

ARTICLE 1 - GENERAL PROVISIONS

[Replaces Zoning Ordinance - Section 11.21, 11.27 & Subdivision Ordinance – Article 1-3]

1.01 TITLE

This Ordinance is officially titled as the “City of Eden, North Carolina Unified Development Ordinance,” and may be referred to as “the Unified Development Ordinance,” “this Ordinance,” or by one or more other abbreviated references (“the UDO,” “this UDO,” or “UDO”).

1.02 AUTHORITY

The development regulations contained in this Ordinance have been adopted pursuant to the authority conferred by the North Carolina General Statutes (G.S.). Specifically, principal authorization comes in G.S. § 160D. The Unified Development Ordinance of Eden, North Carolina also uses powers granted in other sections of the G.S. relating to particular types of development or particular development issues.

1.03 JURISDICTION

The Eden UDO shall be effective throughout the City of Eden and its extraterritorial planning jurisdiction (ETJ) as identified on the Official Zoning Map of the City of Eden. However, pursuant to G.S. § 160D-903, property that is located in the extraterritorial jurisdiction which is used for bona fide farm purposes is exempt from the regulations of this UDO. The planning jurisdiction of the City may be modified from time to time in accordance with G.S. § 160D. The Official Zoning Map is on file with the City Clerk and with the Administrator of this Ordinance. The Official Zoning Map and its boundaries shall be incorporated and made a part of this Ordinance.

1.04 PURPOSE AND INTENT

In order to protect and promote the health, safety, and general welfare of the City and its ETJ, the Eden UDO is adopted by the City Council to regulate and restrict by means of zoning and subdivision regulations the height and size of buildings and other structures; the appearance and design of developments; the percentage of lots that may be covered or occupied; the dimensions of setbacks; the size of open spaces; the density of population; the construction and installation of infrastructure; and the location, use and design of landscaping, buildings, structures, and land for trade, industry, residence, and other purposes.

The purpose of the regulations set forth in the Eden UDO shall be to fulfill the recommendations of the Eden Land Development Plan adopted in 2007 as may be amended from time to time.

1.05 REPEAL OF EXISTING ORDINANCES

The existing Zoning Ordinance adopted on July 16, 1968; existing Subdivision Regulations adopted on May 20, 1969; and existing Watershed Protection Ordinance adopted on July 1, 1993 as subsequently amended are hereby repealed. The Eden City Code of Ordinances Chapter 4 – Building Regulation and Codes Enforcement, Chapter 13

– Streets, Sidewalks and other Public Places and Chapter 2 – Administration, Article III – Planning Organization as subsequently amended are hereby repealed. The adoption of the Eden UDO, however, shall not affect nor prevent any pending or future prosecution of, or action to abate an existing violation of said ordinance.

1.06 CONSISTENCY WITH ADOPTED PLANS

In accordance with G.S. § 160D-605, it is the intention of the City Council that the Eden UDO implements the planning policies adopted for the City and its ETJ, as reflected in the City of Eden Land Development Plan and other related planning documents adopted by the Eden City Council.

While the City Council reaffirms its commitment that the Eden UDO and any amendment to it be in conformity with adopted planning policies, the City Council hereby expresses its intent that neither the Eden UDO nor any amendment to it may be challenged on the basis of any alleged non-conformity with any planning document.

A. AMENDMENT OF UDO AND LAND USE PLAN

The Unified Development Ordinance of Eden, North Carolina also uses powers granted in other sections of the G.S. relating to particular types of development or particular development issues. Any amendments to or actions pursuant to this ordinance shall be consistent with the Land Use Plan. The Land Development Plan for the City of Eden may be amended and this Unified Development Ordinance and the incorporated Official Zoning Map shall reflect those changes through appropriate amendments in accordance with this Ordinance.

B. VARIATION FROM ADOPTED PLANS

Specific alignments, locations, or areas of public facilities noted in any adopted plan may be varied on a site by site basis provided the integrity of the proposed network and connections, location, or area shown in the plan are maintained. When adopting or rejecting any petition for a zoning text or map amendment, a brief statement explaining the reasonableness of the proposed rezoning shall be approved by the City Council.

1.07 CONFORMANCE TO UNIFIED DEVELOPMENT ORDINANCE

Except as otherwise specifically provided in the Eden UDO, no land shall be subdivided; no land or structure shall hereafter be used or occupied; no excavation, removal of soil, clearing of a site, or placing of fill shall take place on lands contemplated for development; no infrastructure shall be constructed or installed; and no structure, or part thereof, shall be constructed, erected, altered, or moved, unless in compliance with all of the applicable provisions of the Eden UDO.

