

# ARTICLE 1. GENERAL PROVISIONS

## **§1.1. Title**

This UDO shall be known and may be cited as the “Lincoln County Unified Development Ordinance”, and may be referred to as “this UDO”.

## **§1.2. Authority and Enactment**

The Board of Commissioners, pursuant to the authority conferred by the General Assembly of the State of North Carolina in G.S. § 160D, does hereby ordain and enact into laws these articles and sections.

## **§1.3. Purpose**

### **§1.3.1. General**

For the purpose of promoting the health, safety, morals, and general welfare, this UDO is adopted by the governing body to regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other recreation and open spaces; the density of population; and the location, general design, appearance and use of buildings, structures and land for trade, industry, residence, or other purposes.

### **§1.3.2. Zoning**

The zoning regulations in this UDO are in accordance with a comprehensive plan and are designed to lessen congestion in the roads; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to preserve and improve the character of development in the County and its neighborhoods; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its areas and their peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction.

### **§1.3.3. Subdivision**

The purpose of this UDO is also to provide for the orderly development of the County and its environs through the regulation of the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for the future development of the County; to ensure the provision of adequate facilities for transportation, water, sewerage, and other public facilities in subdivisions; to ensure the proper legal description, monumentation, and recording of subdivided land; and to promote the public health, safety, and general welfare of the County.

## **§1.4. Right-to-Farm and Ranch Policy**

In addition to the purposes set out in §1.3, Lincoln County has established, by ordinance, a “Right-to-Farm and Ranch” policy which is summarized in this section.

## Subdivision

- A. Any agricultural operation or practice that is historical, traditional, legitimate, and reasonable shall be protected. Any new or expanded agricultural operation or practice that is legitimate and reasonable shall be encouraged.
- B. Agriculture, as a way of life, benefits all residents of Lincoln County. It is an important part of the economy and adds intrinsic value to life in Lincoln County. Agriculture, as a business, brings with it noise, odors, dust, mud, smoke and other inconveniences, such as equipment and livestock on public roads, odors from manure and feeds, odors from chemical applications, lights and noises at all hours of the day and night, and on-farm processing and marketing of crops and livestock. To maintain this way of life, Lincoln County intends to protect agricultural operators from unnecessary, intrusive litigation. Therefore, no inconvenience shall be considered a nuisance so long as it occurs as a part of non-negligent and legal agricultural practice, as stated in G.S. § 106-735 through 106-744, Agricultural Development and Preservation of Farmland, and Chapter 160D.

**§1.5. Effective Date**

This UDO was adopted on November 17, 2008 and revised on August 17, 2009, becoming effective August 31, 2009.

**§1.6. Jurisdiction**

This UDO shall be effective everywhere throughout the County outside corporate municipalities and except for any areas that lie within the extraterritorial planning jurisdiction now or hereafter established by any such municipality. No building shall be erected or structurally altered nor shall any land development activity take place, unless it conforms to the provisions of this UDO. Uses of property shall be limited by the provisions of this UDO.

**§1.7. Severability**

This UDO and various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this UDO shall not be affected thereby.

**§1.8. Conditions, Limitations and Representatives**

Whenever any condition or limitation is included in an order authorizing a special use permit, variance, certificate of occupancy, or site plan approval or is offered by an applicant in an application or public hearing for such permit or approval, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this UDO or the requirements of some provisions hereof, and to protect the public health, safety, and welfare, and that the officer or body would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful. Any and all representations made by the applicant to the County on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the County.

**§1.9. Repeal of Conflicting Ordinance**

All County ordinances or parts of ordinances which are in conflict or inconsistent with this UDO are repealed and superseded to the extent necessary to give this UDO full force and effect.

**§1.10. Director**

The Director, or his/her designee, is appointed to serve as administrator of this UDO. (For more information, see §8.6)

**§1.11. Application of Regulations**

The regulations set forth in this UDO shall affect all land, every structure, and every use of land or structure, and shall apply as follows:

**§1.11.1. Compliance Required**

No structure or land shall hereafter be used or occupied, and no structure or part thereof shall be erected, moved onto, or structurally altered, except in compliance with the regulations of this UDO, for the district in which it is located.

**§1.11.2. Zoning Permit Required**

No building, sign, or structure or any part thereof shall be erected, structurally altered or moved or changed in use until a Zoning Permit has been issued by the Director as set forth in §9.9.

**§1.12. Interpretation of Regulations**

The regulations in this UDO shall be enforced and interpreted according to the following rules:

**§1.12.1. Minimum Requirements**

Regulations set forth by this UDO shall be minimum regulations. If the requirements set forth in this UDO are at variance with the requirements of any other lawfully adopted uses, regulations, or ordinances, the more restrictive or higher standard shall govern.

**§1.12.2. Restrictive Covenants**

Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this UDO, nothing contained within this UDO shall be construed to render such covenants inoperative.

