



Town of Southern Shores

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Ordinance 2016-xx-xx

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

ARTICLE I. Purpose(s) and Authority.

WHEREAS, under the authority of Chapter 160A, Article 19, Part 3C of the North Carolina General Statutes, the Town finds that certain structures within the Town contribute to the Town’s historical, architectural, prehistorical and cultural significance.

WHEREAS, the Town finds that it is necessary to protect structures of historical, architectural, prehistorical and cultural significance to the Town.

WHEREAS, the Town further finds that the conservation and preservation of historic landmarks stabilize and increase property values and strengthen the overall economy of the State.

WHEREAS, the Town further finds that to safeguard the heritage of the Town by it is necessary to preserve landmarks therein that embody important elements of the Town’s culture, history, architectural history, or prehistory.

WHEREAS, the Town further finds that preserving such landmarks will promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the city or county and the State as a whole.

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 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 Town Code.

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

3
4 **PART I.** That Chapter 17 **HISTORIC LANDMARK DESIGNATION AND**
5 **HISTORIC LANDMARKS COMMISSION** be added as follows:

6
7 **Sec. 17-1. Commission Established; Membership; Terms**

8
9 (1) There is hereby established a Southern Shores Historic Landmarks Commission
10 ("Commission") under the authority of Chapter 160A, Article 19, Part 3C of the North
11 Carolina General Statutes.

12
13 (2) The Commission shall consist of five members appointed by the town council. All
14 members shall reside within the planning and zoning jurisdiction of the Town. A majority
15 of the members of the Commission shall have demonstrated special interest, experience or
16 education in history, architecture, archaeology or related fields. The Commission may
17 appoint advisory bodies and committees as appropriate.

18
19 (3) Members of the Commission shall serve terms of three years. Terms shall be staggered
20 with three (3) of the initial commissioners being designated by the town council to serve
21 an initial two (2) year term. Vacancies occurring for reasons other than expiration of terms
22 shall be filled as they occur, for the period of the unexpired term, by the town council. The
23 Commission shall elect its chairman and vice-chairman. The term of the chairman and vice-
24 chairman shall be for one year, with eligibility for reelection.

25
26 **Sec. 17-2. Powers and Duties**

27
28 (1) The powers of the Historic Landmarks Commission are as follows:

29
30 (a) Undertake an inventory of properties of historical, prehistoric, architectural
31 and/or cultural significance.

32
33 (b) Recommend to the Town Council individual structures, buildings, sites, areas
34 or objects to be designated by ordinance as "Landmarks".

35
36 (c) Recommend to the Town Council that designation of any building, structure,
37 site, area or object as a landmark, be revoked or removed for cause.

38
39 (d) Review and act upon proposals for the alteration or demolition of designated
40 landmarks.

41
42 (e) Conduct an educational program with respect to historic landmarks within its
43 jurisdiction.

44
45 (f) Cooperate with the state, federal and local government in pursuance of the
46 purpose of this subchapter; to offer or request assistance, aid, guidance or advice

1 concerning matters under its purview or mutual interest. The Town Council, or the
2 Commission when authorized by the Town Council, may contract with the State or
3 the United States, or any agency of either, or with any other organization provided
4 the terms are not inconsistent with state or federal law.

5
6 (g) Enter, solely in performance of its official duties and only at reasonable times,
7 upon private lands for examination or survey thereof. However, no member,
8 employee or agent of the Commission may enter any private building or structure
9 without express consent of the owner or occupant thereof.

10
11 (h) Prepare and recommend the official adoption of a preservation element as part
12 of the Town of Southern Shores Land Use Plan.

13
14 (2) Prior to any official action the Commission shall adopt rules of procedure governing
15 its meetings and the conduct of official business and the election of officers and related
16 matters. The Commission shall also prepare and adopt principles and guidelines for
17 altering, restoring, moving, or demolishing properties designated as landmarks.

18
19 **Sec. 17-3. Historic Landmark Designation Procedure**

20
21 (1) Upon complying with the required landmark designation procedures set forth herein,
22 the Town Council may adopt and from time to time amend or repeal an ordinance
23 designating one or more historic landmarks. No property shall be recommended for
24 designation as a landmark unless it is deemed and found by the Commission to be of special
25 significance in terms of its historical, prehistoric, design, setting, workmanship, materials,
26 feeling and/or association. No property shall be proposed for designation as a landmark,
27 nor shall any ordinance be adopted designating a property as a landmark, unless a written
28 application is received from the record owner(s) of the property requesting such
29 designation.

