

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

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 during lot disturbance 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 during lot disturbance within all Town zoning districts 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. Clear cutting is defined as the removal of all or most trees within the lot, including setback areas.

(B) Clear cutting.

(1) When a lot is to be disturbed, land disturbance shall be limited to the area necessary to provide for the desired use or development. Trees in the setback areas may be removed if necessary for ingress and egress to the lot. Trees may be removed for the construction of buildings, driveways, and any other lot work authorized by the Town Planner/Code Enforcement Officer. For trees greater than 6 inches in diameter, measured at 4.5 feet above the ground, the Site Plan and Survey of the proposed improvements required by the Town's Lot Disturbance – Stormwater Management Permit Application and Requirements will depict those trees to be removed and those trees to be preserved. Before lot disturbance, all trees requiring preservation will be clearly marked by the Owner or Contractor. Except as authorized above, removal of any tree greater than 6 inches in diameter, measured at 4.5 feet above the ground, is prohibited during lot disturbance.

(C) Maintenance.

(1) After the lot disturbance period, preserved trees shall be maintained in a healthful and sound condition as a continuing condition of the site plan approval and a condition of compliance therewith and occupancy thereof. However, after the lot disturbance period, trees may be removed for any other lot work authorized by the Town Planner/Code Enforcement Officer.

(D) Exceptions.

(1) In determining whether to grant or deny a request for exceptions to these requirements, the Town Planner/Code Enforcement Officer shall consider:

- (a) The extent to which the Town's Land Use Plan's 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;
- (E) 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) Waive the requirements set forth in this section;
 - (3) Notwithstanding any other regulations, a person may take any reasonable action necessary to avoid or eliminate an immediate danger or hazard, or conduct emergency repair or replacement of the public or private utility. The person taking such action shall inform the Town Planner/Code Enforcement Officer within seventy-two (72) hours after a tree is removed in a tree emergency.
- (F) Violations and penalties.
 - (1) It shall be an offense for any person to remove a tree in violation of 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 in violation of the provisions of this section.
 - (2) A separate offense shall be deemed to have been committed for each tree removed in violation of the provisions of this section.
 - (3) When a tree is removed in violation of this ordinance, a warning citation will be issued to the offender giving 30 days to abate the violation. A replacement tree shall be required to abate the violation. The size, species and quantity of a replacement shall be determined by the Town Planner/Code Enforcement Officer. If the violation is not abated, the Town will assess \$500 each day the violation continues to exist.

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

Mayor

ATTEST:

Town Clerk
Date adopted: