



Town of Southern Shores

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ORDINANCE #2019-09-01

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7
8 AN ORDINANCE AMENDING THE CODE OF ORDINANCES
9 OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA
10

11 **ARTICLE I. Purpose(s) and Authority.**
12

13 **WHEREAS**, pursuant to N.C.G.S. § 160A-381, the Town of Southern Shores
14 (the “Town”) may enact and amend ordinances regulating the zoning and development of
15 land within its jurisdiction and specifically the density of population and the location and
16 use of buildings, structures and land. Pursuant to this authority and the additional
17 authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted a
18 comprehensive zoning ordinance (the “Town’s Zoning Ordinance”) and has codified the
19 same as Chapter 36 of the Town’s Code of Ordinances (the “Town Code”); and
20

21 **WHEREAS**, pursuant to N.C.G.S. § 160A-371 et seq. the Town may enact and
22 amend ordinances regulating the subdivision of land within its territorial jurisdiction; and
23

24 **WHEREAS**, prior to the incorporation of the Town, many lots were created
25 within its jurisdiction that have become nonconforming due to their lack of sufficient lot
26 width and area. Over time the character and density of the Town have been developed
27 such that many of these smaller nonconforming lots were built upon as if they were
28 combined with one another. In recent years, the Town has seen a trend towards
29 redevelopment of such informally combined parcels to the ends of breaking them back
30 into the smaller nonconforming lots and building dwellings upon the nonconforming lots.
31 Such redevelopment is inconsistent with the low density character of the Town; and
32

33 **WHEREAS**, the Town desires to manage the development of the Town in a
34 manner which maintains the low density character of the Town and requires formal
35 recombination of lots to current Town standards toward a goal of reducing the existence
36 of nonconforming lots. Similarly, the Town desires to allow for existing nonconforming
37 lots that are not otherwise adjacent to lots owned by the same person or entity to be
38 developed rather than vacant and unusable. The Town further desires that a
39 nonconforming lot which is adjacent to two or less nonconforming lots under the same
40 ownership that contain a single-family dwelling be developable and able to be sold
41 without requiring additional recombination; and
42

43 **WHEREAS**, the Town further desires that a nonconforming lot which is adjacent
44 to a single conforming lot containing a single-family dwelling which was created after

1 January 1, 2015 due to a recombination of two nonconforming lots under the same
2 ownership be developable and able to be sold without requiring additional recombination
3

4 **WHEREAS**, the Town further finds that in accordance with the findings above it
5 is in the interest of and not contrary to the public's health, safety, morals and general
6 welfare for the Town to amend the Town's Zoning Ordinance and Town Code of
7 Ordinances as stated below.
8

9 **ARTICLE II. Construction.**

10
11 For purposes of this ordinance amendment, underlined words (underline) shall be
12 considered as additions to existing Town Code language and strikethrough words
13 (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the
14 adopted Town Code which are not repeated herein, but are instead replaced by an ellipses
15 ("...") shall remain as they currently exist within the Town Code.
16

17 **ARTICLE III. Amendment of Zoning Ordinance.**

18
19 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern
20 Shores, North Carolina, that the Town Code shall be amended as follows:
21

22 **PART I.** That subsection (a) of **Sec. 36-132 Regulation of structures and uses** be
23 replaced in its entirety with the following:
24

25 (a) *Nonconforming lots of record.*

26
27 (1) *Development and Sale of Certain Nonconforming Lots without*
28 *Recombination*: In any district in which single-family dwellings are permitted, a
29 single-family dwelling and customary accessory building may be erected on any
30 currently nonconforming single lot ~~not~~ under the same ownership as any adjacent
31 ~~lot and~~ which met all legal requirements at the time of its creation and recording
32 in the Dare County public registry if:
33

34 (i) the lot is not under the same ownership as any adjacent lot;

35
36 (ii) the lot meets or exceeds the lot area requirements for the district and is
37 located adjacent to a single conforming lot under the same ownership on
38 which is located an existing single-family dwelling;
39

40 (iii) the lot is one of three or less adjacent nonconforming lots under the
41 ownership of related siblings on September 6, 2019; or
42

43 (iv) the lot is located adjacent to land under the same ownership on which is
44 located an existing single-family dwelling, and the adjacent land is made
45 up of:
46

