



**TOWN OF SOUTHERN SHORES
TOWN COUNCIL REGULAR MEETING**

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

www.southernshores-nc.gov

PITTS CENTER

Tuesday, July 06, 2021 at 5:30 PM

AGENDA

Call Meeting to Order

Pledge of Allegiance

Moment of Silence

Amendments to / Approval of Agenda

Consent Agenda

1. Minute Approval (emailed to council)
- [2.](#) Purchasing Policy Update pg. 3
- [3.](#) Resolution 2021-07-01 Resolution Authorizing Special Revenue Fund -American Rescue Plan Act (ARP Act) pg. 9

Presentations

Staff Reports

4. Deputy Town Manager/ Planning Director
5. Police Chief
6. Fire Chief
7. Town Manager
8. Town Attorney

General Public Comment (Limit: 3 minutes per speaker.)

Old Business

New Business

- [9.](#) Planning Board Appointments pg. 12
- [10.](#) Public Hearing-ZTA 21-02 Eaves pg. 15
- [11.](#) Public Hearing-TCA 21-05 NCGS 160D Update pg. 24
- [12.](#) Public Hearing- ZTA-21-07 Lot Access Requirements pg. 29
- [13.](#) Public Hearing-ZTA 21-05 Use & Occupancy pg. 35
- [14.](#) Public Hearing - ZTA-21-06 Temporary Healthcare Structures pg. 41

General Public Comment (Limit: 3 minutes per speaker.)

Council Business

Closed Session

15. Closed Session-N.C.G.S. §143-318.11(a)(6) consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of a present or prospective public officer or employee.

Adjourn



AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2021

ITEM SUMMARY: Purchasing Policy Update

STAFF RECOMMENDATION: Staff recommends that Council adopt the revisions to the attached Purchasing and Bid Requirements Policy.

The Town's purchasing and bidding requirements are governed by North Carolina General Statutes and, therefore, must seek competitive offers from qualified sources of supply unless the items can be obtained through existing contracts established by NC State Purchasing and Contracts Division. Whenever possible, the Town of Southern Shores participates in the NC State Contracts. The requested revisions include adding the ability for staff to make purchases in accordance with G.S. 143-129(e)(3) which allows purchases to be made through a competitive bidding group purchasing program. The two additional purchasing cooperatives staff is requesting to utilize are Sourcewell and the North Carolina Sherriff's Associations' Vehicle and Motorcycle Procurement Program.

Town staff, with Council approval, previously utilized Sourcewell for the purchase of equipment for the Public Works Department. The Police Department has experienced some difficulty obtaining vehicles through the NC State Purchasing and Contracts Division and would like to add an additional source for future purchases.

Also included is the removal of language in the policy that gives the Town Manager the authority to renew or extend any service provider contract in effect as of the date of the last policy amendment and determined by the Town Manager to be in the best interest of the Town. This language removal would require all service provider contracts to be bid upon renewal.

REQUESTED ACTION:

Adoption as part of the approval of the Consent Agenda.



TOWN OF SOUTHERN SHORES PURCHASING AND BID REQUIREMENTS POLICY

This purchasing and bid requirements policy is intended to serve as a guide for all departments in obtaining supplies, materials, equipment, apparatus, and services. The Town of Southern Shores' purchasing, and bidding program is based on the principal of competitive bidding. A valid reason must be provided and documented when competitive bidding is not sought and obtained. The practice of favoritism, whether to the seller or the user department, is not permissible.

The Town's purchasing and bidding requirements are governed by North Carolina General Statutes and, therefore, must seek competitive offers from qualified sources of supply unless the items can be obtained through existing contracts established by NC State Purchasing and Contracts Division. Whenever possible, the Town of Southern Shores participates in the NC State Contracts. The Town's local purchasing and bidding requirements may cite provisions which are stricter in policy thresholds than the requirements of the applicable North Carolina General Statutes. **Purchases may also be made utilizing Sourcewell or the North Carolina Sherriff's Associations' Vehicle and Motorcycle Procurement Program in accordance with G.S. 143-129(e)(3).**

The Finance Officer relies on the Department Heads to fully identify their needs, obtain competitive pricing, and exercise sound and legal purchasing and contracting practices. Department Heads are responsible for communicating their needs to the Finance Officer on a timely basis in order to obtain the correct items at the best possible price.

Any and all purchases and contracts that are made on behalf of the Town of Southern Shores must be for the use of the Town. Such purchases can only be made if an appropriation has been set up in the approved annual budget.

A purchase order is needed for services, materials, supplies and equipment purchased that exceed \$250.00. The amount for shipping and handling along with sales tax should be included on the purchase order. The Finance Officer may not validate any purchase order unless sufficient unencumbered funds are available to pay at the time of purchase. A properly signed purchase order must **precede** the purchase. No invoice will be honored if the purchase order has not been issued and signed by the appropriate Department Head and Finance Officer. The purchase orders will be pre-numbered for control purposes and should include descriptions of the items being purchased. Unauthorized purchases are classified as a personal expense, and therefore, will be paid by the employee. In the event that the Finance Officer is not available, the purchase order can be signed by both the Department Head and the Town Manager.

The following steps must be taken:

1. All Department Heads will read and understand this policy;
2. All employees involved in the purchasing process will become familiar with the procedures outlined in this policy;
3. This policy will be kept where it is easily accessible for reference;
4. All comments or clarifications of contents contained in this policy will be directed to the Town Manager or the Finance Officer.

GENERAL RULES AND PROCEDURES FOR PURCHASING AND BIDDING

Note: all obligations evidenced by a contract or agreement, regardless of amount, must be certified as pre-audited by the Finance Officer.

Purchases of \$250.00 to \$29,999.99

All purchases between \$250.00 and \$29,999.99 (individually or in total) must be made with the use of a purchase order. The department wishing to make the purchase will prepare a purchase order and present it to the Finance Officer for approval. Town Council has given authority to the Town Manager to approve all contracts/purchases up to a maximum of \$29,999.99.

Informal Bidding Process

For all purchases, lease-purchases, and contracts above \$29,999.99 and below the state mandated thresholds for formal bidding prescribed by NCGS § 143-129, informal bids must be obtained. ~~Notwithstanding, and consistent with an annual budget authorization, the Town Manager is authorized to renew or extend any service provider contract in effect as of the date of this policy as amended and determined by the Town Manager to be in the best interest of the Town.~~ Only written informal proposals will be accepted. The purpose of public bidding is to obtain the best value for tax dollars, to provide fairness in contracting and prevent favoritism. Contracts will be awarded to the lowest responsible bidder, taking into consideration quality, performance and time. A Bid Form will be used for this process. Three (3) written proposals will be sought during the bidding process. In cases where available or appropriate vendors are limited, every effort will be made to obtain bids from at least two (2) vendors. In cases where the item or service is available from a single source, this information must be noted on the Bid Form. For any purchase, lease-purchase or contract cost not previously authorized by the Council in an annual budget appropriation, the Town Council must authorize the award of all bids over \$29,999.99. The Finance Officer will issue a purchase order to the chosen vendor and the Department Head will proceed with the purchase. The Town Manager is authorized to award a contract to the lowest qualified responsible and responsive bidder for Council-authorized capital street improvement projects. As a post-award information item, the bid tally sheet for each awarded contract (for capital street improvement projects) is to be reported to the Council at its next meeting in order that it becomes a part of that meeting's record.

Formal Bidding Process

Expenditure of funds totaling or exceeding the state mandated thresholds for formal bidding prescribed by NCGS § 143-129, either for the purchase of apparatus, supplies, materials and equipment, or for construction or repair work, are required to be handled by the Formal Bid Process, and the bonding requirements of NCGS §44A-26 shall apply.

Note: Performance and payment bonds are required for contracts costing more than \$50,000 that are part of a project costing more than \$300,000.

The advertisement for bidders required by this section shall appear at a time where at least seven (7) full days shall lapse between the date on which the notice appears and the date of the opening of bids. The advertisement shall: (i) state the time and place where plans and specifications of proposed work or a complete description of the apparatus, supplies, materials, or equipment may be had; (ii) state the time and place for opening of the proposals; and (iii) reserve to the board or governing body the right to reject any or all proposals.

Purchases not requiring a Purchase Order

The following purchases do not require a purchase order:

- A. Advertising;
- B. Dues;
- C. Utilities;
- D. Insurance;
- E. Postage;
- F. Professional services for accounting, legal, engineering, etc. that are covered by a separate approved contract;
- G. Purchases less than \$250.00.
- H. Purchases obligated by written contract or agreement (These written obligations require Finance Officer certification, regardless of amount).

Emergency Purchases

An emergency is defined as a sudden, urgent, usually unexpected occurrence or occasion requiring immediate action. When an emergency does arise, and can be rectified only by immediate purchase or rental of equipment, supplies, materials or services, the following procedures must be followed:

- A. Secure a purchase order from the Finance Officer or the Town Manager. If the emergency occurs when offices are closed, the department should proceed to acquire only the materials of services necessary to meet the emergency;
- B. On the next working day, the Department Head must submit a requisition to the Finance Officer with the following information:
 - 1. Nature of the Emergency;
 - 2. Itemized list of purchases made;
 - 3. Cost per item;
 - 4. Vendor's name and address;

5. Account Number
 6. Authorizing signature of the Department Head
 7. Purchase Order Number – if one was given.
- C. The Finance Officer will prepare a confirming purchase order and send the requesting department a copy of the purchase order. The employee receiving the requested items should verify that the purchase order information is correct. The employee should also make sure that the vendor knows who to invoice and the correct address for billing. All invoices should be made out to the appropriate Town Department. Failure to make sure this information is passed on to the vendor could result in the misplacement of the invoice, causing late payment on the invoice and loss of any possible discount. No emergency purchase orders will be given unless it is an emergency as described above. North Carolina General Statutes govern this procedure. Written approval for disallowed emergency purchases will have to be obtained from the Town Manager, with overall approval resting with the Town Council.

Telephone Purchase Order Procedures

In certain emergency or special situations, the Finance Officer will issue a purchase order number over the telephone to the requesting department. In such cases, the requesting department will be required to submit a supporting requisition to the Finance Officer the next business day. The requisition is to include the vendor, complete item description, quantity, price, and the purchase order number that was issued.

Credit Cards

The credit cards are kept under the control of the Finance Officer and should be signed out by the employee and returned to the Finance Officer once the purchase is completed. All purchases in excess of \$100.00 made with the Town credit card must be preceded with a purchase order. When traveling out of town for training purposes, the employee **may** use the credit card for hotel stays and for the purchase of fuel **only**, providing that pre-approval **is obtained** from the Town Manager or the Finance Officer. A purchase order must be filled out immediately upon return. **A cash advance may be issued for the employee's cost of meals while out of town for training. Prior to departure, the employee may fill out a travel advance request form**, and a check will be issued to the employee for the amount of per diem **meal costs** as stated on the website at <http://www.gsa.gov/portal/content/104877> for the length of their stay and as outlined in the Town's travel policy. The employee is not authorized to pay for meals on the Town credit card, unless specifically authorized by the Town Manager. The Department Head must approve purchases. Unauthorized purchases are a violation of this policy. If proper procedures are not followed, the employee may be personally liable for the payment.

Uniform Guidance Procurement Standards

The Town and its subrecipients are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Rules) codified at 2 C.F.R. part 200. Contracts funded with federal grant funds shall be procured in a manner that is in compliance with all applicable Federal laws, policies, and standards as

well as state and local policies. All local policies and applicable state laws will be followed except to the extent that federal requirements are more restrictive than local policies and state law. If there is an overlap, and none of the rules are more restrictive, the federal rules will apply.

Conflict of Interest

In accordance with Federal Law 2C.F.R. 200.318, officers, employees, agents of the Town, as well as the Town's subrecipients, spouses, immediate family members, partners, and current or soon-to-be employers are prohibited from receiving a real or apparent financial or other interest or personal tangible benefit from the contract. Conflict of interest violations include loss of federal funds, disciplinary action, and/or other remedies for noncompliance listed at Federal Law C.F.R. 200.338.

Gift Ban

In accordance with Federal Law 2 C.F.R 200.318, all officers, employees, and agents of recipients and subrecipients are prohibited from receiving gifts from current or future contractors or vendors, excluding unsolicited gifts of nominal value. Violations include loss of federal funds, disciplinary action, and/or other remedies for noncompliance listed at 2 C.F.R. 200.338.

Updated 1/28/08

Revised 7/6/10

Revised 1/22/13

Revised 10/1/13

Revised 4/1/14

Revised 1/9/18

Revised 6/5/18



AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2021

ITEM SUMMARY: Resolution 2021-07-01 Authorizing Special Revenue Fund – American Rescue Plan Act (ARP Act)

STAFF RECOMMENDATION:

Staff recommends adoption of the attached Resolution which allows the Town to accept funds disbursed through the State for the American Rescue Plan Act. The resolution satisfies statutory requirements by authorizing the receipt of the American Rescue Plan (ARP) Act funds and then delegating authority to the Town Manager or designee to execute any necessary agreements on behalf of the Council.

REQUESTED ACTION:

Adoption as part of the approval of the Consent Agenda.



Town of Southern Shores
 5375 N. Virginia Dare Trail, Southern Shores, NC 27949
 Phone 252-261-2394 / Fax 252-255-0876
www.southernshores-nc.gov

RESOLUTION AUTHORIZING SPECIAL REVENUE FUND
 Resolution #2021-07-01

WHEREAS, the federal government passed the American Rescue Plan Act (ARP Act) on March 11, 2021, an economic stimulus law to speed up the United States' recovery from the economic and health effects of the COVID-19 pandemic and the ongoing recession; and

WHEREAS, the American Rescue Plan Act of 2021 established the Coronavirus State and Local Fiscal Recovery Funds, providing substantial aid for local governments to lay the groundwork for a strong and equitable recovery; and

WHEREAS, the U.S. Treasury Department has issued guidance for the use of these funds and implemented the provisions of this program; and

WHEREAS, the broad definition of allowable uses include replenishing lost revenue (limited to revenue loss due to pandemic relative to fiscal year prior to the emergency), mitigating negative economic impact of the pandemic, and providing necessary investments in water, sewer, or broadband infrastructure; and

WHEREAS, funds made available to the Town of Southern Shores must be obligated by December 31, 2024 and expended by December 31, 2026; and

WHEREAS, the NC Pandemic Recovery Office (NCPRO) has provided guidance for non-entitlement local governments in order to receive their distribution from the State; and

WHEREAS, NCGS 160a-17.1 authorizes the governing body of any city or county to make contracts for and to accept grants-in-aid and loans from the federal and State governments and their agencies for constructing, expanding, maintaining, and operating any project or facility, or performing any function, which such city or county may be authorized by general law or local act to provide or perform; and

WHEREAS, the Town Council authorizes the receipt of ARP Act funds and delegates authority to the Town Manager or designee to execute any necessary agreements on behalf of the Council; and

WHEREAS, NCGS 159-13.2 authorizes the creation of a Grant Project Ordinance.