30
31 (2) The ordinance shall describe each property designated in the ordinance, the name or
32 names of the owner or owners of the property, those elements of the property that are
33 integral to its historical, architectural or prehistoric value, including the land area of the
34 property so designated, and any other information the governing board deems
35 necessary. For each building, structure, site, area or object so designated as a landmark,
36 the ordinance shall require that the waiting period set forth in this subchapter be observed
37 prior to its demolition. A suitable sign for each property designated as a landmark may be
38 placed on the property at the owner's consent; otherwise the sign may be placed on a nearby
39 public right-of-way.

40
41 (3) No property shall be designated as a landmark until the following steps have been
42 taken:

43
44 (a) As a guide for the identification and evaluation of landmarks, the Commission
45 shall, at the earliest possible time and consistent with the resources available to it,
46 undertake an inventory of properties of historical, architectural, prehistoric and

1 cultural significance within the Town.

2
3 (b) The Commission shall make or cause to be made an investigation and report
4 on the historic, architectural, prehistoric, educational or cultural significance of
5 each building, structure, site, area or object proposed for designation or
6 acquisition. Such report shall be forwarded to the Division of Archives and
7 History, North Carolina Department of Cultural Resources.

8
9 (c) The Department of Cultural Resources, acting through the State Historic
10 Preservation Officer, or his or her designee, shall either upon request of the
11 Department or at the initiative of the Commission be given an opportunity to review
12 and comment upon the substance and effect of the designation of any landmark. All
13 comments will be provided in writing. If the Department does not submit its
14 comments to the Commission within 30 days following receipt by the Department
15 of the report, the Commission and the Town Council shall be relieved of any
16 responsibility to consider such comments.

17
18 (d) The Commission and the Town Council shall hold a joint public hearing (or
19 separate public hearings) on the proposed ordinance. Reasonable notice of the time
20 and place thereof shall be given.

21
22 (e) Following the public hearing(s) the Town Council may adopt the ordinance as
23 proposed, adopt the ordinance with any amendments it deems necessary, or reject
24 the proposed ordinance.

25
26 (f) Upon adoption of the ordinance the owners and occupants of each landmark
27 shall be given written notification of such designation insofar as reasonable
28 diligence permits. One copy of the ordinance and all amendments thereto shall be
29 filed by the Commission in the office of the Register of Deeds of Dare
30 County. Each landmark shall be indexed according to the name of the owner of the
31 property in the grantor and grantee indexes in the Register of Deeds office and the
32 Commission shall pay a reasonable fee for filing and indexing. A second copy of
33 the ordinance and all amendments thereto shall be kept on file in the office of the
34 Town Clerk and be made available for public inspection at any reasonable time. A
35 third copy of the ordinance and all amendments thereto shall be kept on file with
36 the Planning and Code Enforcement Department. The fact that a building,
37 structure, site, area or object has been designated a building, structure, site, area or
38 object has been designated a landmark shall be clearly indicated on all tax maps
39 maintained by Dare County for such period as the designation remains in effect.

40
41 (g) Upon the adoption of the landmark ordinance or any amendments thereto, it is
42 the duty of the Commission to give notice thereof to the tax supervisor of Dare
43 County. The tax supervisor in appraising it for tax purposes shall consider the
44 designation and any recorded restrictions upon the property limiting its use for
45 preservation purposes.

1 **Sec. 17-4. Certificate of Appropriateness**

2
3 (1) Definition. For the purpose of this section, the following definition shall apply unless
4 the context clearly indicates or requires a different meaning:

5
6 **EXTERIOR FEATURES.** Includes the architectural style, general design, and
7 general arrangement of the exterior of a building or other structure, including the
8 kind and texture of the building material, the size and scale of the building, and the
9 type and style of all windows, doors, light fixtures, signs and other appurtenant
10 features. **EXTERIOR FEATURES** also includes historic signs and significant
11 landscape, archaeological and natural features of the area. In the case of outdoor
12 advertising signs, **EXTERIOR FEATURES** shall be construed to mean the style,
13 material, size and location of all such signs.

14
15 (2) Certificate of Appropriateness required.

16
17 (a) From and after the designation of a landmark, no exterior portion of any
18 building or other structure (including masonry walls, fences, light fixtures, steps
19 and pavement, or other appurtenant features), nor any above-ground utility
20 structure nor any type of outdoor advertising sign shall be erected, altered,
21 restored, moved or demolished on such landmark until after an application for
22 a Certificate of Appropriateness as to exterior features has been submitted to
23 and approved by the Commission. Such a certificate is required to be issued by
24 the Commission prior to the issuance of a building permit or other permit
25 granted for the purposes of construction, altering, moving, or demolishing
26 structures, which certificate may be issued subject to reasonable conditions
27 necessary to carry out the purposes of this subchapter. A Certificate of
28 Appropriateness shall be required whether or not a building or other permit is
29 required.

