



**Town of Southern Shores**

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ZTA-18-09

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. § 160A-381, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the density of population and the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, 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**, pursuant to N.C.G.S. § 160A-371 et seq. the Town may enact and amend ordinances regulating the subdivision of land within its territorial jurisdiction; and

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

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

**WHEREAS**, the Town further desires that a nonconforming lot which is adjacent to a single conforming lot containing a single-family dwelling which was created after January 1, 2015 due to a recombination of two nonconforming lots under the same ownership be developable and able to be sold without requiring additional recombination

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

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7       **ARTICLE II. Construction.**

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

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

16  
17 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern  
18 Shores, North Carolina, that the Town Code shall be amended as follows:

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

22  
23       (a) *Nonconforming lots of record.*

24  
25               (1) *Development and Sale of Certain Nonconforming Lots without Recombination:*  
26               In any district in which single-family dwellings are permitted, a single-family  
27               dwelling and customary accessory building may be erected on any currently  
28               nonconforming single lot ~~not under the same ownership as any adjacent lot and~~  
29               which met all legal requirements at the time of its creation and recording in the  
30               Dare County public registry if:

- 31  
32               (i)       the lot is not under the same ownership as any adjacent lot; or  
33  
34               (ii)       the lot is located adjacent to land under the same ownership on which is  
35               located an existing single-family dwelling, and the adjacent land is made up  
36               of:  
37  
38                   a.   no more than two lots all of which are nonconforming; or  
39  
40                   b.   a single conforming lot that was created after January 1, 2015 due to a  
41                   recombination of two (2) previously nonconforming lots.  
42

43               If a currently nonconforming single lot meets the requirements of subsection  
44               (a)(1)(i) or (ii) then the lot may be sold without being recombined with the  
45               remaining land if required by subsection (a)(2) below. All applicable dimensional  
46               requirements other than lot area and lot width shall be met for development or

1 redevelopment of such a lot except that a lot having a lot width of fifty (50) feet or  
2 less may use a side yard setback of twelve (12) feet.

3  
4 (2) Recombination Required: If any of the following situations apply, all adjacent  
5 lots under the same ownership shall be recombined into: (i) a single lot which may  
6 or may not meet the minimum requirements for the district in which such lots are  
7 located; or (ii) multiple lots which all meet the minimum requirements for the  
8 district in which such lots are located:

9  
10 a. Development is proposed upon land ~~under the same ownership~~ which  
11 includes one or more nonconforming lots adjacent to one or more other lots  
12 under the same ownership;

13  
14 b. Demolition or redevelopment exceeding 50% of an existing structure's  
15 value is proposed and any portion of the existing structure or associated use  
16 is currently or has been within the previous seven (7) years located upon or  
17 occurring on two or more lots under the same ownership, as measured from  
18 the time of application;

19  
20 c. Development is proposed of a new structure or use to be located on two  
21 or more lots under the same ownership;

22  
23 d. Prior to the sale or transfer of land when any portion of the land being  
24 sold or transferred was a parcel or part of a parcel of land upon which an  
25 existing structure or associated use is currently or has been within the  
26 previous seven (7) years located upon or occurring on two or more lots  
27 under the same ownership, as measured from the time of application; or

28  
29 e. Prior to the sale or transfer of land including a nonconforming lot or lots  
30 adjacent to one or more other lots under the same ownership;

31  
32 A plat prepared by a North Carolina licensed surveyor showing the recombination  
33 shall be shall be recorded in the Dare County public registry, and a copy of the  
34 recorded plat shall be provided to the Town prior to the issuance of a zoning or  
35 building permit for development or redevelopment upon any of the newly created  
36 lots. Lots created by a recombination required by this section shall be deemed to  
37 equal or exceed the standards of the Town under Chapter 30, and are exempt from  
38 the subdivision process under Chapter 30.

39  
40 (3) For purposes of this subsection (a), the term "same ownership" shall be  
41 construed broadly to effectuate the reduction of nonconforming lots within the  
42 Town. Land and lots under the same ownership shall include, but not be limited to,  
43 any of the following or any combination of the following:

44  
45 a. A lot is owned, in whole or in part, by an individual and another lot is  
46 owned by the same individual or by an Affiliate of the same individual;

1 and/or,  
2

3 b. A lot is owned, in whole or in part, by a legal entity and another lot is  
4 owned by the same legal entity or by an Affiliate of the same legal entity.  
5

6 (4) For purposes of this subsection (a), the following definitions apply:  
7

8 a. An “Affiliate” of an owner shall mean:  
9

10 (i) In the case of an individual owner, a family member of the owner,  
11 or a legal entity controlled by the owner or a family member of the  
12 owner.  
13

14 (ii) In the case of a legal entity owner, an individual who controls  
15 the legal entity or their family member, ~~or~~ another legal entity  
16 controlled by the owner or controlled by a family member of any  
17 individual who controls the owner.  
18

19 b. “Controlled” or “controls” shall mean the power, by ownership, operation  
20 of law or contract, whether exercised or not, directly or indirectly, actually  
21 or effectively, to operate, supervise, or manage a legal entity, or to appoint  
22 or elect the management of the legal entity, or to otherwise direct the  
23 operation, supervision or management of the legal entity.  
24

25 c. “Family member” of an owner shall mean the owner’s spouse, lineal  
26 descendants, siblings and parents whether related by blood or marriage.  
27

28 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**  
29 **Reasonableness.**  
30

31 The Town’s adoption of this ordinance amendment is consistent with the Town’s adopted  
32 comprehensive zoning ordinance, land use plan and any other officially adopted plan that  
33 is applicable. For all of the above-stated reasons and any additional reasons supporting the  
34 Town’s adoption of this ordinance amendment, the Town considers the adoption of this  
35 ordinance amendment to be reasonable and in the public interest.  
36

37 **ARTICLE V. Severability.**  
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39 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are  
40 hereby repealed. Should a court of competent jurisdiction declare this ordinance  
41 amendment or any part thereof to be invalid, such decision shall not affect the remaining  
42 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the  
43 Town of Southern Shores, North Carolina which shall remain in full force and effect.  
44

45 **ARTICLE VI. Effective Date.**  
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1 This ordinance amendment shall be in full force and effect from and after the \_\_\_\_ day of  
2 \_\_\_\_\_, 2019.

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\_\_\_\_\_, Mayor

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7

8 ATTEST:

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\_\_\_\_\_  
Town Clerk

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15 APPROVED AS TO FORM:

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\_\_\_\_\_  
Town Attorney

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21 Date adopted:

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\_\_\_\_\_  
Motion to adopt by Councilmember:

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\_\_\_\_\_  
Motion seconded by Councilmember:

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Vote: \_\_\_AYES\_\_\_NAYS