

AN ORDINANCE AMENDING SECTION 36 OF THE ZONING ORDINANCE
FOR THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA
REGARDING MINIMIZING OF TREE CLEAR CUTTING

Ordinance No. 36-

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

WHEREAS, the following approved Land Use Plan goals were formulated through input from the public involvement process, and from the Town Staff, the Planning Board and Town Council:

1. To protect, enhance and support land uses that are compatible with surrounding land uses and maintain the existing community character of Southern Shores.
2. Preserve, protect, enhance, maintain and improve the natural environment and water quality within and near Southern Shores.

WHEREAS, within the Land Use Plan, Chapter IV, Plan for the Future:

A. Land Use and Development Goals, B. Land Use and Development Policies, **Policy 2, Action Item 2-b:** *The Town shall encourage the use of low impact development techniques and sound environmental preservation practices for all new development, remodeling and redevelopment within Southern Shores.*

WHEREAS, within the Land Use Plan, Policy and Action Items are included:

Policy 26 Promote open space, tree protection, and natural vegetation diversity.

Action Item 26-b Encourage lot preparation methods that preserve natural vegetation and minimize clear cutting.

Action Item 17-b Continue enforcement of the Lot Disturbance provisions of the Town's Zoning Ordinance, and

Policy #28c states:

Create landscaping provisions in Town ordinances to create vegetative buffers to assist in improvements of water quality; and

WHEREAS, the regulation of tree preservation, protection, and minimization of tree clear cutting is reasonable and consistent with the approved Land Use Plan;

NOW THEREFORE BE IT ORDAINED by the Town Council for the Town of Southern Shores, North Carolina that an Ordinance shall be established as follows:

PART I.

TREE CLEAR CUTTING.

(A) Purpose.

(1) The purpose of this section is to preserve and protect trees by minimizing tree clear cutting within all zoning districts of the Town because such trees:

- (a) Protect and enhance property values;
- (b) Preserve and enhance the Town's physical and aesthetic environment, especially its natural and unique atmosphere;
- (c) Protect and enhance the quality of life and the general welfare of the Town;
- (d) Improve the compatibility of uses by providing privacy and enhancing the aesthetic transition between uses;
- (e) Are an important public resource;
- (f) Provide a buffer and screen against noise pollution;
- (g) Reduce energy consumption by acting as a wind break and producing shade;
- (h) Reduce storm water runoff and topsoil erosion by the holding effect of their roots;
- (i) Enhance the air quality by filtering air pollutants;
- (j) Preserve and enhance nesting areas for birds and other wildlife which, in turn, assist in the control of insects.

(2) For the purpose of this section, tree is defined as a self-supporting, woody plant, together with its root system, having a well-defined stem or trunk or a multistemmed trunk system, a more or less well-defined crown, and a mature height of at least 8 feet. "Tree" does not include trees in containers or nursery stock trees kept or maintained for resale.

(B) Clear cutting. On a vacant, undeveloped parcel, removal of any tree greater than 5 inches in diameter, measured at 4.5 feet above the ground, is prohibited except after receiving an approved tree removal permit.

(C) Tree removal permit.

(1) Permit required. No person shall remove or destroy any tree which is 5 inches or greater in diameter, measured at 4.5 feet above the ground, on any lot without first obtaining a tree removal permit from the Town Planner/Code Enforcement Officer in accordance with the procedures set forth in this section. Further, no person shall remove or destroy any tree located in the common open space of any development without first obtaining a tree removal permit.

(2) Issuance of permit. Tree removal permits shall be issued only after the Town Planner/Code Enforcement Officer has received a completed application for such permit which has been signed by the property owner. In determining whether to grant or deny a permit, the Town Planner/Code Enforcement Officer shall consider:

(a) The extent to which the Town's Land Use policy for maintaining the existing community appearance and form will be degraded. Specifically, the effect of tree removal on the natural, aesthetic, community appearance and form, and residential environment within and near Southern Shores;

(b) The consistency of the proposed action with the purpose of this section;

(c) The intended use of the property and feasible alternatives which would preserve existing trees;

(d) The impact of such action on surrounding property or persons;

(e) The existing topography, proposed changes in the topography and proposed landscaping;

(f) Good horticultural and forestry practices;

(3) A permit shall expire and become null and void:

(a) If work authorized is not commenced within 6 months from the date of the permit or if such work when commenced is suspended or abandoned at any time for a period of six (6) months;

(b) If work has commenced and the permit becomes null and void or expires because of lack of progress or abandonment, a new permit for the proposed tree removal activity shall be obtained before proceeding with further work.

(4) Removal of any size tree where the tree trunk is within ten (10) feet of a house shall be allowed without a permit.

(D) Tree emergency exception.

(1) A tree emergency shall be deemed to exist when:

(a) A tree has become an imminent danger or hazard to persons or property as a result of fire, motor vehicle accident, or natural occurrence such as lightning, windstorm, ice storm, flood, or other similar event; or

(b) A tree must be removed in order to perform emergency repair or replacement of public or private water, sewer, electric, gas, or telecommunications utilities.

(2) In the case of a tree emergency, the Town Planner/Code Enforcement Officer is hereby authorized to:

(a) Issue a tree removal permit without an application;

(b) Waive the requirement for a tree removal permit set forth in this section; or

(c) Waive any of the other regulations of this section.

(3) Notwithstanding any other regulations, a person otherwise required to obtain a tree removal permit may take any reasonable action necessary to avoid or eliminate the immediate danger or hazard, or conduct emergency repair or replacement of the public or private utility. The person taking such action shall file an application for a tree removal permit within seventy-two (72) hours after a tree is removed in a tree emergency.

(E) The provisions of this section shall not apply to:

(a) Work conducted on federal, state, or local government owned property. As provided in the Town's Approved Land Use Plan, residents may use the Plan when speaking in favor of or against a proposed action or policy.

(F) Violations and penalties.

(1) It shall be an offense for any person to remove a tree without having first obtained a tree permit, if so required under the provisions of this section. It shall be an offense for a property owner to employ, authorize or direct any third person or entity to remove a tree without having first obtained a tree permit, if so required under the provisions of this section.

(2) A separate offense shall be deemed to have been committed for each tree removed without a tree removal permit in violation of the provisions of this section.

(3) Each offense under this section shall be punishable as prescribed in Town ordinances.

PART II. This ordinance shall be effective upon its adoption.

Mayor

ATTEST:

Town Clerk
Date adopted: