



Town of Southern Shores

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ZTA-XX-XX

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

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11 **ARTICLE I. Purpose(s) and Authority.**

12
13 **WHEREAS**, the Town of Southern Shores (the “Town”) is a predominately
14 single-family residential community for families and retirees, as well as a vacation
15 destination for seasonal visitors who rent single-family dwellings; and

16
17 **WHEREAS**, The Town is a quiet seaside residential community comprised
18 primarily of small low density neighborhoods consisting of single family homes
19 primarily on large lots (i.e., at least 20,000 sq ft); and

20
21 **WHEREAS**, the Town has long desired to maintain its low density residential
22 character by not permitting large oversized homes, increased commercial development
23 and increased density. The Town recognizes that increases in density increase the need
24 for public services related to safety, fire prevention, water supply, schools and traffic
25 congestion; and

26
27 **WHEREAS**, the Town recognizes that property owners enjoy the use of their
28 property for parties and family related events on a regular basis and that such use should
29 continue long into the future. However, the Town also recognizes that a growing trend on
30 the Outer Banks and other coastal areas in North Carolina and nationally, is to construct
31 large buildings on residentially zoned properties which purport to be single-family
32 dwellings, but which are often designed for and after construction and permitting
33 advertised, maintained and used as commercial event facilities; and

34
35 **WHEREAS**, the Town’s residential areas have limited means of access due to the
36 layout of roads and limited number of major thoroughfares in the Town. The road layout
37 and limited number of thoroughfares already cause numerous traffic problems,
38 particularly during the high traffic tourist season from approximately Memorial Day to
39 Labor Day each year. The use of single-family residences in residentially zoned areas for
40 pre-planned events, community uses and private parties increases traffic and safety
41 hazards to the attendees, owners, neighbors and visitors to the Town; and

42
43 **WHEREAS**, pursuant to North Carolina General Statutes § 160A-174 the Town
44 may enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions,
45 or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and
46 dignity of the Town, and may define and abate nuisances; and

1
2 **WHEREAS**, pursuant to N.C.G.S. § 160A-381, the Town may enact and amend
3 ordinances regulating the zoning and development of land within its jurisdiction and
4 specifically the height, number of stories and size of buildings and other structures, the
5 percentage of lots that may be occupied, the size of yards, courts and other open spaces,
6 the density of population, the location and use of buildings, structures and land. Pursuant
7 to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et.
8 seq, the Town has adopted a comprehensive zoning ordinance (the “Town’s Zoning
9 Ordinance”) and has codified the same as Chapter 36 of the Town’s Code of Ordinances
10 (the “Town Code”); and
11

12 **WHEREAS**, pursuant to N.C.G.S. § 160A-383, the Town may use zoning
13 regulations to provide adequate light and air; to prevent the overcrowding of land; to
14 avoid undue concentration of population; to lessen congestion in the streets; to secure
15 safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision
16 of transportation, water, sewerage, schools, parks, and other public requirements. In
17 doing so, the Town may take into account the character of the Town’s zoning districts
18 and their peculiar suitability for particular uses with a view to conserving the value of
19 buildings and encouraging the most appropriate use of land throughout the Town; and
20

21 **WHEREAS**, 2015 N.C. Sess. Law 86 made substantial changes to the text of
22 N.C.G.S. § 160A-381 which purport to limit the Town’s authority to regulated “building
23 design elements.” In particular, the changes to N.C.G.S. § 160A-381 prohibit the Town
24 from regulating density or use of residential structures through restrictions on the number
25 of bedrooms as the Town has historically regulated such density. These changes require
26 that the Town’s Zoning Ordinance be updated accordingly; and
27

28 **WHEREAS**, the Town finds that in order to effectively regulate the density of
29 population within the Town following the adoption of 2015 N.C. Sess. Law 86 the Town
30 must regulate the size and bulk of residential structures within its jurisdiction; and
31

32 **WHEREAS**, the Town finds that setting a reasonable maximum size limitation of
33 single-family dwellings is a fair and equitable balancing of the Town’s interests to
34 regulate size and population density and to maintain the historical and residential
35 character of developed areas of Town compared with property owners’ interests in using
36 their property for residential purposes; and
37

38 **WHEREAS**, the Town does not desire for commercial event facilities to operate
39 within its residentially zoned districts and the Town finds that the following amendments
40 are necessary to further clarify the delineation between such event facility usage and
41 single-family residential dwellings; and
42

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

1
2 **WHEREAS**, the Town further finds that in accordance with the findings above it
3 is in the interest of and not contrary to the public's health, safety, morals and general
4 welfare for the Town to amend the Town's Zoning Ordinance and Town Code of
5 Ordinances as stated below.