30
31 (b) The State of North Carolina (including its agencies, political subdivisions and
32 instrumentalities), the Town, and all public utilities shall be required to obtain
33 a Certificate of Appropriateness for construction, alteration, moving or
34 demolition of designated landmarks.

35
36 (3) Application for Certificate of Appropriateness.

37
38 (a) Applications for a Certificate of Appropriateness shall be obtained from the
39 Planning and Code Enforcement Department and when completed, filed with the
40 Zoning Administrator. The application shall be filed two weeks prior to the next
41 regularly scheduled meeting of the Commission. Each application shall be
42 accompanied by sketches, drawings, photographs, specifications, descriptions and
43 other information of sufficient detail to clearly show the proposed exterior
44 alterations, additions, changes or new construction. The names and mailing
45 addresses of property owners filing and/or subject to the application and the
46 addresses of the property within 100 feet on all sides of the property that is the

1 subject of the application must also be filed. No application that does not include
2 the aforementioned information will be accepted.

3
4 (b) It shall be the policy of the Commission, in regard to applications involving new
5 construction or extensive alterations and/or additions to existing structures, that a
6 subcommittee of the Commission shall be available to meet with persons involved
7 in planned or pending applications in order to advise them informally at an early
8 stage in the development process concerning the Commission's guideline, the
9 nature of the area where the proposed project will take place, and other relevant
10 factors. The members of the subcommittee, collectively and individually, shall
11 refrain from any indication of approval or disapproval. Advice or opinions given
12 by a member of the subcommittee at such informal meeting shall not be considered
13 official or binding upon the Commission.

14
15 (4) Action on application. On behalf of the Commission, the Zoning Administrator shall
16 notify, by mail, not less than one week prior to the meeting at which the matter is to be
17 heard, the owners of the property within 100 feet on all sides of the subject
18 property. Application for a Certificate of Appropriateness shall be acted upon within 90
19 days after filing, otherwise the application shall be deemed approved and a certificate shall
20 be issued. An extension of time may be granted by mutual consent of the Commission and
21 the applicant. As part of the review procedures the Commission may view the premises
22 and seek advice, as it may deem necessary under the circumstances. The Commission may
23 hold a public hearing on any application when deemed necessary. The action on an
24 application shall be approval, approval with conditions or denial and the decision of the
25 Commission must be supported by specific findings of fact indicating the extent to which
26 the application is or is not congruous with each special character of the landmark.

27
28 (5) Hearing on application; jurisdiction; appeal.

29
30 (a) Prior to the issuance or denial of a Certificate of Appropriateness the applicant or
31 other property owner(s) likely to be materially affected by the application shall be
32 given an opportunity to be heard. All meetings of the Commission shall be open to
33 the public in accordance with the North Carolina Open Meetings Laws, G.S. Ch.
34 143, Art. 33C.

35
36 (b) The Commission shall have no jurisdiction over any interior design, arrangement,
37 or materials.

38
39 (c) In any action granting or denying a Certificate of Appropriateness, an appeal by an
40 aggrieved party may be taken to the Board of Adjustment. The Commission is an
41 aggrieved party with regard to any application approved by the Zoning
42 Administrator as minor works on the issue of whether the Zoning Administrator
43 had jurisdiction to approve the application.

44
45 (d) Absent a general rule by the Commission to the contrary, written notice of the intent
46 to appeal must be sent to the Commission and to the Board of Adjustment, post

1 marked within 30 days following the date of the decision is reduced to writing and
2 mailed to the applicant. Appeals shall be in the nature of certiorari. Appeals of
3 decisions of the Board of Adjustment shall be heard by the Superior Court of Dare
4 County.

- 5
6 (e) The State of North Carolina shall have a right of appeal to the North Carolina
7 Historical Commission, which shall render its decision with 30 days from the date
8 that the notice of appeal by the state is received by the Historical Commission. The
9 decision of the Historical Commission shall be final and binding upon both the state
10 and the Commission.