NOW, THEREFORE, BE IT RESOLVED

Section 1. The Town of Southern Shores hereby creates the ARP Act Grant Project Ordinance for the purposes of tracking and reporting eligible expenditures and ARP Act revenues.

Section 2. This ARP Act Grant Project Ordinance shall remain until the expiration of the original act and any subsequent extensions or additions provided by the federal government.

Section 3. This resolution shall become effective upon its adoption.

Adopted this the 6th day of July 2021.

Mayor, Thomas G. Bennett

ATTEST:

Town Clerk



AGENDA ITEM SUMMARY FORM

MEETING DATE: July 6, 2021

ITEM TITLE: Planning Board Appointments

ITEM SUMMARY:

The appointment terms assigned to Planning Board members Jan Collins, Andy Ward, and Robert McClendon expired on June 30, 2021. Each member has indicated that they are interested in serving another three-year term. The appointment term assigned to the currently vacant alternate position also expired on June 30, 2021. The assigned term to that position should also be reappointed to another three-year term in order to keep all of the terms in sync, despite not having an individual appointed to that position at this time.

STAFF RECOMMENDATION:

Reappointment of Andy Ward, Robert McClendon, Jan Collins, and alternate position 2 to three-year terms that expire on June 30, 2024.

REQUESTED ACTION:

Motion to reappoint Andy Ward, Robert McClendon, Jan Collins, and alternate position 2 to three-year terms that expire on June 30, 2024.



AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2021

ITEM TITLE: Public Hearing-ZTA 21-02 Eaves

ITEM SUMMARY:

At the March 2, 2021 Town Council meeting, the Town Council instructed Town Staff to take valuable elements out of the adoption draft of the Town Code Update written by CodeWright for review by the Planning Board and the Town Council for future consideration. The proposed amendments to Section 36-57, Definition of Specific Terms and Words are a result of direction from the Planning Board at the March 15, 2021 Planning Board meeting. The proposed amendments allow the outermost three feet of eaves to encroach yard (setback) requirements on all sides of a structure instead of only from the building setback line (front setback).

STAFF RECOMMENDATION:

Approval of ZTA-21-02.

REQUESTED ACTION:

Motion to approve ZTA-21-02.

STAFF REPORT

To: Southern Shores Town Council
Date: June 1, 2021
Case: ZTA-21-02
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Town of Southern Shores

Requested Action: Amendment of the Town Zoning Ordinance by amending Section 36-57

ANALYSIS

At the March 2, 2021 Town Council meeting, the Town Council instructed Town Staff to take valuable elements out of the adoption draft of the Town Code Update written by CodeWright for review by the Planning Board and the Town Council for future consideration. The proposed amendments to Section 36-57, Definition of Specific Terms and Words are a result of direction from the Planning Board at the March 15, 2021 Planning Board meeting. The proposed amendments allow the outermost three feet of eaves to encroach yard (setback) requirements on all sides of a structure instead of only from the building setback line (front setback).

The Town's currently adopted Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low-density residential community comprised of single-family dwellings on large lots (served by a small commercial district for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

RECOMMENDATION

Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan and Town Staff recommends approval of the proposed ZTA. The Town Planning Board unanimously (6-0) recommended approval of the application at the May 17, 2021 Planning Board meeting.



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949
Phone 252-261-2394 / Fax 252-255-0876
info@southernshores-nc.gov
www.southernshores-nc.gov

PLANNING BOARD GENERAL APPLICATION FORM TOWN OF SOUTHERN SHORES, NC 27949

Date: 4 / 5 / 21 **Filing Fee:** \$200 **Receipt No.** N/A **Application No.** ZTA-21-02

NOTE: The Planning Board will follow the specific provisions of the Zoning Ordinance Chapter 36. Article X Administration and Enforcement, Section 36-299.

Please check the applicable Chapter/Article:

- Chapter 30. Subdivisions-Town Code
- Chapter 36. Article VII. Schedule of District Regulations. Section 36-207 C-General Commercial District
- Chapter 36. Article IX. Planned Unit Development (PUD)
- Chapter 36. Article X. Administration and Enforcement, Section 36-299 (b) Application for Building Permits and Site Plan Review other than one and two family dwelling units *
- Chapter 36. Article X. Section 36-300-Application for Permit for Conditional Use
- Chapter 36. Article X. Section 36-303 Fees
- Chapter 36. Article X. Section 36-304-Vested Rights
- Chapter 36. Article XIV. Changes and Amendments

Certification and Standing: As applicant of standing for project to be reviewed I certify that the information on this application is complete and accurate.

Applicant

Name Town of Southern Shores
Address: 5375 N. Virginia Dare Trl.
Southern Shores, NC 27949
Phone (252) 261-2394 Email whaskett@southernshores-nc.gov

Applicant's Representative (if any)

Name _____
Agent, Contractor, Other (Circle one)
Address _____
Phone _____ Email _____

Property Involved: ___ Southern Shores ___ Martin's Point (Commercial only)

Address: _____ Zoning district _____

Section _____ Block _____ Lot _____ Lot size (sq.ft.) _____

Request: ___ Site Plan Review ___ Final Site Plan Review ___ Conditional Use ___ Permitted Use
___ PUD (Planned Unit Development) ___ Subdivision Ordinance ___ Vested Right ___ Variance

Change To: ___ Zoning Map **X** ___ Zoning Ordinance

Wm Hunt
Signature

4-5-21
Date

* Attach supporting documentation.



Town of Southern Shores

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ZTA-21-02

Ordinance 2021-06-02

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

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160D-701, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction. Pursuant to this authority and the additional authority granted by N.C.G.S. § 160D-702, 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, 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, and general welfare for the Town to amend the Town’s Zoning Ordinance 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 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 I. That **Sec. 36-57. Definition of specific terms and words.** Be amended as follows:

Sec. 36-57. - Definition of specific terms and words.

...

1 *Building setback line* means a line parallel to or concentric with the street right-of-
2 way establishing the minimum allowable distance between such right-of-way and the
3 nearest portion of any building, excluding the outermost three feet of any uncovered
4 porches, steps, eaves, gutters and similar fixtures.

5
6 ...

7
8 *Yard* means a required open space, other than a court, unoccupied and unobstructed
9 by any structure or portion of a structure, from 30 inches above the ground level of the
10 graded lot upward, provided, however, that the outermost three feet of eaves (as of the
11 date of adoption), fences, walls, poles, posts, ocean dune platforms, walks, accessible
12 ramps, steps and other customary yard accessories, ornaments, and furniture may be
13 permitted in any yard subject to height limitations and requirements limiting obstruction
14 of visibility or any other requirements of this chapter.

15
16 ...

17
18 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
19 **Reasonableness.**

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

26
27 **ARTICLE V. Severability.**

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

34
35 **ARTICLE VI. Effective Date.**

36
37 This ordinance amendment shall be in full force and effect from and after the ____ day of
38 _____, 2021.

39
40
41 _____
42 Tom Bennett, Mayor

43 ATTEST:

44 _____
45 Town Clerk

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APPROVED AS TO FORM:

Town Attorney

Date adopted:

Motion to adopt by Councilmember:

Motion seconded by Councilmember:

Vote: ___AYES___NAYS

Local Setback Requirements for Eaves

Dare County:

Building setback line - A line parallel to or concentric with the street right-of-way establishing the minimum allowable distance between such right-of-way and the nearest portion of any building, excluding the outermost three feet of any uncovered porches, step, eaves, gutters and similar fixtures.

Manteo:

Building setback line. A line parallel to or concentric with the street right-of-way establishing the minimum allowable distance between such right-of-way and the nearest portion of any building. All efforts shall be made when siting buildings and residences to contain all features within these setbacks. Exceptions can be made, at the discretion of the zoning administrator, to allow the outermost three feet of any uncovered porches, steps, decks, eaves, gutters, similar fixtures and an HVAC unit or series of units not to exceed ten tons to encroach into side or rear setbacks but shall not exceed five feet from the building setback line. Uncovered steps may encroach three feet into the front setback.

Nags Head:

8.6.3.6. Exclusions from Yard Requirements.

8.6.3.6.1. The inner edge of the front, rear, or side yard shall be measured from the building foundation and may exclude the outermost three feet of eaves, gutters, uncovered handicapped ramps, or uncovered steps. This exclusion may also apply to cargo lifts for single-family or duplex dwellings only, and built-in railing benches constructed in accordance with Appendix B, "Town of Nags Head Residential Design Guidelines".

Kill Devil Hills:

§ 153.082 EXCEPTIONS.

(b) Chimney flues, ornamental features and eaves provided that none of these shall project into a minimum yard setback more than 24 inches.

Kitty Hawk:

Sec. 42-504. - Yards generally.

(g)Minimum yard requirements. Minimum yard requirements for all zoning districts shall be open and unobstructed from 30 inches above the general ground level of the graded lot upward, except for the following intrusions: roof eaves or overhangs, firewalls as required by the state building code, elevated bay windows, elevated fireplace projections, and light fixtures, may project in the minimum yard not more than two feet.

(h)The outermost edge of any uncovered porches, steps, eaves, gutters, and similar fixtures can encroach up to four feet into the required minimum front yard setback.

Duck:

§ 156.002 DEFINITIONS.

BUILDING SETBACK LINE. A line parallel to or concentric with the street right-of-way establishing the minimum allowable distance between the right-of-way and the nearest portion of any building, excluding the outermost 3 feet of any uncovered porches, step, eaves, gutters and similar fixtures.

§ 156.051 BUILDING FEATURES PERMITTED AS EXCEPTIONS TO SETBACKS OR MINIMUM YARD REQUIREMENTS.

- (A) Sills, cornices and similar ornamental features as well as roof eaves and overhangs may project not exceeding 12 inches into any required front, side or rear yard or beyond any required front, side or rear setback or building restriction line;
- (C) No ornamental feature, bay window, stoop, stairs, eave, overhang or similar feature of an accessory structure shall project into any required front, rear or side setback or building restriction lines applicable to accessory structures;

Existing Structures with Eaves Three Feet or More

- 163 Wax Myrtle Trl.: 3 ft.
- 223 Wax Myrtle Trl.: 3 ft. 11 inches
- 245 Wax Myrtle Trl.: 3 ft. 11 inches
- 21 Third Ave: 3.5 ft.
- 22 Porpoise Rn.: 4 ft.
- 155 Ocean Blvd: 4 ft.
- 155A Ocean Blvd.: 4 ft.



AGENDA ITEM SUMMARY FORM

MEETING DATE: July 6, 2021

ITEM TITLE: Public Hearing-TCA 21-05 NCGS 160D Update

ITEM SUMMARY:

In 2019, the N.C. General Assembly enacted North Carolina General Statutes Chapter 160D, Local Planning and Development Regulation, which consolidated and clarified former Chapters 160A and 153A that addressed development regulations for Municipalities and Counties. The Chapter became effective January 1, 2021 with the requirement that all Municipalities and Counties update their ordinances to be compliant with it by July 1, 2021. Due to the Town Code Update project, Town Staff chose to postpone amending the Town Code to be compliant with Chapter 160D until the amendments from the Town Code Update project are complete.

As a result of that postponement, the Town Attorney has prepared language in the form of a Town Code Amendment (TCA) that clarifies that the North Carolina General Statutes (in particular Chapter 160D) must be satisfied whenever the Town Code conflicts with, contradicts or is otherwise inconsistent with the North Carolina General Statutes. The intent of the proposed language is to clarify that although the Town has not yet amended the Town Code to be compliant with Chapter 160D, its provisions will still be followed when applicable.

STAFF RECOMMENDATION:

Approval of TCA-21-05.

REQUESTED ACTION:

Motion to approve TCA-21-05.

STAFF REPORT

To: Southern Shores Town Council
Date: July 6, 2021
Case: TCA-21-05
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Town of Southern Shores

Requested Action: Amendment of the Town Code by adding Section 1-12, Conflicts with State Law Authority and Procedures

ANALYSIS

In 2019, the N.C. General Assembly enacted North Carolina General Statutes Chapter 160D, Local Planning and Development Regulation, which consolidated and clarified former Chapters 160A and 153A that addressed development regulations for Municipalities and Counties. The Chapter became effective January 1, 2021 with the requirement that all Municipalities and Counties update their ordinances to be compliant with it by July 1, 2021. Due to the Town Code Update project, Town Staff chose to postpone amending the Town Code to be compliant with Chapter 160D until the amendments from the Town Code Update project are complete.

As a result of that postponement, the Town Attorney has prepared language in the form of a Town Code Amendment (TCA) that clarifies that the North Carolina General Statutes (in particular Chapter 160D) must be satisfied whenever the Town Code conflicts with, contradicts or is otherwise inconsistent with the North Carolina General Statutes. The intent of the proposed language is to clarify that although the Town has not yet amended the Town Code to be compliant with Chapter 160D, its provisions will still be followed when applicable.

RECOMMENDATION

Town Staff recommends approval of the proposed TCA and the Town Planning Board unanimously (5-0) recommended approval of the application at their June 21, 2021 meeting.



