

# Town of Southern Shores

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**Ordinance No. 2006-08-02**

## AN ORDINANCE OF THE SOUTHERN SHORES TOWN COUNCIL RELATING TO AMENDING THE ZONING ORDINANCE RELATING TO CHANGES AND AMENDMENTS

Dare County, North Carolina

Be It Ordained by the Southern Shores Town Council as follows:

### **Article I: Purpose**

The purpose of this Ordinance is to amend the Zoning Ordinance of Southern Shores, Dare County, North Carolina, which was originally adopted by the Town Council on July 7, 1981 and subsequently amended.

### **Article II. Construction**

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Language of the adopted Town Code shall be shown in italics (*italics*).

### **Article III. Changes and Amendments Amended**

**Section One:** Section 14.01 is hereby amended to read as follows:

#### *Section 14.01 Motion to Amend*

*The Town Council may, on its own motion or upon motion or upon petition by any person within any zoning jurisdiction of the Town, after public notice and hearing, amend, supplement, change, modify or repeal the regulations herein established or the maps which are part of this Ordinance, subject to the rules prescribed in this Ordinance. No regulation or map shall be amended, supplemented, changed, modified or repealed until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Prior to adopting or rejecting any zoning amendment, the (planning) board shall adopt a statement describing whether its action is consistent with the adopted town comprehensive land use plan and explaining why the (planning) board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. A notice of such hearing shall be given one a week for two successive calendar weeks in a newspaper of general circulation in the Town, said notice to be published the first time not less than ten (10) days nor more than twenty-five (25) days prior to the date fixed for the hearing.*

In addition and where a zoning map amendment is proposed, the Town shall cause to be placed a sign on the subject property announcing the date, time, and place of the public hearing for the purpose of notifying persons of the proposed rezoning.

**Section Two:** Section 14.02 is amended to read as follows:

*Section 14.02 — Protest Against Amendment*

*In case of a protest against an amendment, supplement, change, modification, or repeal signed by the owners of twenty (20) percent or more either of the acre of the land included in such proposed change, or of the land immediately adjacent thereto extending one hundred (100) feet therefrom, or of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not become effective except by favorable vote of three fourths of all members of the Town Council.*

Section 14.02 Protest to Zoning District Changes

If a petition opposing a change in the zoning classification of any property is filed with the Town, then the proposed amendment may be adopted only by a favorable vote of three-fourths of the council membership. For purposes of this section, vacant positions on the council and members who are excused from voting shall not be considered 'members of the council' for calculation for the requisite supermajority. To trigger the three-fourths vote requirement, the petition must:

- a) Be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 foot wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary the Town may rely on the county tax listing to determine the 'owners' of potentially qualifying areas.
- b) Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.
- c) Be received by the Town Clerk in sufficient time to allow the town at least two (2) normal working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.
- d) A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.

**Section Three:** Section 14.03 is amended to read as follows:

*Section 14.03 Planning Board Action*

*Every proposed amendment, supplement, change, modification, or repeal to this Ordinance shall be referred to the Planning Board for its recommendation and report. ~~at least thirty (30) days prior to its monthly meeting.~~ If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the Town Council may proceed in its consideration of the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any of the Planning Board.*

*No proposal shall be considered by the Planning Board within thirty (30) days from the filing of the proposal with the Town. The Planning Board shall have ~~forty five (45) days~~ thirty (30) days within which to submit its recommendation to the Council. All petitions for a change in the zoning map shall include a legal description for the property involved, the names and addresses of current abutting property owners, and a copy of all or a portion of the applicable tax or zoning map with the applicable property outlined.*

The Planning Board shall advise and comment on whether the proposed amendment is consistent with the Town comprehensive Land Use Plan and any other officially adopted Town plan that is applicable. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the planning Board that a proposed amendment is inconsistent with the Town comprehensive land use plan shall not preclude consideration or approval of the proposal by the Town Council.

**Article IV. Severability**

If any words, phrases, language, section or other portion of this Ordinance is held invalid by a court of competent jurisdiction, then all remaining words, phrases, language, section or other portion of this Ordinance shall remain in full force and effect.

**Article V: Effective Date**

This Ordinance is effective immediately upon adoption.

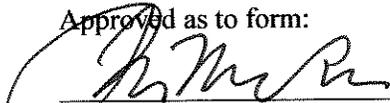
Adopted this the 3rd day of October 2006.

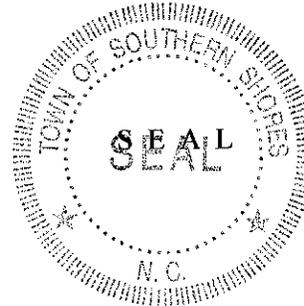
  
Don Smith, Mayor

ATTEST:

  
Carrie Gordin, Town Clerk

Approved as to form:

  
Ike McRee, Town Attorney



Date Introduced by Town Council: September 5, 2006  
Date(s) Advertised: September 19 and September 26, 2006  
Name of Newspaper: Coastland Times  
Date of Public Hearing: October 3, 2006