



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 # 2019-05-02 (ZTA 19-01PB)

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 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 vacation cottages or event facilities for large numbers of people; 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

1
2 **WHEREAS**, pursuant to N.C.G.S. § 160A-383, the Town may use zoning
3 regulations to provide adequate light and air; to prevent the overcrowding of land; to avoid
4 undue concentration of population; to lessen congestion in the streets; to secure safety from
5 fire, panic, and dangers; and to facilitate the efficient and adequate provision of
6 transportation, water, sewerage, schools, parks, and other public requirements. In doing so,
7 the Town may take into account the character of the Town's zoning districts and their
8 peculiar suitability for particular uses with a view to conserving the value of buildings and
9 encouraging the most appropriate use of land throughout the Town; and

10
11 **WHEREAS**, 2015 N.C. Sess. Law 86 made substantial changes to the text of
12 N.C.G.S. § 160A-381(h) which limited the Town's authority to regulate "building design
13 elements." In particular, the changes to N.C.G.S. § 160A-381 prohibit the Town from
14 regulating density or use of residential structures through restrictions on the number of
15 bedrooms as the Town has historically regulated such density. These changes require that
16 the Town's Zoning Ordinance be updated accordingly; and

17
18 **WHEREAS**, the Town finds that in order to effectively regulate the density of
19 population within the Town following the adoption of 2015 N.C. Sess. Law 86 the Town
20 must regulate the size and bulk of residential structures within its jurisdiction and the use
21 of property as vacation cottages, particularly those having maximum overnight occupancy
22 and/or septic capacity in excess of fourteen (14) persons; and

23
24 **WHEREAS**, the Town finds that vacation cottages, whether offered for rental or
25 not, with overnight occupancy or septic capacity of fourteen (14) persons or less should be
26 a permitted use in certain residential districts, and that vacation cottages having a greater
27 overnight occupancy or septic capacity should be prohibited in order to regulate the density
28 of population within the Town.

29
30 **WHEREAS**, the Town finds that such regulation will not result in a decrease in
31 value of buildings and lands within the Town and is consistent with the Town's unique
32 single-family residential nature and character; and

33
34 **WHEREAS**, the Town further finds that in accordance with the findings above it
35 is in the interest of and not contrary to the public's health, safety, morals and general
36 welfare for the Town to amend the Town's Zoning Ordinance and Town Code of
37 Ordinances as stated below.

38
39 **ARTICLE II. Construction.**

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41 For purposes of this ordinance amendment, underlined words (underline) shall be
42 considered as additions to existing Town Code language and strikethrough words
43 (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the
44 adopted Town Code which are not repeated herein, but are instead replaced by an ellipses
45 ("...") shall remain as they currently exist within the Town Code.
46

1 **ARTICLE III. Amendment of Zoning Ordinance.**

2
3 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern
4 Shores, North Carolina, that the Town Code shall be amended as follows:

5
6 **PART 1.** That **Sec 36-57. Definitions of specific terms and words.** be amended as
7 follows:

8 ...
9 *Dwelling, large home*, means any residential structure exceeding the maximum size,
10 maximum transient occupancy capacity or maximum septic capacity for such structures in
11 the zoning district in which it is located. Large home dwellings are not a permitted use in
12 any zoning district.

13 ...
14
15 Transient occupancy, means overnight occupancy in a residential structure for periods of
16 less than thirty (30) days for vacation, leisure, recreation or other purposes by a person or
17 persons who have a place of residence to which they intend to return including when such
18 property or structure is offered in whole or in part for rent or use by the day, week, or other
19 period of less than thirty (30) days.

20 ...
21
22 Vacation cottage, means the use of a property and associated single-family dwelling in
23 whole or in part for any part of a calendar year for the purpose of transient occupancy. Any
24 property or structure advertised in a manner meeting the definition of vacation cottage shall
25 be presumed to be actually in use as a vacation cottage.