Town of Southern Shores
5375 N. Virginia Dare Trail, Southern Shores, NC 27949
Phone 252-261-2394 / Fax 252-255-0876
info@southernshores-nc.gov
www.southernshores-nc.gov

TCA-21-05

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

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to prior versions of N.C.G.S. § 160A-381, the Town of Southern Shores (the “Town”) was authorized to enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by prior versions of N.C.G.S. Chap. 160A, Art. 19, the Town has adopted a comprehensive zoning ordinance (the “Town’s Zoning Ordinance”) and has also codified other ordinance provisions Town in the Town’s Code of Ordinances (the “Town Code”); and

WHEREAS, pursuant to N.C.G.S. § 160A-174, the Town may enact and amend ordinances which 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 city, and may define and abate nuisances within its jurisdiction; and

WHEREAS, the North Carolina General Assembly adopted 2019 N.C. Sess. Law 111 to clarify and change the land-use regulatory laws of the State, including the recodification of many existing land-use regulatory laws in the a newly created N.C.G.S. Chap. 160D pursuant to 2019 N.C. Sess. Law 111, Part II; and

WHEREAS, pursuant to 2020 N.C. Sess. Law 25, the town must amend its land-use and development ordinances to conform to N.C.G.S. Chap. 160D on or before July 1, 2021 and N.C.G.S. Chap. 160D applies to the Town’s land-use and development regulation decisions made on or after the earlier of (1) the effective date of the Town’s amendments to local development regulations to conform to the provisions of N.C.G.S. Chap. 160D; or (2) July 1, 2021; and

WHEREAS, the Town desires to amend its land-use and development ordinances to conform to N.C.G.S. Chap. 160D as provided in this ordinance amendment; 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.

1 **ARTICLE II. Construction.**

2

3 For purposes of this ordinance amendment, underlined words (underline) shall be
4 considered as additions to existing Town Code language and strikethrough words
5 (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the
6 adopted Town Code which are not repeated herein, but are instead replaced by an ellipses
7 (“...”) shall remain as they currently exist within the Town Code.

8

9 **ARTICLE III. Amendment of Town Code.**

10

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

13

14 **PART I** That the Zoning Ordinance, Town of Southern Shores, North Carolina, is
15 hereby amended by adding a section, to be numbered 1-12, which section reads as follows:

16

17 Sec. 1-12. – Conflicts with State Law Authority and Procedures

18

19 (a) Applicability of State Law: Where any portion of the Town Code of the Town of
20 Southern Shores conflicts with, contradicts or is otherwise inconsistent with the
21 authority, standards or procedures provided by the North Carolina General Statutes,
22 in particular, N.C.G.S. Chap. 160D, as applicable and amended from time to time,
23 such regulations shall be applied only in a manner consistent with the authority,
24 standards and procedures provided by the General Statutes. Town ordinance
25 provisions which supplement and provide greater due process and other protections
26 than the statutory minimum requirements are not preempted by this subparagraph.
27 The terminology, definitions, and procedures of N.C.G.S. Chap. 160D shall apply
28 as if they have been incorporated within this ordinance and the Town Code of the
29 Town of Southern Shores.

30

31 (b) Remedies: Any person or entity aggrieved by the application of town development
32 regulations may, within the time period for an appeal from said application of
33 regulations, request an administrative determination of whether the application of
34 town regulations conflicts with, contradicts or is otherwise inconsistent with the
35 authority, standards or procedures provided by the North Carolina General Statutes.
36 Upon such request, town staff shall investigate the application of the town
37 regulations, may consult with the town attorney as needed and shall issue a written
38 determination within a reasonable time. The receipt by the town of a request for
39 such a determination shall cause the application of town development regulations
40 not to be a final appealable administrative decision until the town staff issues the
41 requested determination. If town staff concludes that the application of the town’s
42 regulations exceeded the town’s authority or did not follow statutory standards or
43 procedures, town staff or the appropriate decision making body shall modify the
44 application of the town’s regulations to apply the statutory standards and
45 procedures in the manner required by subparagraph (a) of this section. Following
46 such action, an aggrieved party may appeal the town staff’s determination and/or

1 the final resulting decision of town staff or the decision making body in the same
2 manner as other appeals of decisions from the town staff or the decision making
3 body.

4

5 **ARTICLE IV. Severability.**

6

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

12

13 **ARTICLE V. Effective Date.**

14

15 This ordinance amendment shall be in full force and effect from and after the ____ day of
16 _____, 2021.

17

18

19

Tom Bennett, Mayor

20

ATTEST:

21

22

Town Clerk

23

24

25

26

APPROVED AS TO FORM:

27

28

Town Attorney

29

30

Date adopted:

31

32

33

Motion to adopt by Councilmember:

34

35

Motion seconded by Councilmember:

36

37

38

39

40

Vote: ___AYES___NAYS



AGENDA ITEM SUMMARY FORM

MEETING DATE: July 6, 2021

ITEM TITLE: Public Hearing- ZTA-21-07 Lot Access Requirements

ITEM SUMMARY:

At the May 17, 2021 Planning Board meeting, the Board recommended conditional approval of PSP-21-01, a preliminary subdivision plat to subdivide the property located at 279 Hillcrest Dr. At the June 1, 2021 Town Council meeting, Council conditionally approved SPA-21-01 and instructed the Planning Board to recommend a Town Code amendment that would eliminate the possibility of subdividing property that does not have frontage on a public or private street. The proposed amendment to Section 36-95 is suggested by Town Staff which removes the possibility of creating a new lot or lots that only have frontage on an easement.

STAFF RECOMMENDATION:

Approval of ZTA-21-07.

REQUESTED ACTION:

Motion to approve ZTA-21-07.

STAFF REPORT

To: Southern Shores Town Council
Date: July 1, 2021
Case: ZTA-21-07
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Town of Southern Shores

Requested Action: Amendment of the Town Zoning Ordinance by amending Section 36-95, Lot Access Requirements

ANALYSIS

At the May 17, 2021 Planning Board meeting, the Board recommended conditional approval of PSP-21-01, a preliminary subdivision plat to subdivide the property located at 279 Hillcrest Dr. At the June 1, 2021 Town Council meeting, Council conditionally approved SPA-21-01 and instructed the Planning Board to recommend a Town Code amendment that would eliminate the possibility of subdividing property that does not have frontage on a public or private street. The proposed amendment to Section 36-95 is suggested by Town Staff which removes the possibility of creating a new lot or lots that only have frontage on an easement.

The Town's currently adopted Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low-density residential community comprised of single-family dwellings on large lots (served by a small commercial district for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

RECOMMENDATION

Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan and Town Staff recommends approval of the proposed ZTA. The Town Planning Board unanimously (5-0) recommended approval of the application at their June 21, 2021 meeting.



Town of Southern Shores

Item 12.

5375 N. Virginia Dare Trail, Southern Shores, NC 27949
Phone 252-261-2394 / Fax 252-255-0876
info@southernshores-nc.gov
www.southernshores-nc.gov

**PLANNING BOARD
GENERAL APPLICATION FORM
TOWN OF SOUTHERN SHORES, NC 27949**

Date: 6 / 8 / 21 **Filing Fee:** \$200 **Receipt No.** N/A **Application No.** ZTA-21-07

NOTE: The Planning Board will follow the specific provisions of the Zoning Ordinance Chapter 36. Article X Administration and Enforcement, Section 36-299.

Please check the applicable Chapter/Article:

- Chapter 30. Subdivisions-Town Code
- Chapter 36. Article VII. Schedule of District Regulations. Section 36-207 C-General Commercial District
- Chapter 36. Article IX. Planned Unit Development (PUD)
- Chapter 36. Article X. Administration and Enforcement, Section 36-299 (b) Application for Building Permits and Site Plan Review other than one and two family dwelling units *
- Chapter 36. Article X. Section 36-300-Application for Permit for Conditional Use
- Chapter 36. Article X. Section 36-303 Fees
- Chapter 36. Article X. Section 36-304-Vested Rights
- Chapter 36. Article XIV. Changes and Amendments

Certification and Standing: As applicant of standing for project to be reviewed I certify that the information on this application is complete and accurate.

Applicant

Name Town of Southern Shores
Address: 5375 N. Virginia Dare Trl.
Southern Shores, NC 27949
Phone (252) 261-2394 Email whaskett@southernshores-nc.gov

Applicant's Representative (if any)

Name _____
Agent, Contractor, Other (Circle one)
Address _____
Phone _____ Email _____

Property Involved: ___ Southern Shores ___ Martin's Point (Commercial only)

Address: _____ Zoning district _____
Section _____ Block _____ Lot _____ Lot size (sq.ft.) _____

Request: ___ Site Plan Review ___ Final Site Plan Review ___ Conditional Use ___ Permitted Use
___ PUD (Planned Unit Development) ___ Subdivision Ordinance ___ Vested Right ___ Variance

Change To: ___ Zoning Map **X** ___ Zoning Ordinance

Wm. Hult
Signature

6-8-21
Date

* Attach supporting documentation.



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ZTA-21-07

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

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160D-701, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction. Pursuant to this authority and the additional authority granted by N.C.G.S. § 160D-702, 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, 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, and general welfare for the Town to amend the Town’s Zoning Ordinance 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 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 I. That **Sec. 36-95. Lot access requirements.** Be amended as follows:

Sec. 36-95. Lot access requirements.

...

- (a) No structure requiring a building permit shall be erected on any lot having less than 30 feet of frontage and which:

1 (1) Does not abut either a public right-of-way or a private street or easement which
2 has been approved in accordance with the provisions of this article, the
3 subdivision ordinance set forth in chapter 30, or any applicable town ordinance
4 and recorded by the county register of deeds; or

5 (2) Does not have access to a public street or highway, which access is described in
6 an instrument recorded in the county register of deeds office prior to adoption of the
7 ordinance from which this chapter is derived.

8

9 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
10 **Reasonableness.**

11
12 The Town’s adoption of this ordinance amendment is consistent with the Town’s adopted
13 comprehensive zoning ordinance, land use plan and any other officially adopted plan that
14 is applicable. For all of the above-stated reasons and any additional reasons supporting the
15 Town’s adoption of this ordinance amendment, the Town considers the adoption of this
16 ordinance amendment to be reasonable and in the public interest.

17
18 **ARTICLE V. Severability.**

19
20 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are
21 hereby repealed. Should a court of competent jurisdiction declare this ordinance
22 amendment or any part thereof to be invalid, such decision shall not affect the remaining
23 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
24 Town of Southern Shores, North Carolina which shall remain in full force and effect.

25
26 **ARTICLE VI. Effective Date.**

27
28 This ordinance amendment shall be in full force and effect from and after the ____ day of
29 _____, 2021.

30
31
32 _____
Tom Bennett, Mayor

33 ATTEST:

34
35 _____
36 Town Clerk

37
38
39 APPROVED AS TO FORM:

40
41 _____
42 Town Attorney

43
44 Date adopted:
45 _____
46 _____

1 Motion to adopt by Councilmember:
2 _____
3 Motion seconded by Councilmember:
4
5
6
7

Vote: ___AYES___NAYS



AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2021

ITEM TITLE: Public Hearing-ZTA 21-05 Use & Occupancy

ITEM SUMMARY:

At the April 19, 2021 Planning Board meeting, the Board unanimously recommended approval of ZTA-21-04 (Prohibited Uses) with amendments to the Town Council. At the May 4, 2021 Town Council meeting, the Town Council unanimously adopted ZTA-21-04. Following Council adoption, Town Staff determined that Section 36-89 should have been included in ZTA-21-04 to establish that permitted, conditional, and prohibited uses can be found in Article VII, Schedule of District Regulations and to remove the requirement that any use not specifically designated as a permitted or conditional use shall be deemed to be prohibited.

STAFF RECOMMENDATION:

Approval of ZTA-21-05.

REQUESTED ACTION:

Motion to approve ZTA-21-05.

STAFF REPORT

To: Southern Shores Town Council
Date: June 1, 2021
Case: ZTA-21-05
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Town of Southern Shores

Requested Action: Amendment of the Town Zoning Ordinance by amending Section 36-89, Use, Occupancy and Construction.

ANALYSIS

At the April 19, 2021 Planning Board meeting, the Board unanimously recommended approval of ZTA-21-04 (Prohibited Uses) with amendments to the Town Council. At the May 4, 2021 Town Council meeting, the Town Council unanimously adopted ZTA-21-04. Following Council adoption, Town Staff determined that Section 36-89 should have been included in ZTA-21-04 to establish that permitted, conditional, and prohibited uses can be found in Article VII, Schedule of District Regulations and to remove the requirement that any use not specifically designated as a permitted or conditional use shall be deemed to be prohibited.

The Town's currently adopted Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low-density residential community comprised of single-family dwellings on large lots (served by a small commercial district for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

RECOMMENDATION

Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan and Town Staff recommends approval of the proposed ZTA. The Town Planning Board unanimously (6-0) recommended approval of the application at the May 17, 2021 Planning Board meeting.



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949
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www.southernshores-nc.gov

PLANNING BOARD GENERAL APPLICATION FORM TOWN OF SOUTHERN SHORES, NC 27949

Date: 5 / 5 / 21 **Filing Fee:** \$200 **Receipt No.** N/A **Application No.** ZTA-21-05

NOTE: The Planning Board will follow the specific provisions of the Zoning Ordinance Chapter 36. Article X Administration and Enforcement, Section 36-299.

Please check the applicable Chapter/Article:

- Chapter 30. Subdivisions-Town Code
- Chapter 36. Article VII. Schedule of District Regulations. Section 36-207 C-General Commercial District
- Chapter 36. Article IX. Planned Unit Development (PUD)
- Chapter 36. Article X. Administration and Enforcement, Section 36-299 (b) Application for Building Permits and Site Plan Review other than one and two family dwelling units *
- Chapter 36. Article X. Section 36-300-Application for Permit for Conditional Use
- Chapter 36. Article X. Section 36-303 Fees
- Chapter 36. Article X. Section 36-304-Vested Rights
- Chapter 36. Article XIV. Changes and Amendments

Certification and Standing: As applicant of standing for project to be reviewed I certify that the information on this application is complete and accurate.

Applicant

Name Town of Southern Shores
Address: 5375 N. Virginia Dare Trl.
Southern Shores, NC 27949
Phone (252) 261-2394 Email whaskett@southernshores-nc.gov

Applicant's Representative (if any)

Name _____
Agent, Contractor, Other (Circle one)
Address _____
Phone _____ Email _____

Property Involved: ___ Southern Shores ___ Martin's Point (Commercial only)

Address: _____ Zoning district _____

Section _____ Block _____ Lot _____ Lot size (sq.ft.) _____

Request: ___ Site Plan Review ___ Final Site Plan Review ___ Conditional Use ___ Permitted Use
___ PUD (Planned Unit Development) ___ Subdivision Ordinance ___ Vested Right ___ Variance

Change To: ___ Zoning Map Zoning Ordinance

W. Whaskett
Signature

4-5-21
Date

* Attach supporting documentation.



