



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

Ordinance 2021-05-06

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. Chap. 160A, the Town has duly codified the Town’s Code of Ordinances (the “Town Code”); 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, 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 Code of Ordinances as stated below.

ARTICLE II. Construction.

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

ARTICLE III. Amendment of Town Code.

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 **Chapter 22 Sec. 22-3. Noises Prohibited.** be replaced in its entirety as follows:

1 **Sec. 22-3. Noises prohibited.**

2
3 The purpose of these standards is to protect citizens from excessive sound (noise), which
4 is detrimental to the health and peaceful enjoyment of property. No use shall be operated
5 or permitted to be operated in a manner that creates prohibited forms of noise or sound that
6 exceeds the maximum sound levels in this section. Except for uses and activities identified
7 in Section 22-3 (b), the standards in this Section shall apply to all uses and activities taking
8 place on lands and waters located within the corporate limits of the Town and its
9 extraterritorial jurisdiction.

10
11 (a) Definitions. The following definitions shall apply to all portions of the Town
12 Code relating to noises within the Town.

13
14 (1) A weighting scale: The sound pressure level, in decibels, as measured with
15 the sound level meter using the “A” weighted network (scale). The standard
16 unit of notation is dB(A).

17 (2) Daytime hours: 7:00 a.m. to 10:00 p.m., local time.

18 (3) Decibel (dB(A)): The decibel is a unit of measure of sound (noise) level
19 relative to a standard reference sound on a logarithmic scale.

20 (4) Emergency work: Work necessary to restore property to a safe condition
21 following a public calamity or work required to protect persons or property
22 from an imminent exposure to danger by private or public utilities when
23 restoring utility service.

24 (5) Motor vehicle: For purposes of this section, the term motor vehicle includes
25 any vehicle which is propelled or drawn on land by a motor, including but
26 not limited to motorcycles, passenger cars, trucks, truck-trailers,
27 semitrailers, campers, go-carts, amphibious craft on land, dune buggies,
28 racing vehicles, mopeds, motorized bicycles or motorized scooters or
29 skateboards.

30 (6) Nighttime hours: 10:01 p.m. to 6:59 a.m., local time.

31 (7) Noise: Any sound which annoys or disturbs humans or which causes or
32 tends to cause an adverse psychological or physiological effect on humans.

33 (8) Noise disturbance: Any sound which endangers or injures the safety or
34 health of humans or animals; a noise that disturbs a reasonable person with
35 normal sensitivities; endangers or injures personal or real property; or is
36 unreasonably loud, disturbing or excessive noise.

37 (9) Noise sensitive zone: Any area designated by the town for the purpose of
38 ensuring exceptional quiet.

39 (10) Owner of real property: The owner or listed owner, of real property as
40 defined in North Carolina General Statute 105-302.

41 (11) Person: A person, firm, association, co-partnership, joint venture,
42 corporation, or any entity, public or private in nature.

- 1 (12) Real property boundary: A line along the ground surface and its vertical
2 extension, which separates the real property owned by one person from that
3 owned by another, but not including intra-budding real property divisions.
4 (13) Right of way: Any street, avenue, boulevard, highway, sidewalk or alley
5 or similar plan which is owned or controlled by a governmental entity.
6 (14) Sound amplification devices: Any radio, tape player, compact disc player,
7 MP3 player, loud speaker, amplifier, or other device used for the
8 amplification of sound.
9 (15) Sound level (noise level) in decibels: The level measured on the A-
10 weighted scale as defined in the American National Standards S-1.4-1983.
11 (16) Sound level meter: An instrument designed for the measuring of sound
12 levels and a means of displaying the sound level using the A-weighting
13 network.
14 (17) Tenant: One who resides on or has the temporary use or occupancy of real
15 property owned by another person. In the case of residential property, the
16 term “tenant” shall be considered to mean any individual actually residing
17 at the residential location, whether such person is listed on a lease or not.
18 (18) Unreasonably loud, disturbing or excessive noise: Any sound which
19 because of its volume, level, duration or character disturbs, discomforts,
20 injures or endangers the health, peace or safety of a reasonable person with
21 normal sensitivities. For purposes of this chapter, such a sound shall
22 be deemed to be a noise disturbance.
23 (19) Zoning districts: Means land classification within the Town that regulate
24 the uses and the locations of structures. Zoning Districts are established in
25 Chapter 36 of this Code.