- 1 a. no more than two lots all of which are nonconforming; or
2
3 b. a single conforming lot not adjacent to any other land under the same
4 ownership that was created after January 1, 2015 due to a
5 recombination of two (2) previously nonconforming lots.
6
7

8 If a currently nonconforming single lot meets the requirements of subsection
9 (a)(1)(i), (ii), (ii) or (iv) then the lot may be sold without being recombined with
10 the remaining land if recombination would have been required by subsection
11 (a)(2) below. All applicable dimensional requirements other than lot area and lot
12 width shall be met for development or redevelopment of such a lot except that a
13 lot having a lot width of fifty (50) feet or less may use a side yard setback of
14 twelve (12) feet.
15

16 (2) *Recombination Required:* If any of the following situations apply, all adjacent
17 lots under the same ownership shall be recombined into: (i) a single lot which
18 may or may not meet the minimum requirements for the district in which such lots
19 are located; or (ii) multiple lots which all meet the minimum requirements for the
20 district in which such lots are located:
21

22 a. Development is proposed upon land ~~under the same ownership~~ which
23 includes one or more nonconforming lots adjacent to one or more other
24 lots under the same ownership;
25

26 b. Demolition or redevelopment exceeding 50% of an existing structure's
27 value is proposed and any portion of the existing structure or associated
28 use is currently or has been within the previous seven (7) years located
29 upon or occurring on two or more lots under the same ownership, as
30 measured from the time of application;
31

32 c. Development is proposed of a new structure or use to be located on two
33 or more lots under the same ownership;
34

35 d. Prior to the sale or transfer of land when any portion of the land being
36 sold or transferred was a parcel or part of a parcel of land upon which an
37 existing structure or associated use is currently or has been within the
38 previous seven (7) years located upon or occurring on two or more lots
39 under the same ownership, as measured from the time of application; or
40

41 e. Prior to the sale or transfer of land including a nonconforming lot or lots
42 adjacent to one or more other lots under the same ownership;
43

44 A plat prepared by a North Carolina licensed surveyor showing the recombination
45 shall be recorded in the Dare County public registry, and a copy of the
46 recorded plat shall be provided to the Town prior to the issuance of a zoning or

1 building permit for development or redevelopment upon any of the newly created
2 lots. Lots created by a recombination required by this section shall be deemed to
3 equal or exceed the standards of the Town under Chapter 30, and are exempt from
4 the subdivision process under Chapter 30.

5
6 (3) For purposes of this subsection (a), the term “same ownership” shall be
7 construed broadly to effectuate the reduction of nonconforming lots within the
8 Town. Land and lots under the same ownership shall include, but not be limited
9 to, any of the following or any combination of the following:

10
11 a. A lot is owned, in whole or in part, by an individual and another lot is
12 owned by the same individual or by an Affiliate of the same individual;
13 and/or,

14
15 b. A lot is owned, in whole or in part, by a legal entity and another lot is
16 owned by the same legal entity or by an Affiliate of the same legal entity.

17
18 (4) For purposes of this subsection (a), the following definitions apply:

19
20 a. An “Affiliate” of an owner shall mean:

21
22 (i) In the case of an individual owner, a family member of the
23 owner, or a legal entity controlled by the owner or a family
24 member of the owner.

25
26 (ii) In the case of a legal entity owner, an individual who controls
27 the legal entity or their family member, ~~or~~ another legal entity
28 controlled by the owner or controlled by a family member of any
29 individual who controls the owner.

30
31 b. “Controlled” or “controls” shall mean the power, by ownership,
32 operation of law or contract, whether exercised or not, directly or
33 indirectly, actually or effectively, to operate, supervise, or manage a legal
34 entity, or to appoint or elect the management of the legal entity, or to
35 otherwise direct the operation, supervision or management of the legal
36 entity.

37
38 c. “Family member” of an owner shall mean the owner’s spouse, lineal
39 descendants, siblings and parents whether related by blood or marriage.

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

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

3
4 **ARTICLE V. Severability.**

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6 All Town ordinances or parts of ordinances in conflict with this ordinance amendment
7 are 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 _____, 2019.

16
17
18 _____, Mayor
19

20
21 ATTEST:

22
23
24 _____
25 Town Clerk
26

27
28 APPROVED AS TO FORM:

29
30
31 _____
32 Town Attorney
33

34 Date adopted:

35
36 _____
37 Motion to adopt by Councilmember:

38 _____
39 Motion seconded by Councilmember:
40
41
42

43
Vote: ___AYES___NAYS