwellings shall not exceed 8,600 sq. ft. of enclosed living space.

PART 6. That **Sec 36-207. C general commercial district.** be amended as follows:

…

(b) Permitted uses. The following uses shall be permitted by right:

…

(4) Detached ~~S~~single-family dwellings, two-family (duplexes) dwellings, multifamily dwellings, ~~large home dwellings~~, and accessory buildings, according to the dimensional

requirements of RS-8 multifamily residential district. ~~Large home dwellings shall be exempt from section 36-203(d)(8) requirements.~~ For multifamily dwellings, the lot coverage shall not exceed 40 percent.

…

(10) ~~Dwelling, large homes.~~

~~(11)~~ Event facilities.

…

(d) *Dimensional requirements.*

…

(10) Maximum Size of Single-Family Dwelling:

a. Lots with square footage up to 10,000 square feet: single-family dwellings shall not exceed 2,000 sq. ft. of enclosed living space.

b. Lots with square footage from 10,001 to 20,000 square feet: single-family dwellings shall not exceed 4,000 sq. ft. of enclosed living space.

c. Lots with square footage from 20,001 to 35,000 square feet: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space.

d. Lots with square footage greater than or equal to 35,001: single family dwellings shall not exceed 8,600 sq. ft. of enclosed living space.

PART 7. That **Sec 36-163. Off-street parking requirements** be amended as follows:

…

(3) *Minimum parking requirements. …*

a. *Residential and related uses.*

1. Detached ~~S~~single-family dwelling units, two-family ~~detached~~ dwelling units and townhouses: three parking spaces for each dwelling unit with up to ~~four bedrooms (including all areas used for sleeping),~~ eight (8) person septic capacity and one additional space for each additional four (4) persons of septic capacity ~~two bedrooms (including areas useable for sleeping)~~, or fraction thereof, in excess of ~~four~~ eight (8) person septic capacity.

(i) ~~Bedrooms and/or areas useable for sleeping shall be defined and~~ The number of persons of septic capacity shall be determined by the county health department in establishing residence occupancy limits for wastewater/septic system.

…

~~4. Dwelling, large home: one parking space for each bedroom. Bedrooms and/or areas useable for sleeping shall be defined and determined by the county health department in establishing residence occupancy limits for wastewater/septic system. A ten foot wide drive aisle shall be provided, which must be separate from any parking spaces, such that no vehicle will be required to back into the public right of way. Each parking space shall have a minimum length of 18 feet and minimum width of ten feet. The drive aisle and one-half of the required parking spaces shall have an improved surface of concrete or asphalt. Other required and additional spaces may be either gravel, perforated paving blocks, or polymer open cell soil stabilization systems. Such porous parking areas shall be excluded from lot coverage calculations.~~

ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons, any reasons stated during the meetings at which this ordinance amendment was considered and any additional reasons supporting the Town's adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

ARTICLE V. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

ARTICLE VI. Effective Date.

This ordinance amendment shall be in full force and effect from and after the ____day of _____, 2016.

_____,
Tom Bennett, Mayor

ATTEST:

_____
Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

Date adopted:

_____

Motion to adopt by Councilmember:

_____

Motion seconded by Councilmember:

Vote:___AYES___NAYS