26 ...
27
28 **PART 2.** That **Sec 36-202. RS-1 single-family residential district.** be amended as
29 follows:

30 (a) *Intent*. The RS-1 district is established to provide for the low-density development of
31 single-family detached dwellings in an environment which preserves sand dunes, coastal
32 forests, wetlands, and other unique natural features of the coastal area. The district is
33 intended to promote stable, permanent neighborhoods characterized by low vehicular
34 traffic flows, abundant open space, and low impact of development on the natural
35 environment and adjacent land uses. In order to meet this intent, the density of population
36 in the district is managed by establishment of minimum lot sizes, building setback and
37 height limits, parking regulations and maximum occupancy limits for single-family
38 residences used as vacation cottages.

39 ...
40 (b) Permitted uses. The following uses shall be permitted by right:
41 (1) Detached single-family dwelling and vacation cottages provided that such residential
42 structure shall not be: (i) advertised to accommodate, designed for, constructed for or
43 actually occupied by more than fourteen (14) overnight occupants when used as a vacation
44 cottage; or (ii) have a maximum septic capacity sufficient to serve more than fourteen (14)
45 overnight occupants.

46 ...

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2 **PART 3.** That **Sec 36-204. RS-10 residential district.** be amended as follows:

3 (a) *Intent.* The RS-10 district is established as an area in which the principal use of the
4 land is for high-density residential purposes not to exceed ten dwelling units per net acre.
5 The district also provides for the development of less intensive residential uses as well as
6 for compatible supporting uses. In order to meet this intent, the density of population in the
7 district is managed by establishment of minimum lot sizes, building setback and height
8 limits, parking regulations and maximum occupancy limits for single-family residences
9 used as vacation cottages.

10 ...

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

12 (1) Detached single-family dwelling and vacation cottages provided that such residential
13 structure shall not be: (i) advertised to accommodate, designed for, constructed for or
14 actually occupied by more than fourteen (14) overnight occupants when used as a vacation
15 cottage; or (ii) have a maximum septic capacity sufficient to serve more than fourteen (14)
16 overnight occupants.

17 ...

18
19 **PART 4.** That **Sec 36-205. R-1 low-density residential district.** be amended as follows:

20 (a) *Intent.* The R-1 district is intended to encourage the development of permanent low-
21 density residential neighborhoods and community facilities necessary for the health and
22 safety and general welfare of the community. In order to meet this intent, the density of
23 population in the district is managed by establishment of minimum lot sizes, building
24 setback and height limits, parking regulations and maximum occupancy limits for single-
25 family residences used as vacation cottages.

26 ...

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

28 (1) Detached single-family dwelling and vacation cottages provided that such residential
29 structure shall not be: (i) advertised to accommodate, designed for, constructed for or
30 actually occupied by more than fourteen (14) overnight occupants when used as a vacation
31 cottage; or (ii) have a maximum septic capacity sufficient to serve more than fourteen (14)
32 overnight occupants.

33 ...

34
35 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
36 **Reasonableness.**

37
38 The Town's adoption of this ordinance amendment is consistent with the Town's adopted
39 comprehensive zoning ordinance, land use plan and any other officially adopted plan that
40 is applicable. For all of the above-stated reasons, any reasons stated during the meetings at
41 which this ordinance amendment was considered and any additional reasons supporting the
42 Town's adoption of this ordinance amendment, the Town considers the adoption of this
43 ordinance amendment to be reasonable and in the public interest.

44
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46 **ARTICLE V. Severability.**

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

7
8 **ARTICLE VI. Effective Date.**

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10 This ordinance amendment shall be in full force and effect from and after the 7 day of
11 May, 2019.



Thomas S. Bennett
Tom Bennett, Mayor

20 ATTEST:

21
22
23 Thalia Kane
24 Town Clerk

25
26
27 APPROVED AS TO FORM:

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29
30 [Signature]
31 Town Attorney

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33 Date adopted: 5/7/2019

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35
36 Motion to adopt by Councilmember: Councilman McDonald

37
38 Motion seconded by Councilmember: Councilman Newberry

39
40
41
42 Vote: 5 AYES 0 NAYS