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

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ZTA-21-05

Ordinance 2021-06-03

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

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160D-701, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction. Pursuant to this authority and the additional authority granted by N.C.G.S. § 160D-702, 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, 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, and general welfare for the Town to amend the Town’s Zoning Ordinance 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 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 I. That **Sec. 36-89. Use, occupancy and construction.** be amended as follows:

36-89. Use, occupancy and construction.

...

(b) Permitted, ~~prohibited~~ and conditional uses are listed by district, within the schedule of district regulations. ~~Any use not specifically designated as a permitted or conditional use shall be deemed to be prohibited.~~

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 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 ____ day of _____, 2021.

Tom Bennett, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted:

Motion to adopt by Councilmember:

Motion seconded by Councilmember:

1
2
3

Vote: ___AYES___NAYS



AGENDA ITEM SUMMARY FORM

MEETING DATE: July 6, 2021

ITEM TITLE: Public Hearing - ZTA-21-06 Temporary Healthcare Structures

ITEM SUMMARY:

At the March 2, 2021 Town Council meeting, Council instructed Town Staff to take valuable elements out of the adoption draft of the Town Code Update written by CodeWright for review by the Planning Board and the Town Council for future consideration. The proposed amendments to Section 36-168, Temporary Uses are a result of State Law changes from S.L. 2014-94 which establishes temporary family health care structures as permitted accessory uses in any single-family residential zoning district on lots zoned for single-family detached dwellings. The Planning Board recommended approval of Part II of ZTA-21-02 (Temporary Family Health Care Structures) with amendments at the April 19, 2021 Planning Board meeting. As requested by Town Staff, Council tabled its consideration of Part II of ZTA-21-02 at the May 4, 2021 Town Council meeting so that the Town Attorney could review and comment on the proposed language. Following his review, the Town Attorney provided the enclosed comments as well as revised language for consideration.

STAFF RECOMMENDATION:

Approval of ZTA-21-06.

REQUESTED ACTION:

Motion to approve ZTA-21-06.

STAFF REPORT

To: Southern Shores Town Council
Date: July 1, 2021
Case: ZTA-21-06
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Town of Southern Shores

Requested Action: Amendment of the Town Zoning Ordinance by amending Section 36-168, Temporary Uses.

ANALYSIS

At the March 2, 2021 Town Council meeting, Council instructed Town Staff to take valuable elements out of the adoption draft of the Town Code Update written by CodeWright for review by the Planning Board and the Town Council for future consideration. The proposed amendments to Section 36-168, Temporary Uses are a result of State Law changes from S.L. 2014-94 which establishes temporary family health care structures as permitted accessory uses in any single-family residential zoning district on lots zoned for single-family detached dwellings. The Planning Board recommended approval of Part II of ZTA-21-02 (Temporary Family Health Care Structures) with amendments at the April 19, 2021 Planning Board meeting. As requested by Town Staff, Council tabled its consideration of Part II of ZTA-21-02 at the May 4, 2021 Town Council meeting so that the Town Attorney could review and comment on the proposed language. Following his review, the Town Attorney provided the enclosed comments as well as revised language for consideration.

The Town's currently adopted Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low-density residential community comprised of single-family dwellings on large lots (served by a small commercial district for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

RECOMMENDATION

Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan and Town Staff recommends approval of the proposed ZTA. The Town Planning Board unanimously (5-0) recommended approval of the application at their June 21, 2021 meeting.



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949
Phone 252-261-2394 / Fax 252-255-0876
info@southernshores-nc.gov
www.southernshores-nc.gov

PLANNING BOARD GENERAL APPLICATION FORM TOWN OF SOUTHERN SHORES, NC 27949

Date: 6 / 8 / 21 **Filing Fee:** \$200 **Receipt No.** N/A **Application No.** ZTA-21-06

NOTE: The Planning Board will follow the specific provisions of the Zoning Ordinance Chapter 36. Article X Administration and Enforcement, Section 36-299.

Please check the applicable Chapter/Article:

- Chapter 30. Subdivisions-Town Code
- Chapter 36. Article VII. Schedule of District Regulations. Section 36-207 C-General Commercial District
- Chapter 36. Article IX. Planned Unit Development (PUD)
- Chapter 36. Article X. Administration and Enforcement, Section 36-299 (b) Application for Building Permits and Site Plan Review other than one and two family dwelling units *
- Chapter 36. Article X. Section 36-300-Application for Permit for Conditional Use
- Chapter 36. Article X. Section 36-303 Fees
- Chapter 36. Article X. Section 36-304-Vested Rights
- Chapter 36. Article XIV. Changes and Amendments

Certification and Standing: As applicant of standing for project to be reviewed I certify that the information on this application is complete and accurate.

Applicant

Name Town of Southern Shores
Address: 5375 N. Virginia Dare Trl.
Southern Shores, NC 27949
Phone (252) 261-2394 Email whaskett@southernshores-nc.gov

Applicant's Representative (if any)

Name _____
Agent, Contractor, Other (Circle one)
Address _____
Phone _____ Email _____

Property Involved: ___ Southern Shores ___ Martin's Point (Commercial only)

Address: _____ Zoning district _____
Section _____ Block _____ Lot _____ Lot size (sq.ft.) _____

Request: ___ Site Plan Review ___ Final Site Plan Review ___ Conditional Use ___ Permitted Use
___ PUD (Planned Unit Development) ___ Subdivision Ordinance ___ Vested Right ___ Variance

Change To: ___ Zoning Map **X** ___ Zoning Ordinance

Wm. H. H. H.
Signature

6-8-21
Date

* Attach supporting documentation.



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

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info@southernshores-nc.gov

www.southernshores-nc.gov

ZTA-21-06

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

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160D-701, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction. Pursuant to this authority and the additional authority granted by N.C.G.S. § 160D-702, 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, 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, and general welfare for the Town to amend the Town’s Zoning Ordinance 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 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 I. That **Sec. 36-168. Temporary uses.** Be amended as follows:

Sec. 36-168. Temporary uses.

...

(5) Temporary family health care structures

(a) The following definitions apply in this section:

- 1 (1) Activities of daily living.-- Bathing, dressing, personal hygiene, ambulation
2 or locomotion, transferring, toileting, and eating.
3
- 4 (2) Caregiver.-- An individual 18 years of age or older who (i) provides care
5 for a mentally or physically impaired person and (ii) is a first- or second-
6 degree relative of the mentally or physically impaired person for whom the
7 individual is caring.
8
- 9 (3) First- or second-degree relative.-- A spouse, lineal ascendant, lineal
10 descendant, sibling, uncle, aunt, nephew, or niece and includes half, step,
11 and in-law relationships.
12
- 13 (4) Mentally or physically impaired person.-- A person who is a resident of this
14 State and who requires assistance with two or more activities of daily living
15 as certified in writing by a physician licensed to practice in this State.
16
- 17 (5) Temporary family health care structure.-- A transportable residential
18 structure providing an environment facilitating a caregiver's provision of
19 care for a mentally or physically impaired person that (i) is primarily
20 assembled at a location other than its site of installation, (ii) is limited to
21 one occupant who shall be the mentally or physically impaired person, (iii)
22 has no more than 300 gross square feet, and (iv) complies with applicable
23 provisions of the State Building Code and G.S. 143-139.1(b). Placing the
24 temporary family health care structure on a permanent foundation shall not
25 be required or permitted.
26
- 27 (b) The Town shall consider a temporary family health care structure used by a
28 caregiver in providing care for a mentally or physically impaired person on
29 property owned or occupied by the caregiver as the caregiver's residence as a
30 permitted accessory use in any single-family residential zoning district on lots
31 zoned for single-family detached dwellings.
32
- 33 (c) The Town shall consider a temporary family health care structure used by an
34 individual who is the named legal guardian of the mentally or physically
35 impaired person a permitted accessory use in any single-family residential
36 zoning district on lots zoned for single-family detached dwellings in accordance
37 with this section if the temporary family health care structure is placed on the
38 property of the residence of the individual and is used to provide care for the
39 mentally or physically impaired person.
40
- 41 (d) Only one temporary family health care structure shall be allowed on a lot or
42 parcel of land. The temporary family health care structures under subsections
43 (b) and (c) of this section shall not require a special use permit or be subjected
44 to any other local zoning requirements beyond those imposed upon other
45 authorized accessory use structures, except otherwise provided in this section.
46 Such temporary family health care structures shall comply with all setback