11
12 **Sec. 17-5. Administrative Approval of Minor Works**

13
14 (1) For the purpose of this section, the following definition shall apply unless the context
15 clearly indicates or requires a different meaning:

16
17 **MINOR WORKS.** Those exterior changes that do not involve substantial
18 alterations, additions or removals that could impair the integrity of the
19 property. **MINOR WORKS** shall be limited to those listed in the Commission's
20 "Design Guidelines".

21
22 (2) Notwithstanding Section 17-3, (4), upon receipt of a completed application the Zoning
23 Administrator may issue a Certificate of Appropriateness for a minor works.

24
25 (3) No application may be denied without formal action of the Commission. The Zoning
26 Administrator in his or her sole discretion may treat any proposed minor works application
27 as an application that must be heard by the Commission. If the Zoning Administrator
28 exercises such discretion or otherwise determines that an application for minor works
29 cannot be approved the application shall be treated as if it is a non-minor works application
30 for a certificate of appropriateness and shall be forwarded to the Commission for
31 consideration pursuant to Sec. 17-4. All minor works applications approved by the Zoning
32 Administrator shall be provided to the Commission at the next meeting of the Commission,
33 and the Commission may appeal such approvals to the Board of Adjustment for
34 consideration of whether the Zoning Administrator had jurisdiction to approve the
35 application.

36
37 **Sec. 17-6. Review Criteria**

38
39 (1) No Certificate of Appropriateness shall be granted unless the Commission finds that
40 the application complies with the principles and guidelines adopted by the Commission for
41 review changes. It is the intent of these regulations to insure insofar as possible that
42 construction, reconstruction, alteration, restoration, moving or demolition of buildings,
43 structures, appurtenant fixtures, outdoor advertising signs, or other significant features of
44 landmarks shall be congruous with the special character of the landmark.

1 (2) At a minimum, the Design Guidelines adopted by the Commission shall address the
2 following features or elements of design which shall be considered in reviewing
3 applications for Certificates of Appropriateness:

- 4
- 5 (a) Lot coverage;
- 6
- 7 (b) Setbacks;
- 8
- 9 (c) Building height;
- 10
- 11 (d) Spacing of buildings, defined as the distances between adjacent buildings;
- 12
- 13 (e) Proportion, shape, positioning, location, pattern, sizes and style of all elements
14 of fenestration and entry doors;
- 15
- 16 (f) Surface materials and textures;
- 17
- 18 (g) Roof shapes, forms and materials;
- 19
- 20 (h) Use of regional or local architectural traditions;
- 21
- 22 (i) General form and proportion of buildings and structures, and the relationship of
23 additions to the main structure;
- 24
- 25 (j) Expression of architectural detailing;
- 26
- 27 (k) Orientation of the building to the street;
- 28
- 29 (l) Scale, determined by the size of the units of construction and architectural
30 details in relation to the human scale and also by the relationship of the building,
31 as to adjoining open space and nearby buildings and structures; maintenance of
32 pedestrian scale;
- 33
- 34 (m) Proportion of width to height of the total building facade;
- 35
- 36 (n) Archaeological sites and resources associated with standing structures;
- 37
- 38 (o) Effect of trees and other landscape elements;
- 39
- 40 (p) Major landscaping which would impact archaeological sites;
- 41
- 42 (q) Style, material, size and location of all outdoor advertising signs;
- 43
- 44 (r) Appurtenant features and fixtures, such as lighting;
- 45
- 46 (s) Structural condition and soundness;

- 1
2 (t) Walls - Physical ingredients, such as brick, stone or wood walls, wrought iron
3 fences, evergreen landscape masses or combination of these;
4
5 (u) Ground cover or paving;
6
7 (v) Significant landscaping, archaeological and natural features.
8

9 (3) The Secretary of the Interior's "Standards for Rehabilitation and Guidelines for
10 Rehabilitating Historic Buildings" shall be the sole principles and guidelines used in
11 reviewing applications of the State of North Carolina for Certificates of Appropriateness.
12

13 (4) Color shall not be considered as a feature or element of design regulated under this
14 Chapter by either the principles and guidelines adopted by the Commission, or by the
15 Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating
16 Historic Buildings".
17

18 **Sec. 17-7. Certain Changes Not Prohibited**

19

20 Nothing in this Chapter shall be construed to prevent the ordinary maintenance or repair of
21 any exterior architectural feature of a landmark which does not involve a change in design,
22 material, or outer appearance thereof; the ordinary maintenance or repair of streets,
23 sidewalks, pavement markings, street signs or traffic signs; the construction,
24 reconstruction, alteration, restoration or demolition of any such features which the building
25 inspector shall certify is required by the public safety because of an unsafe or dangerous
26 condition. Nothing herein shall be construed to prevent either maintenance, or in the event
27 of an emergency, the immediate restoration of any existing above ground utility structure
28 without approval by the Commission.
29