All existing lots of record, platted prior to the adoption of this UDO or the prior Zoning Ordinance, Subdivision Regulations, or Watershed Protection Ordinance and upon which no buildings have been erected, shall be grandfathered upon the date of adoption of this UDO and shall not be subject to the new lot standards herein. However, buildings upon such lots shall be subject to standards in this ordinance including all related site improvements.

1.08 OFFICIAL ZONING MAP

The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk. If changes are made in accordance with the provisions of this Ordinance such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council with an entry on the Official Zoning Map. Per G.S. § 160D-105, the Administrator must maintain a paper or digital record of current and prior zoning maps beginning on **January 1, 2021**.

1.09 CONTINUED VIOLATIONS

Any violation of provisions existing on the effective date of the Ordinance shall continue to be a violation under this Ordinance and shall be subject to the penalties set forth at the time of the violation, unless the use, development, construction or other activity is clearly consistent with the express terms of this Ordinance.

1.10 TRANSITIONAL PROVISIONS

A. PRIOR VIOLATIONS CONTINUE

1. Any violation of the previous ordinances shall continue to be a violation under this UDO, unless the ddevelopment/property complies with the express terms of this Ordinance or the statute of limitations on enforcement has expired.
2. Any violation of the previous ordinances that is no longer a violation under this Ordinance shall not be considered a violation.
3. Violations of this Ordinance shall be subject to the penalties set forth in *Article 11 - Enforcement*, unless the development/property complies with the express terms of this Ordinance.

B. EXISTING NONCONFORMITIES

1. If any use, building, structure, lot, sign, or site feature legally existed on **January 1, 2021**, but does not fully comply with the standards of this Ordinance, the use, building, structure, lot, sign, or site feature is considered nonconforming under this Ordinance and shall be subject to the requirements in *Article 10 - Nonconformities*.

C. PENDING APPLICATIONS

1. Any UDO related application filed and accepted as complete before **January 1, 2021**, but still pending final action as of that date, may be decided in accordance with either the regulations in affect at the time the application was determined complete or the regulations in this Ordinance, as requested by the applicant in accordance with G.S. § 160D-108.
2. To the extent an application is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of *Article 10: Nonconformities*.
3. If the development subject to an application approved under the City's prior development regulations fails to comply with the required time frames, it shall expire and future development shall be subject to the requirements of this Ordinance.
4. Applications that have been filed prior to **January 1, 2021**, but not determined to be complete by the Administrator shall be reviewed and decided in accordance with this Ordinance.

D. APPROVED APPLICATIONS

1. The following standards apply to applications approved prior to **January 1, 2021**:
 - a. Any development approvals shall remain valid until their expiration date.
 - b. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired.
 - c. Portions of developments, including subdivisions, reserved as future development sites where no lot lines are shown on an approved plan shall comply with the provisions of this Ordinance.
 - d. If an approval expires or is revoked (e.g., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall be applied for in accordance with the procedures and standards of this Ordinance.
 - e. Timelines for the commencement or expiration of development in accordance with an approved application shall be suspended in the event of legal challenge.

1.11 INTERPRETATION AND CONFLICT

A. INTERPRETATION

1. This UDO establishes many, but not all, of the standards and procedures for development. Other portions of the City's Code of Ordinances, as well as other standards, shall apply to development, including, but not limited to, building codes, fire codes, utility, street and drainage design and construction standards.
2. The issuance of any development approval pursuant to this UDO shall not relieve the recipient from the responsibility to comply with all other City, County, State or federal laws, ordinances, rules or regulations.
3. References to other regulations or provisions of the UDO are for the convenience of the reader. The lack of a cross-reference does not exempt a land, building, structure, or use from other regulations.
4. The UDO contains numerous graphics, pictures, illustrations, and drawings to assist the reader in understanding and applying the UDO. However, to the extent that there is any inconsistency between the text of the UDO and any such graphic, picture, illustration, or drawing, the text controls unless otherwise provided in the specific section.

B. CONFLICT

1. When provisions of the Eden UDO impose higher standards than are required in any other statute or local ordinance or regulation, provisions of the Eden UDO shall govern. When the provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions of the Eden UDO, the provisions of that statute or local ordinance or regulation shall govern.

1.12 FEES

Any action on an application listed in this Ordinance shall be subject to payment of the required fee in the amount as established by the City Council. All fees shall be paid to the City of Eden, North Carolina at the time of submittal of each application to cover the cost of advertising and other administrative expenses involved.

1.13 ADMINISTERING THE UDO

This UDO is intended to be administered in an efficient manner that provides appropriate opportunities for public involvement and an efficient development process. The roles of the City Council, Planning Board, Board of Adjustment, other boards and City staff are established in *Article 2 – Administration* of this ordinance.

1.14 EFFECTIVE DATE

This Unified Development Ordinance shall become effective on **January 1, 2021**.