



Town of Southern Shores

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Ordinance 2012-01-02

BEACH AND WATERWAY USAGE ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF SOUTHERN SHORES

ARTICLE I. Purpose(s) and Authority.

WHEREAS, the Town of Southern Shores (the "Town") may enact and amend ordinances to protect the health, safety, and welfare of its citizens under North Carolina General Statutes § 160A-174; and

WHEREAS, the Town Council for the Town of Southern Shores (the "Town Council") finds that it is necessary to regulate certain activities upon the ocean beaches of the Town to ensure the public enjoyment and safe recreation upon the public beaches; and

WHEREAS, the Town Council further finds that it is necessary to regulate certain activities upon the primary and frontal dune areas of the Town which degrade the ability of the these systems to protect real property from the detrimental effects of the Atlantic Ocean; and

WHEREAS, the Town Council finds that it is in the interest of the public's health, safety, morals and general welfare that the Town Code be amended as stated below.

ARTICLE II. Construction.

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Town Code language and double strikethrough words (~~double 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 a "..." shall remain as they currently exist within the Town Code.

ARTICLE III. Town Code.

NOW, THEREFORE, BE IT ORDAINED by the Town Council that the Town's Code of Ordinances shall be amended as follows:

PART I. That Chapter 34, Article III, Section 34-55 be amended as follows:

Sec. 34-55. Beach and dune management.

(a) *Definitions.* The following definitions shall apply to all portions of the Town Code relating to the public beaches, primary dunes and frontal dunes within the town:

- (1) *Adverse impact* means anything that would destroy, harm, impair, diminish, or degrade the value or integrity of a sand dune for storm protection or wildlife habitat.
- (2) *Beach* means the lands consisting of unconsolidated soil materials that extend for a distance of 100 yards east of the mean low water mark into the Atlantic Ocean landward to a point where either the growth of stable natural vegetation occurs or a distinct change in slope or elevation alters the configuration, whichever is farther landward.
- (3) *Dune system, frontal dune* is the first mound of sand located landward of the beach having sufficient vegetation, height, continuity, and configuration to offer protective value.
- (4) *Dune system, primary dune* is the first mounds of sand located landward of the beach having an elevation equal to the mean flood level for the area plus six feet. The primary dune extends landward to the lowest elevation in the depression behind the same mound of sand.
- (5) *Dune walkover access, improved* is a raised walkway constructed for the purpose of providing access to the beach from points landward of the dune system.
- (6) *Dune walkover access, unimproved* is a sand walkway or path used for the purposes of providing pedestrian access to the beach which is located in an area where there is no escarpment present between the dune structure and the beach.
- (7) *Escarpment* is the vertical drop or steep slope in the beach profile separating two comparatively level or more gentle sloping surfaces caused from high tide or storm tide erosion. Escarpments for the purposes of this chapter shall only be determined to exist in areas where the height and slope of the escarpment would preclude reasonable pedestrian access to the beach without causing an adverse impact to the dune structure.
- (8) *Tent* is portable shelter supported by a framework of multiple poles.

(b) *Beach and dune protection.* The following activities shall be considered unlawful on the beach, as defined in section 34-55 (a):

- (1) Erection of a tent, cabana, or umbrella which, in the opinion of public safety personnel:
 - a. Prevents or disrupts the passage of emergency or ocean rescue vehicles; or
 - b. Hampers the ability to provide adequate ocean rescue service by obstructing the line of sight to the water from lifeguard stands or other surveillance areas.

- (2) Leaving unattended personal articles on the beach between the hours of ~~sunset and sunrise~~ 5:00 p.m. and 7:00 a.m.. These items may include, but shall not be limited to, volleyball nets, badminton nets, poles, tents, chairs, cabanas, sunshades, horseshoe stakes, croquet courses, umbrellas or any other personal property items; Unattended personal articles left on the beach between 5:00 p.m. and 7:00 a.m. are subject to removal and disposal;

- (3) Substantially altering the contour or shape of the flat beach area by excessive digging or mounding of sand that:
 - a. In the opinion of public safety personnel, such alteration presents a present, dangerous condition; or
 - b. Is left unattended for any period of time without restoring the beach to its original condition.

- (c) The following activities shall be considered unlawful within the dune system:
 - (1) Walking or traversing on the dunes outside of an improved or unimproved dune walkover access as defined in section 34-55(a);
 - (2) Degrading, disturbing, or compromising the integrity of the dune structure. These prohibited activities include, but shall not be limited to:
 - a. Digging, shelling, mining, or mechanical alteration of the dune topography;
 - b. Playing, sliding, climbing, or rappelling on the frontal or primary dune or the dune escarpment; and
 - c. Discharging water into the dune where it will cause significant scouring or erosion or otherwise affect the integrity of the dune.
 - (3) Development activities without a valid building permit, health department approval, or CAMA authorization;

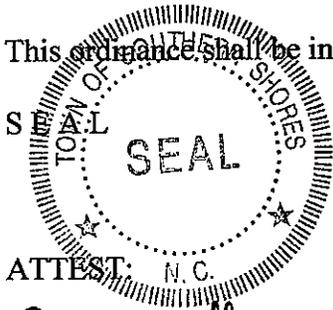
- (4) Littering.
- (d) *Exemptions.* This section shall not apply to the following activities:
 - (1) Development activities authorized or permitted by the town, the county department of environmental health, or CAMA;
 - (2) Dune or property maintenance activities including planting or fertilization of vegetation, sand fence installation, minor dune repairs, and removal of litter or debris;
 - (3) Federal, state, and local officials engaged in official regulatory activities; and;
 - (4) Persons engaged in research, conservation, or extension activities as authorized by the town manager.

ARTICLE IV. Severability.

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

ARTICLE V. Effective Date.

This ordinance shall be in full force and effective from and after the 3rd day of January, 2012.



ATTEST: N.C.

Carmel Jordan
Town Clerk

[Signature]
Mayor

Date: 1 / 3 / 2012

Vote: 5 Ayes 0 Nays

Approved as to form:

[Signature]
Town Attorney