30 **Sec. 17-8. Enforcement and Remedies**

31

32 (1) Compliance with the terms of the Certificate of Appropriateness shall be enforced by
33 the Zoning Administrator. Failure to comply with the certificate issued shall be a violation
34 of the Code of Ordinances and subject to established procedures and penalties for such
35 violations.
36

37 (2) In case a building, structure, site, area or object designated as a landmark is about to
38 be demolished, whether a result of deliberate neglect or otherwise, materially altered,
39 remodeled, removed or destroyed except in compliance with this Chapter, the Town
40 Council on its own accord or at the request of the Commission or other party aggrieved by
41 such action may institute any appropriate action or proceeding to prevent such unlawful
42 demolition, destruction, material alteration, remodeling or removal, to restrain, correct or
43 abate such violations, or to prevent any illegal act or conduct with respect to such a building
44 or structure. Such remedies shall be in addition to any other remedies available to the Town.
45

46 **Sec. 17-9. Delay in Demolition of Landmarks**

1
2 (1) An application for a Certificate of Appropriateness authorizing the demolition,
3 removal, or destruction of a designated landmark may not be denied except as provided in
4 subsection (3) below. However, the effective date of such a certificate may be delayed for
5 up to 365 days from the date of approval. The period of delay shall be reduced by the
6 Commission if it finds that the owner would suffer extreme hardship or be permanently
7 deprived of all beneficial use or return from such property by virtue of the delay. During
8 the delay period the Commission shall negotiate with the owner in an effort to find a means
9 of preserving the building, structure or site.

10
11 (a) If the Commission has voted to recommend the designation of a landmark, and
12 the final designation has not been made by the Town Council, the demolition
13 or destruction of any building, structure or site on the property of the designated
14 landmark may be delayed by the Commission for up to 180 days or until the
15 Town Council takes final action on the designation, whichever occurs first.

16
17 (2) The Town Council may enact an ordinance to prevent the demolition by neglect of any
18 designated landmark. Such ordinance shall provide appropriate safeguards to protect
19 property owners from undue hardship.

20
21 (3) An application for a Certificate of Appropriateness authorizing the demolition of a
22 building, structure or site determined by the State Historic Preservation Officer as having
23 statewide significance as defined in the criteria of the National Register of Historic Places
24 may be denied except where the Commission finds that the owner would suffer extreme
25 hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

26
27 **PART II.** That Town Code Sec. 1-6 **General penalty; enforcement of ordinances;**
28 **continuing violations.** be amended as follows:

29
30 ...
31 (d) Violations of the following provisions of this Code shall subject the offender to a civil
32 penalty upon the issuance of a citation for said violations as provided in this section. The
33 civil penalty, if not paid to the town treasurer within 15 days of the issuance of a citation,
34 may be recovered by the town in a civil action in the nature of debt. Unless otherwise
35 provided by a specific provision of this Code, such civil penalties shall be no more than
36 \$500.00 for each violation, and each day any single violation continues shall be a separate
37 violation. The provisions of this Code which shall subject the offender to a civil penalty
38 are as follows:

39
40 ...
41 (4) Chapters 6, 16, 17, 24, 30, all provisions.

42 ...
43
44 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
45 **Reasonableness.**

1 The Town's adoption of this ordinance amendment is consistent with the Town's adopted
2 comprehensive zoning ordinance, land use plan and any other officially adopted plan that
3 is applicable. For all of the above-stated reasons and any additional reasons supporting the
4 Town's adoption of this ordinance amendment, the Town considers the adoption of this
5 ordinance amendment to be reasonable and in the public interest.

6
7 **ARTICLE V. Severability.**

8
9 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are
10 hereby repealed. Should a court of competent jurisdiction declare this ordinance
11 amendment or any part thereof to be invalid, such decision shall not affect the remaining
12 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
13 Town of Southern Shores, North Carolina which shall remain in full force and effect.

14
15 **ARTICLE VI. Effective Date.**

16
17 This ordinance amendment shall be in full force and effect from and after the ___ day of
18 _____, 2016.

19
20
21 _____
22 Mayor

23 ATTEST:

Date: x/x/2016

24
25 _____
26 Deputy Clerk

Vote: Ayes Naves

27
28
29
30 APPROVED AS TO FORM:

31
32
33 _____
34 Town Attorney