26
27 **(b) Exemptions.**
28

29 The standards in this section shall not apply to the following uses or activities:
30

- 31 (1) Emergency work;
32 (2) Generators for production of electricity at times when electrical service
33 has been interrupted due to natural calamity or accidental disruption.
34 Generators used for the production of electricity not exempted by this
35 chapter shall be operated in accordance with the maximum decibel
36 requirements of the zoning district where located;
37 (3) Parades, fairs, circuses, or other similar public entertainment, sporting
38 events taking place during the daytime hours in areas set aside for such
39 activities, or any activities normally associated with any of the above,
40 including use of a loud speaker or public address system;
41 (4) Musical chimes or the sounding of bells emanating from a public,
42 educational, or religious institution or facility provided the sound is of
43 reasonable duration and frequency;

- 1 (5) The intentional sounding or permitting the sounding of any fire, burglar,
2 or civil defense alarm, siren, whistle or similar stationary emergency
3 signaling device for emergency purposes or for routine testing;
- 4 (6) Any activity to the extent regulation thereof has been pre-empted by State
5 or federal law;
- 6 (7) Noise resulting from the loading and unloading, opening, closing or other
7 handling of boxes, crates, containers, building materials, or similar objects
8 between the hours of 7:00 a.m. and 10:00 p.m.; and
- 9 (8) The playing of a musical instrument between the hours of 3:00 p.m. and
10 7:00 p.m. Monday through Friday and 12:00 p.m. to 7:00 p.m. on
11 Saturdays and Sundays provided said sound does not exceed 65 dB(A) at
12 the property line of the property from which the sound emanates;
- 13 (9) Agencies of the United States government, law enforcement agencies, fire
14 departments, ocean rescue services, emergency medical services, and
15 Town refuse collection vehicles or apparatuses, engaged in their official
16 duties are exempt from the provisions of this section; and
- 17 (10) Noises and activity associated with public beach nourishment projects
18 undertaken at the Town's direction.

19
20 (c) Maximum Permitted Sound Levels

21
22 It shall be unlawful to create, cause, or allow the continuance of a noise
23 disturbance that exceeds the following maximum thresholds:

24
25 (1) Sounds Affecting Residential and Special Districts:

26
27 In the Single-Family Residential (RS-1), Multifamily (RS-8), Residential
28 (RS-10), Low Density Residential (R-1) and Ocean and Sound Waters
29 (OSW) Districts, it shall be unlawful to create, cause, or allow any
30 mechanical, amplified or sound from any source which registers more than
31 60 dB(A) during daytime hours or 55 dB(A) during nighttime hours at or
32 beyond the property line of the property from which the sound originates.

33
34 (2) Sounds Affecting Commercial and Institutional Zones:

35
36 In the Government & Institutional (G&I) and General Commercial (C)
37 Districts, it shall be unlawful to create, cause, or allow any mechanical,
38 amplified, or sound from any source which registers more than 75 dB(A)
39 during daytime hours or 65 dB(A) during nighttime hours at or beyond the
40 property line from which the sound originates.

41
42 (3) Sounds Crossing Zoning District Boundaries:

1 When the zoning classification of the property where the sound originates
2 differs from the zoning classification of the adjoining sound receiving
3 property, then the maximum permitted sound level which will apply will
4 be the higher of the two.

5
6 (4) Noise Sensitive Zones:

7
8 (a) Notwithstanding their location, healthcare facilities, places of worship,
9 educational institutions, and day care facilities are noise sensitive
10 zones and it shall be unlawful for any person to cause or allow the
11 emission of sound onto said facilities during the facilities' operating
12 hours which exceeds the noise limitations or reasonableness standards
13 for sound levels affecting residential zones established by this chapter.

14 (b) For purposes of this section, measurements shall be made at the real
15 property boundary of the noise sensitive zone facility nearest the real
16 property boundary of the property from which the noise originates.

17
18 (d) Prohibited Noise

19
20 It shall be unlawful for any person to engage in the following acts, which are
21 declared to be a prohibited noise in violation of this chapter:

- 22
23 1. The keeping of an animal which, by causing frequent or long
24 continued noise, shall disturb the quiet, comfort, or repose of the
25 immediate area to such an extent as to constitute a nuisance;
26 2. The loading, unloading, opening, closing, or other handling of boxes,
27 crates, containers, building materials, garbage cans, dumpsters of
28 similar objects between the hours of 10:00 p.m. to 7:00 a.m. the
29 following day, in such a manner as to cause a noise disturbance across
30 a residential real property boundary or within a noise sensitive zone is
31 prohibited as set forth in the maximum decibel levels set for each zone
32 at the times of day consistent with this chapter;
33
34 3. It shall be unlawful for any person to play, use, or permit to be played
35 any sound amplification device which generates a sound level
36 exceeding the decibel limits set forth in this chapter for the zoning
37 district in which it is located for any of the following:
38
39 i. Any public property including any public street, highway,
40 building, sidewalk, park, or thoroughfare; or
41 ii. Any motor vehicle on a public street, highway, public
42 space, or commercial space.
43

- 1 4. Possession by a person of any machines or devices which may be
2 classified as an electronic sound amplification system enumerated and
3 defined in this chapter shall be prima facie evidence that person or
4 those persons operated that machine or device.
5
6 5. Except as allowed in this section, noise caused by the erection
7 (including excavation), demolition, alteration, or repair of any building
8 other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays
9 and Saturdays shall be prohibited.
10
11 i. Erection, excavation, demolition, alteration, or repair of a
12 building may take place outside the hours of 7:00 a.m. and
13 8:00 p.m. on weekdays or Saturdays, only in the case of
14 urgent necessity in the interest of public health and safety,
15 subject to an emergency construction permit issued by the
16 Town Manager (or a designee).
17 ii. If the inability to erect, demolish, alter, or repair a building
18 or excavate streets and highways between the hours of 8:00
19 p.m. and 7:00 a.m. would result in loss or inconvenience to
20 any party in interest, the Town Manager (or a designee)
21 may permit such work.
22

23 (e) Obtaining Warrants
24

- 25 (a) Nothing in this section shall preclude any citizen, without the benefit
26 of noise measuring equipment or contacting a law enforcement officer,
27 from appearing before a judicial officer to obtain a warrant based on
28 this chapter.
29

30 (f) Noise Measurement Techniques
31

32 (1) Sound Level Meters
33

- 34 (a) For the purpose of determining decibels, (dB(A)'s) as referred to in
35 this chapter, noise shall be measured on the A-weighting scale on a
36 sound level meter of standard design and quality having characteristics
37 established by the American National Standards Institute.
38 (b) The sound level meter should be certified to meet or exceed the
39 American National Standards Institute or its successor bodies and shall
40 be serviced, calibrated and operated as recommended by the
41 manufacturer.
42 (c) Persons utilizing the sound level meter for purposes of this chapter
43 shall be familiar with sound level measurement and the operation of

1 sound level measurement equipment, and shall operate the sound level
2 meter in accordance with the manufacturer's instructions.

3
4 (2) Alternative Measurement Techniques

5
6 (a) In the event that the noise cannot be measured on a sound level meter
7 operated on the "A" weighting network (scale) or it is otherwise
8 impractical to utilize this measurement technique under the
9 circumstances:

- 10
11 i. The complaints of numerous persons, at least one of whom
12 resides in a different location from the other complaining
13 person or persons, when combined with the complaint of an
14 authorized investigating officer, shall be prima facie
15 evidence that the sound is unreasonably loud, disturbing, or
16 excessive noise; or
17 ii. If the noise is of such a nature that a reasonable person with
18 normal sensitivities should have known that the noise was
19 creating an unreasonably loud, disturbing or excessive
20 noise the same shall be prima facie evidence of a violation
21 of this chapter.

22
23 (b) Sound emission decibel measurements shall not be required for
24 establishment of a violation under the circumstances set out above and
25 the same shall be deemed to be a noise disturbance.

26
27 (c) In determining whether a noise, under this section, is of such character
28 as to be noise disturbance the investigating officer shall consider the
29 following non-exclusive list of factors:

- 30
31 i. Whether the noise crosses property lines;
32 ii. Complaints of neighbors regarding the noise;
33 iii. Effect on neighbors complaining of the noise;
34 iv. Time of day at which the noise takes place;
35 v. The intensity and duration of the noise;
36 vi. The type of noise produced;
37 vii. The reason or reasons for the noise; and
38 viii. The alternative means available which will not produce
39 excessive noise.

40
41 (3) Location of Measurement
42

- 1 (a) Except for noise within multi-family or multi-tenanted structures, all
2 noise measurements shall be made at or beyond the lot line of the
3 property from which the noise originates to determine if the noise
4 creates a noise disturbance. For purposes of measurement, the back of
5 the curb, the outside edges of driveways, fences, hedges or other
6 physical features commonly associated with property boundaries are
7 presumed to be at a point which is at or beyond the lot line.
8 (b) In the case of noise within multi-family or multi-tenanted structures,
9 noise measurements shall be made in the complaining unit with all
10 windows and doors closed and at a point that is approximately the
11 center of the room in the complaining unit that is nearest the unit from
12 which the noise originates. If access to the complaining unit is not
13 possible, then the measurement shall be at least 25 feet from the
14 nearest point of habitable space of the unit from which the noise
15 originates.

16
17 **ARTICLE IV. Severability.**

18
19 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are
20 hereby repealed. Should a court of competent jurisdiction declare this ordinance
21 amendment or any part thereof to be invalid, such decision shall not affect the remaining
22 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
23 Town of Southern Shores, North Carolina which shall remain in full force and effect.
24

25 **ARTICLE V. Effective Date.**

26
27 This ordinance amendment shall be in full force and effect from and after the ____ day of
28 _____, 2021.
29

30
31 _____
Tom Bennett, Mayor

32 ATTEST:

33
34 _____
35 Town Clerk
36

37
38 APPROVED AS TO FORM:

39
40 _____
41 Town Attorney
42

43 Date adopted:

1
2
3
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6
7
8
9
10

Motion to adopt by Councilmember:

Motion seconded by Councilmember:

Vote: ___AYES___NAYS