6
7 **ARTICLE II. Construction.**

8
9 For purposes of this ordinance amendment, underlined words (underline) shall be
10 considered as additions to existing Town Code language and strikethrough words
11 (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the
12 adopted Town Code which are not repeated herein, but are instead replaced by an ellipses
13 ("...") shall remain as they currently exist within the Town Code.

14
15 **ARTICLE III. Amendment of Zoning Ordinance.**

16
17 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern
18 Shores, North Carolina, that the Town Code shall be amended as follows:

19
20 **PART 1. That Sec 36-57. Definitions of specific terms and words.** be amended as
21 follows:

22 ...
23 *Dwelling, large home*, means any residential structure ~~home~~ exceeding the maximum size
24 for such structures in the zoning district in which it is located ~~containing more than seven~~
25 ~~bedrooms (or rooms that could be considered as bedrooms using the county criteria for~~
26 ~~determining septic system design) or septic system capacity for more than 14 people.~~
27 Large home dwellings are not a permitted use in any zoning district.

28 ...
29 *Event facility* means an establishment, structure or property designed, maintained,
30 advertised or actually used during any continuous twelve-month period for (i) any
31 number of pre-planned events, (ii) four or more community uses; or (iii) four or more
32 private parties having between twenty-five (25) and seventy-five (75) attendees. The term
33 “pre-planned events”, includes, but is not limited to, private parties of greater than
34 seventy-five (75) attendees, weddings, rehearsal dinners, corporate meetings, retreats,
35 sporting events, cultural events, musical events, celebrations, festivals, fairs, carnivals,
36 circuses or similar events. The term “community uses” means meetings of charitable,
37 political, governmental or civic groups. The term “private parties” means events that are
38 not open to the public, and are held by or on behalf of an individual or organization for
39 the primary purpose of socializing or gathering. On site sales of food and/or beverages
40 at an event facility ~~service for purchase by individual patrons from the establishment~~
41 ~~owner, whether seated or non-seated,~~ shall constitute a restaurant as defined in section
42 36-57 which shall require a conditional use permit. The term “event facility” does not
43 include the use of a residential structure or property on which a residential structure is
44 located for social gatherings of less than twenty-five attendees or for traditional family
45 events. The term “traditional family events” includes, but is not limited to, holiday parties
46 and meals, birthday parties, funeral services, religious ceremonies and weddings for

1 family members related by blood or marriage to: (i) any of the individual holders of legal
2 title to the property; (ii) a majority of the owners of a business entity holding legal title to
3 the property; or (iii) the beneficiaries of a trust holding legal title to the property.

4
5 *Family* means one or more persons occupying a single-family dwelling unit, provided
6 that unless all members are related by blood or marriage or that the dwelling unit is being
7 used as a vacation rental under the North Carolina Vacation Rental Act (N.C.G.S. Chap.
8 42A), then no such family shall contain more than five persons.

9
10 **PART 2.** That **Sec 36-202. RS-1 single-family residential district.** be amended as
11 follows:

- 12 ...
13 (b) Permitted uses. The following uses shall be permitted by right:
14 (1) ~~Detached single-family dwelling consisting of no more than seven bedrooms or septic~~
15 ~~system capacity for more than 14 people.~~
16 ...
17 (d) *Dimensional requirements.*
18 ...
19 (9) Maximum Size of Single-Family Dwelling: single family dwellings shall not exceed
20 6,000 sq. ft. of enclosed living space.

21
22 **PART 3.** That **Sec 36-203. RS-8 multifamily residential district.** be amended as
23 follows:

- 24 ...
25 (b) Permitted uses. The following uses shall be permitted by right:
26 ...
27 ~~(9) Dwellings shall consist of no more than seven bedrooms or septic system capacity for~~
28 ~~more than 14 people.~~
29 ...
30 (d) *Dimensional requirements.*
31 ...
32 (10) Maximum Size of Single-Family Dwelling: single family dwellings shall not exceed
33 6,000 sq. ft. of enclosed living space.

34
35 **PART 4.** That **Sec 36-204. RS-10 residential district.** be amended as follows:

- 36 ...
37 ...
38 (b) Permitted uses. The following uses shall be permitted by right:
39 (1) ~~Detached single-family dwellings shall consist of no more than seven bedrooms or~~
40 ~~septic system capacity for more than 14 people.~~
41 ...
42 (d) *Dimensional requirements.*
43 ...
44 (10) Maximum Size of Single-Family Dwelling: single family dwellings shall not exceed
45 6,000 sq. ft. of enclosed living space.

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

3 ...
4 ...
5 (b) Permitted uses. The following uses shall be permitted by right:
6 (1) Detached single-family dwelling ~~consisting of no more than seven bedrooms or septic~~
7 ~~capacity for more than 14 people.~~

8 ...
9 (d) *Dimensional requirements.*

10 ...
11 (10) Maximum Size of Single-Family Dwelling: single family dwellings shall not exceed
12 6,000 sq. ft. of enclosed living space.

13
14 **PART 6.** That **Sec 36-207. C general commercial district.** be amended as follows:

15 ...
16 ...
17 (b) Permitted uses. The following uses shall be permitted by right:
18 ...
19 (4) Detached ~~S~~single-family dwellings, two-family (duplexes) dwellings, multifamily
20 dwellings, ~~large home dwellings~~, and accessory buildings, according to the dimensional
21 requirements of RS-8 multifamily residential district. ~~Large home dwellings shall be~~
22 ~~exempt from section 36-203(d)(8) requirements.~~ For multifamily dwellings, the lot
23 coverage shall not exceed 40 percent.

24 ...
25 (10) ~~Dwelling, large homes.~~

26
27 ~~(11)~~ Event facilities.

28 ...
29 (d) *Dimensional requirements.*

30 ...
31 (10) Maximum Size of Single-Family Dwelling: single family dwellings shall not exceed
32 6,000 sq. ft. of enclosed living space.

33
34 **PART 7.** That **Sec 36-163. Off-street parking requirements** be amended as
35 follows:

36 ...
37 (3) *Minimum parking requirements.* ...
38 a. *Residential and related uses.*
39 1. Detached ~~S~~single-family dwelling units, two-family ~~detached~~ dwelling units and
40 townhouses: three parking spaces for each dwelling unit with up to ~~four bedrooms~~
41 ~~(including all areas used for sleeping); eight (8) person septic capacity~~ and one additional
42 space for each additional four (4) persons of septic capacity ~~two bedrooms (including~~
43 ~~areas useable for sleeping), or fraction thereof, in excess of four~~ eight (8) person septic
44 capacity.

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

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

15
16 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
17 **Reasonableness.**

18
19 The Town's adoption of this ordinance amendment is consistent with the Town's adopted
20 comprehensive zoning ordinance, land use plan and any other officially adopted plan that
21 is applicable. For all of the above-stated reasons, any reasons stated during the meetings
22 at which this ordinance amendment was considered and any additional reasons
23 supporting the Town's adoption of this ordinance amendment, the Town considers the
24 adoption of this ordinance amendment to be reasonable and in the public interest.

25
26 **ARTICLE V. Severability.**

27
28 All Town ordinances or parts of ordinances in conflict with this ordinance amendment
29 are hereby repealed. Should a court of competent jurisdiction declare this ordinance
30 amendment or any part thereof to be invalid, such decision shall not affect the remaining
31 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
32 Town of Southern Shores, North Carolina which shall remain in full force and effect.

33
34 **ARTICLE VI. Effective Date.**

35
36 This ordinance amendment shall be in full force and effect from and after the ____ day of
37 _____, 2016.

38
39
40
41 _____,
42 Tom Bennett, Mayor

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44
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46 ATTEST:

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Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted:

Motion to adopt by Councilmember:

Motion seconded by Councilmember:

Vote: ___AYES___NAYS