



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

Ordinance 2017-12-02

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

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Southern Shores (the "Town") may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted a comprehensive zoning ordinance (the "Town's Zoning Ordinance") and has codified the same as Chapter 36 of the Town's Code of Ordinances (the "Town Code"); and

WHEREAS, the Town has adopted a flood damage prevention ordinance (the "Flood Ordinance" and has codified the same as Chapter 16 of the Town's Code of Ordinances; and

WHEREAS, the Town's Zoning Ordinance and Flood Ordinance currently disallow any living space to be constructed within accessory structures; and

WHEREAS, the Town desires to allow for living space to be constructed within accessory structures in the manner proposed herein; and

WHEREAS, the Town further desires to clarify the definitions associated with determining the existence and amount of living space within structures in the manner provided herein; 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, Flood Ordinance and Town Code 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 I. Section 36-57. – Definitions of specific terms and words. shall be amended as follows:

...

Dwelling unit means one ~~room~~, or more rooms or living spaces connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease, and physically separated from any other rooms, living spaces or dwelling units which may be in the same structure, and containing ~~independent cooking a stove or stoves and/or an oven or ovens~~ and sleeping facilities for a single-family.

...

Enclosed living space. See *Living space.*

...

Habitable floors and stories (~~living space~~) means enclosed living space areas within a structure ~~which are~~ located below the top plate, ~~and containing rooms or areas which have been designed, and constructed for human habitation.~~

Habitable space. See *Living space.*

Living space means enclosed conditioned areas within a structure that are designed or constructed for human habitation. All conditioned areas within a structure are presumed to be constructed for human habitation unless affirmatively shown to be to the contrary in a manner such that the use of the area cannot be modified, i.e. a conditioned wine cellar or refrigerated storage area.

PART II. Section 36-202(b)(2) shall be amended as follows:

(2) Customary accessory buildings and structures including, but not limited to, swimming pools, tennis courts, and garages, provided no ~~living space~~ dwelling unit is ~~provided~~ located in the accessory structure. Accessory beach access walks, ramps, and steps shall not exceed four feet in width. Accessory ocean dune platforms shall not exceed 200 square feet.

PART III. Section 36-203(b)(4) shall be amended as follows:

(4) Customary accessory buildings including, but not limited to, swimming pools, tennis courts, and garages, provided no ~~living space~~ dwelling unit is ~~provided~~ located in the accessory structure.

PART IV. Section 36-205(b)(2) shall be amended as follows:

(2) Customary accessory buildings including, but not limited to, swimming pools, tennis courts, and garages, provided no ~~living space~~ dwelling unit is provided located in the accessory structure.

PART V. Section 36-102 of the Zoning Ordinance shall no longer be “reserved” and **Section 36-102. Living space within accessory structures.** shall be added as follows:

On lots where enclosed living space is permitted within accessory structures, the living space within an accessory structure shall count towards any living space restrictions for the principal building.

ARTICLE IV. Amendment of Flood Protection Ordinance.

PART I. Section 16-5(b)(8) shall be amended as follows:

(8) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas) unless permitted by the Town’s Zoning Ordinance and all such permissible habitable space is located above the regulatory flood protection elevation;

b. Accessory structures shall not be temperature-controlled unless permitted by the Town’s Zoning Ordinance and all such permissible temperature-controlled space is located above the regulatory flood protection elevation;

c. Accessory structures shall be designed to have low flood damage potential;

d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

e. Accessory structures shall be firmly anchored in accordance with subsection (a)(1) of this section;

f. All service facilities such as electrical shall be installed in accordance with subsection (a)(4) of this section; and

g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with subsection (b)(4)c of this section. An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined in this subsection does not require an elevation or floodproofing certificate unless it has habitable space or temperature controlled space. Elevation or floodproofing certifications are required for all other accessory structures in accordance with section 16-4(b)(3).

ARTICLE V. 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 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 VI. 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, Flood 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 5th day of December 2017.

Thomas G. Bennett
_____, Mayor

ATTEST:

Shirley Ann

Town Clerk



APPROVED AS TO FORM:

John A. Nason

Town Attorney

Date adopted: 12/5/2017

Motion to adopt by Councilmember: *MAYOR BENNETT*

Motion seconded by Councilmember: *MAYOR PRO TEM NASON*

Vote: 3 AYES 2 NAYS