

ARTICLE 1. GENERAL PROVISIONS

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Town of Garner Unified Development Ordinance (UDO)**1.1. Short title.**

This ordinance shall be known as the Garner Unified Development Ordinance or UDO.

1.2. Purpose and authority.

- A. This UDO is intended to protect the health, safety, and general welfare of existing and future residents of the Town by:
1. Providing for adequate light, air and open space;
 2. Preventing the overcrowding of land, avoid undue concentrations of population and lessen street congestion;
 3. Facilitating creation of a convenient, attractive; and harmonious community;
 4. Protecting and preserve scenic, historic; or ecologically sensitive areas;
 5. Regulating population density and distribution of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, agriculture, forestry, conservation, airports and approaches thereto, water supply, sanitation, protection against floods, public activities; and other purposes;
 6. Facilitating economic growth and business development;
 7. Facilitating the adequate provision or availability of transportation, police and fire protection, water, sewage disposal, parks and other recreational facilities, affordable housing, disaster evacuation and other public services;
 8. Securing safety from fire, flood and other dangers; and
 9. Furthering the public welfare in any other way specified by the Town Council.
- B. This UDO is adopted pursuant to the authority granted in Article 19 of Chapter 160A of the North Carolina General Statutes.
- C. Whenever a North Carolina General Statute section cited or referenced by any of these ordinance provisions is later amended or superseded, the ordinance provision shall be deemed to refer to the amended section or the section that most closely corresponds to the superseded section.

(Ord. No. 3558, § 2, 7-7-09)

1.3. Jurisdiction.

This UDO shall apply to all land within Town of Garner and its planning jurisdiction. All structures and land uses constructed or commenced after the effective date of this UDO and all enlargements of, additions to, changes in and relocations of existing structures and uses occurring after the effective date of this UDO shall be subject to this UDO. This UDO shall be effective throughout the Town's planning jurisdiction. The Town's planning jurisdiction comprises the entire area within the boundary described in Appendix A.

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1.4. Minimum requirements.

In their interpretation and application, the provisions of this UDO shall be held to be minimum requirements adopted for the promotion of public health, safety and general welfare. Whenever the requirements of this UDO are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the requirement that is most restrictive or that imposes higher standards as determined by the Planning Director shall govern.

1.5. Conflicting provisions.

- A. Where there is a conflict or apparent conflict between provisions of this UDO, the more restrictive provision shall control.
- B. Where it is possible to implement, administer or construe a particular provision in more than one way, it shall be implemented, administered or construed in the way that eliminates or minimizes conflicts with other provisions of this UDO.
- C. Whenever this UDO imposes a more restrictive standard than required by any other Town ordinances or requirements, the provisions of this UDO shall govern. Conversely, whenever any Town ordinance or requirement imposes a stricter standard than required by this UDO, the provisions of such Town ordinance or requirement shall govern.

1.6. Relationship to land use plan.

It is the intention of the Town Council that this UDO implement the planning policies adopted by the Council for the Town and its extraterritorial planning area, as reflected in the Comprehensive Growth Plan and other planning documents.

(Ord. No. 3558, § 2, 7-7-09)

1.7. Conformity with article provisions.

- A. Subject to Article 9, Nonconformities, no person may use, occupy, or sell any land or buildings, or authorize or permit the use, occupancy under their control, except in accordance with all of the applicable provisions of this UDO.

Commentary: It is not the intent of this provision to regulate private land sales transactions where no development or subdivision occurs.

- B. For purposes of this section, the "use" or "occupation" of a building or land relates to anything and everything that is done to, on, or in that building or land.

1.8. Effective date.

This UDO was originally adopted and became effective on October 1, 2003.

1.9. Severability.

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses and phrases of this UDO are severable.

(Ord. No. 3558, § 2, 7-7-09)

1.10. Relationship to existing ordinances.

To the extent that provisions of this UDO are the same in substance as provisions they replace in previous Town ordinances, they shall be considered as continuations thereof and not as new enactments. In particular, a situation that was not a lawful, nonconforming situation under the previous zoning ordinance does not achieve lawful nonconforming status merely by enactment of this UDO.

1.11. Transitional provisions.

Commentary: The following sections describe the rules that apply to projects in various stages of planning and development at the time of the adoption of this new UDO.

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 adoption 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 developer 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 Town Council may, for good cause shown, grant an extension of up to one year for such construction.

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 Town Council may, for good cause shown, grant an extension of up to one year for such construction.

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C. **District conversion.** The zoning district names in effect prior to the effective date of this UDO are hereby converted, as shown on the following table:

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

PREVIOUS DISTRICT		NEW DISTRICT	
OVERLAY ZONING DISTRICTS			
---	Conservation Buffer Area	CBA	Conservation Buffer Area
---	Lake Benson Conservation	LBC	Lake Benson Conservation
---	Timber Drive Overlay	O-TD	Timber Drive Overlay
---	U.S. 70/401 Overlay	O-70	U.S. 70/401 Overlay
---	I-40/US 70 Special Highway Overlay	O-40	I-40 Overlay
---	New	GR-OD	Garner Road Overlay District
OBSOLETE DISTRICTS			
MR-1	Multi-Residential 1	MR-1	Multi-Residential 1
RCD	Residential Cluster District	RCD	Residential Cluster District
R-12 PR	R-12 Planned Residential District	R-12 PR	Planned Residential District
MXD-1	Mixed Use Development District	MXD-1	Mixed Use Development District
RESIDENTIAL ZONING DISTRICTS			
R-40	Single-Family Residential	R-40	Single-Family Residential
R-20	Single-Family Residential	R-20	Single-Family Residential
R-15	Single-Family Residential	R-15	Single-Family Residential
R-12	Single-Family Residential	R-12	Single-Family Residential
R-9	Single-Family Residential	R-9	Single-Family Residential
MF-1	Multi-Family 1	MF-1	Multifamily Residential
MF-2	Multi-Family 2	MF-2	Multifamily Residential
R-5	Manufactured Home Park/Subdivision	RMH	Manufactured Home Park/Subdivision
-MH	Mobile Home Floating District	-MH	Manufactured Home Floating Zone
COMMERCIAL ZONING DISTRICTS			
---	New	NO	Neighborhood Office
NB	Neighborhood Business	NC	Neighborhood Commercial
CBD	Central Business District	CBD	Central Business District
OI	Office and Institutional	OI	Office and Institutional
CB	Community Business	CR	Community Retail

PREVIOUS DISTRICT		NEW DISTRICT	
COMMERCIAL ZONING DISTRICTS (continued)			
SB	Service Business	SB	Service Business
INDUSTRIAL ZONING DISTRICTS			
I-1	Industrial 1	I-1	Industrial 1
I-2	Industrial 2	I-2	Industrial 2
PLANNED DEVELOPMENT DISTRICTS			
—	New	PUD	Planned Unit Development
R-12-PR	Planned Residential 12	PRD	Planned Residential Development
—	New	TND	Traditional Neighborhood Development
MXD-1	Mixed Use District 1	MXD	Mixed Use Development

Note: The R-12-PR and MXD General Use Districts have been replaced by the Planned Residential Development and MXD Planned Development Floating Districts respectively. Existing R-12 PR and MXD General Use Districts remained mapped on the official zoning map and can be developed according to the provisions of [Section] 4.14, Obsolete districts. (Ord. No. 3558, § 2, 7-7-09)

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