**§1.13. Compliance with Plans****§1.13.1. Approved Plans**

Permits or certificates issued on the basis of plans and applications shall authorize only the use, arrangement, and construction as set forth in such approved plans and applications and no other use, arrangement, or construction.

**§1.13.2. Adopted Plans and Policies**

All proposed subdivisions shall be placed and designed in a manner consistent with the adopted plans and policies of the County.

## **§1.14. Transitional Provisions**

### **§1.14.1. Conforming Uses and Structures**

- A.** Any use or structure existing prior to the effective date of this UDO that conforms to the regulations of this UDO for permitted uses, and satisfies the dimensional requirements and any other applicable regulations of the district in which it is located, may be continued, provided any use, structural, or other changes shall comply with the provisions of this UDO.
- B.** Any use or structure existing prior to the effective date of this UDO that would be permitted by this UDO as a special use in the district in which it is located, may be continued as if a special use permit had been issued, provided that any use, structural, or other changes shall comply with the provisions of this UDO.

### **§1.14.2. Effect of Amendment**

If subsequent amendments to this UDO or the Zoning Map result in the creation of additional nonconformities or conformities, such nonconformities or conformities shall be governed by the provisions of this UDO, unless otherwise stated in the amendment.

### **§1.14.3. Applications and Prior Approvals**

#### **A. Projects under Construction Prior to Effective Date**

- 1.** Any building or development for which a permit was issued before the effective date of this UDO may be completed in conformance with the issued permit and other applicable permits and conditions, even if such building or development does not fully comply with provisions of this UDO.

2. Nothing in this UDO shall require a change to a phasing plan approved prior to the effective date of this UDO, provided construction is consistent with the terms and conditions of the phasing plan and proceeds to completion in a timely manner. The applicant shall ensure that a period of no more than two years without an active building permit occurs in order to continue a project under a previous phasing plan.
3. If construction is not completed according to the applicable permit terms, the Board of Commissioners may, for good cause shown, grant an extension of up to one year for such construction. If the building is not completed within the time allowed under the original permit or any extension granted, then the building may be constructed, completed or occupied only in compliance with this UDO.

**B. Applications Submitted Prior to Effective Date**

1. Any complete application submitted before the effective date of this UDO may be completed in conformance with applicable permits and conditions of the regulations in effect at the time of submission of the application, even if such application does not fully comply with provisions of this UDO.
2. If construction is not commenced or completed according to the applicable terms of the application, the Board of Commissioners may, for good cause shown, grant an extension of up to one year for such construction. If the building is not completed within the time allowed under the original application or any extension granted, then the building may be constructed, completed or occupied only in compliance with this UDO.

**C. Prior Approvals**

Where a planned development, conditional zoning district, or special use was approved prior to the effective date of this UDO, the provisions of this UDO shall apply to the extent that they do not conflict with the original conditions of approval.

## District Conversion

**§1.14.4. District Conversion**

The zoning district names in effect prior to the effective date of this UDO are converted as shown below.

Previous District		New District	
General Districts			
R-R	Rural Residential	R-R	Rural Residential
R-T	Transitional Residential	R-T	Transitional Residential
R-S	Residential Suburban	R-S	Residential Suburban
R-SF	Residential Single-Family	R-SF	Residential Single-Family
R-CR	Residential and Commercial Recreational	R-CR	Residential and Commercial Recreational
R-20	Single-Family-20	R-20	Single-Family-20
R-14	Single-Family-14	R-14	Single-Family-14
RL-ZO	Zero Lot Line	R-MR	Mixed Residential
R-MF	Multi-family Residential	R-MF	Multi-Family Residential
--	NEW	O-R	Office Residential
B-N	Neighborhood Business	B-N	Neighborhood Business
B-G	General Business	B-G	General Business
--	NEW	B-C	Corporate Business
I-L	Industrial Light	I-L	Industrial Light
I-G	Industrial General	I-G	Industrial General
PD-R	Planned Development-Residential	PD-R	Planned Development-Residential
--	NEW	PD-C	Planned Development-Commercial
PD-I	Planned Development-Industrial	PD-I	Planned Development-Industrial
PD-O and PD-MU	Planned Development-Office Planned Development-Mixed Use	PD-MU	Planned Development-Mixed Use
Overlay Districts			
DH	DH Corridor Highway Overlay District	--	DELETED
WS	Water Supply Watershed Protection Overlay	-WPO	Water Supply Watershed Protection Overlay
HO	Historic Overlay	-HO	Historic Overlay
AO	Airport Overlay	-AO	Airport Overlay
--	NEW	-LCCO	Little Creek Cove Overlay

**Commentary:** The table above translates existing zoning districts to the new zoning districts in this UDO.

**§1.15. Graphics and Illustrations**

Where graphics or illustrations included in this UDO conflict with the text of the regulations, the text shall control.