1 requirements that apply to the primary structure and with any maximum floor
2 area ratio limitations that may apply to the primary structure.

3
4 (e) Any person proposing to install a temporary family health care structure shall
5 first obtain a permit from the Town. The fee shall be one hundred dollars
6 (\$100.00) for the initial permit with an annual renewal fee of fifty dollars
7 (\$50.00). The Town may not withhold a permit if the applicant provides
8 sufficient proof of compliance with this section. The applicant shall provide
9 evidence of compliance with this section on an annual basis as long as the
10 temporary family health care structure remains on the property. The evidence
11 may involve the inspection by the Town of the temporary family health care
12 structure at reasonable times convenient to the caregiver, not limited to any
13 annual compliance confirmation and annual renewal of the doctor's
14 certification.

15
16 (f) Notwithstanding subsection (i) of this section, any temporary family health care
17 structure installed under this section shall connect to any water, sewer
18 (including septic system or other wastewater treatment), and electric utilities
19 servicing the property and shall comply with all applicable State law, local
20 ordinances, and other requirements, including Article 11 of N.C.G.S. Chap.
21 160D, as if the temporary family health care structure were permanent real
22 property.

23
24 (g) No signage advertising or otherwise promoting the existence of the temporary
25 health care structure shall be permitted either on the exterior of the temporary
26 family health care structure or elsewhere on the property.

27
28 (h) Any temporary family health care structure installed pursuant to this section
29 shall be removed within 60 days in which the mentally or physically impaired
30 person is no longer receiving or is no longer in need of the assistance provided
31 for in this section. If the temporary family health care structure is needed for
32 another mentally or physically impaired person, the temporary family health
33 care structure may continue to be used or may be reinstated on the property
34 within 60 days of its removal, as applicable.

35
36 (i) The Town may revoke the permit granted pursuant to subsection (e) of this
37 section if the permit holder violates any provision of this section or [G.S. 160A-](#)
38 [202](#). The Town may seek injunctive relief or other appropriate actions or
39 proceedings to ensure compliance with this section or [G.S. 160A-202](#).

40
41 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
42 **Reasonableness.**

43
44 The Town’s adoption of this ordinance amendment is consistent with the Town’s adopted
45 comprehensive zoning ordinance, land use plan and any other officially adopted plan that
46 is applicable. For all of the above-stated reasons and any additional reasons supporting the

1 Town's adoption of this ordinance amendment, the Town considers the adoption of this
2 ordinance amendment to be reasonable and in the public interest.

3
4 **ARTICLE V. Severability.**

5
6 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are
7 hereby repealed. Should a court of competent jurisdiction declare this ordinance
8 amendment or any part thereof to be invalid, such decision shall not affect the remaining
9 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
10 Town of Southern Shores, North Carolina which shall remain in full force and effect.

11
12 **ARTICLE VI. Effective Date.**

13
14 This ordinance amendment shall be in full force and effect from and after the ____ day of
15 _____, 2021.

16
17
18 _____
Tom Bennett, Mayor

19 ATTEST:

20
21 _____
22 Town Clerk

23
24
25 APPROVED AS TO FORM:

26
27 _____
28 Town Attorney

29
30 Date adopted:

31
32 _____
33 Motion to adopt by Councilmember:

34
35 _____
36 Motion seconded by Councilmember:

37
38
39 Vote: ___AYES___NAYS

Wes & Cliff,

I have reviewed the proposed Temporary Health Care Structures ZTA and attached a modified version. In general, the version prepared by Code Wright was compliant. However, the modifications that were made did not make sense throughout the proposed ordinance. So, rather than pick and choose and rearrange the minor, but unnecessary complicated changes, I prepared an amendment using the statutory language as its base. That provides for little to no doubt that the ordinance amendment is compliant with the enabling authority. Additionally, I reviewed the changes suggested by the Planning Board, and the ones that made sense or matched the language of the enabling authority were included. There were four:

1. Septic Wastewater Connection Requirement – Covered by Sec. 36-168(5)(f).
2. Caregiver to be a licensed health care professional – This seems unnecessary and likely not what the Town would prefer. Generally, the rest of the provisions require the related caregiver or a legal guardian to own the property on which the structure will be located. If this provision was included, a property owned by a health care professional who was not related to or a guardian of an impaired person would be able to have a structure on their property. That seems to be more of a commercial use than what is intended by family members and guardians taking care of an impaired person on their own property. If the Town wants this situation to occur, it will take some substantial rewording, and it would not be possible to require all caregivers to be a health care professional under the enabling authority.
3. Meeting all State and Local requirements -- Covered by Sec. 36-168(5)(f).
4. Meeting Mobile Home requirements – This requirement would be beyond the enabling authority which allows only for limitations associated with accessory structures to be applicable to these structures.

Please review the ordinance amendment proposed and let me know if you have any questions.

Thanks,

-Ben

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W: <http://www.hrem.com>

Requirements for Temporary Family Health Care Structures

- Zoning requirements:
 - Yard (setback) requirements: 25 ft. front and rear, 15 ft. sides.

- Flood Requirements:
 - Must meet the Regulatory Flood Protection Elevation (RFPE).

- State Building Code.
 - Including all electrical, plumbing, and mechanical.
 - Tied down/anchored (Building Inspector suggested helical anchors, plans certified by Engineer).

- N.C.G.S 143-139.1. (Certification of manufactured buildings, structures or components by recognized independent testing laboratory; minimum standards for modular homes.):
 - Must be labeled with a North Carolina Modular Construction Validating Stamp.
 - In order to obtain the North Carolina Modular Construction Validating Stamp, must meet the NC Modular Construction Appearance Requirements:
 - Roof pitch: For homes with a single predominant roofline, the pitch of the roof shall be no less than five feet rise for every 12 feet of run.
 - Eave projection: The eave projections of the roof shall be no less than 10 inches, which may not include a gutter around the perimeter of the home, unless the roof pitch is 8/12 or greater.
 - Exterior wall: The minimum height of the exterior wall shall be at least seven feet six inches for the first story.
 - Siding and roofing materials: The materials and texture for the exterior materials shall be compatible in composition, appearance, and durability to the exterior materials commonly used in standard residential construction.