



Town of Southern Shores

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ORDINANCE 2016-01-04

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 property owners enjoy the use of their property for parties and family related events on a regular basis and that such use should continue long into the future. However, the Town also 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 commercial event facilities; and

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

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

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

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

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

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

WHEREAS, the Town finds that a lack of regulation of the size of dwellings and the use of the residential properties for pre-planned events, community uses and private

parties will result in a decrease in value of buildings and lands within the Town due to the Town's unique single-family residential nature and character; and

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 Zoning Ordinance and 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 ellipsis ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of Zoning Ordinance.

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

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

...

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

...

Event facility means an establishment, structure or property designed, maintained, advertised or actually used for the primary purpose of hosting pre-planned events. The term "events", includes, but is not limited to, private parties, community uses, weddings, rehearsal dinners, corporate meetings, retreats, sporting events, cultural events, musical events, celebrations, festivals, fairs, carnivals, circuses or similar events that are planned in advance of their occurrence. The term "community uses" means meetings of charitable, political, governmental or civic groups. The term "private parties" means events that are not open to the public, and are held by or on behalf of an individual or organization for the primary purpose of socializing or gathering. On site sales of food and/or beverages at an event facility service for purchase by individual patrons from the establishment owner, whether seated or non-seated, shall constitute a restaurant as defined in section 36-57 which shall require a conditional use permit. The term "event facility" does not include the use of a residential structure or property on which a residential structure is located for non-commercial social gatherings or for traditional family events. The term "traditional family events" includes, but is not limited to, holiday parties and meals, birthday parties, funeral services, religious ceremonies and weddings for family members related by blood or

marriage to: (i) any of the individual holders of legal title to the property; (ii) a majority of the owners of a business entity holding legal title to the property; or (iii) the beneficiaries of a trust holding legal title to the property.

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

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

...

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

(1) ~~Detached single-family dwelling consisting of no more than seven bedrooms or septic system capacity for more than 14 people.~~

...

(d) *Dimensional requirements.*

...

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

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

...

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

...

(9) ~~Dwellings shall consist of no more than seven bedrooms or septic system capacity for more than 14 people.~~

...

(d) *Dimensional requirements.*

...

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

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

...

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

(1) ~~Detached single-family dwellings shall consist of no more than seven bedrooms or septic system capacity for more than 14 people.~~

...

(d) *Dimensional requirements.*

...

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

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

...

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

(1) Detached single-family dwelling ~~consisting of no more than seven bedrooms or septic capacity for more than 14 people.~~

...

(d) *Dimensional requirements.*

...

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

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

...

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

...

(4) Detached ~~§~~single-family dwellings, two-family (duplexes) dwellings, multifamily dwellings, ~~large home dwellings,~~ and accessory buildings, according to the dimensional requirements of RS-8 multifamily residential district. ~~Large home dwellings shall be exempt from section 36-203(d)(8) requirements.~~ For multifamily dwellings, the lot coverage shall not exceed 40 percent.

...

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

~~(11) Event facilities.~~

...

(d) *Dimensional requirements.*

...

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

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

...

(3) *Minimum parking requirements. ...*

a. *Residential and related uses.*

1. Detached ~~§~~single-family dwelling units, two-family detached dwelling units and townhouses: three parking spaces for each dwelling unit with up to four bedrooms (including all areas used for sleeping); eight (8) person septic capacity and one additional space for each additional two (2) persons of septic capacity two bedrooms (including areas useable for sleeping), or fraction thereof, in excess of four eight (8) person septic capacity up to 12 person septic capacity and 1 additional space for each person of septic capacity over 12.

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

...

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

ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.

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

ARTICLE V. Severability.

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

ARTICLE VI. Effective Date.

This ordinance amendment shall be in full force and effect from and after the 22nd day of January, 2016.

Tom Bennett, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted: 01/22/2016

McDonald
Motion to adopt by Councilmember:
Newberry
Motion seconded by Councilmember:

Vote: 3 AYES 2 NAYS