

ARTICLE 1: GENERAL PROVISIONS

- A. Title 1-2**
- B. Authority 1-2**
 - 1. General Authority 1-2
 - 2. References To North Carolina General Statutes 1-2
- C. General Purpose and Intent 1-2**
- D. Applicability and Jurisdiction 1-3**
 - 1. General Applicability 1-3
 - 2. Application To Governmental Units 1-3
 - 3. No Development Until Compliance With Ordinance 1-3
- E. Conformance with Adopted Plans 1-3**
 - 1. Conformance 1-3
 - 2. Adopted Plans 1-3
- F. Relationship with Other Laws 1-4**
 - 1. Conflicts With Other Town Codes Or Laws 1-4
 - 2. Conflicts With Private Agreements 1-4
 - 3. Conflicts With State Or Federal Law 1-4
 - 4. Existing Agreements Or Vested Rights 1-4
- G. Official Zoning Map 1-4**
 - 1. Generally 1-4
 - 2. Map Incorporated By Reference 1-4
 - 3. Zoning Classification Of Lands Added To Jurisdiction 1-4
 - 4. Interpretation Of Zoning Map Boundaries 1-5
 - 5. Changes To Official Zoning Map 1-6
- H. Effective Date and Transitional Provisions 1-6**
 - 1. Effective Date 1-6
 - 2. Violations Continue 1-6
 - 3. Complete Applications 1-6
 - 4. Approved Applications 1-7
 - 5. Approved Conditional Use Zoning 1-7
 - 6. Nonconformities 1-7
- I. Vested Rights 1-7**
 - 1. Process for Establishing a Vested Right 1-7
 - 2. Duration And Types Of Statutory Vested Rights 1-7
- J. Permit Choice 1-8**
- H. Severability 1-8**

ARTICLE 1: GENERAL PROVISIONS

A. TITLE

This ordinance shall be officially known as the “Town of Summerfield, N.C., Unified Development Ordinance,” which may also be referred to as the “Unified Development Ordinance,” “Development Ordinance,” “Town Ordinance,” “Ordinance,” or “UDO.” Additionally, “Town of Summerfield” may also be referred to as simply “Town.”

B. AUTHORITY

1. GENERAL AUTHORITY

This Ordinance consolidates the Town’s regulatory authority for land development as authorized by the North Carolina General Statutes (NCGS) 160D and is adopted pursuant to:

- (a) the authority granted to the Town of Summerfield by the General Assembly of the State of North Carolina;
- (b) the Town Charter;
- (c) the North Carolina General Statutes
- (d) all other relevant laws of the State of North Carolina; and,
- (e) any special legislation enacted for the Town.

2. REFERENCES TO NORTH CAROLINA GENERAL STATUTES

Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes, which may also be referred to as “NCGS,” and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

C. GENERAL PURPOSE AND INTENT

The purpose of this Ordinance is to protect the public health, safety, and general welfare of the citizens, landowners, and stakeholders of Summerfield and to implement the policies and objectives of Town-adopted plans addressing the Town’s growth and development. The intent of this Ordinance is more specifically to:

1. foster convenient, compatible, and efficient relationships among land uses;
2. better manage or lessen congestion in the streets;
3. ensure the provision of adequate open space between uses for light, air, and fire safety;
4. prevent the overcrowding of land and avoid undue concentrations of population;
5. preserve the character and quality of residential neighborhoods while providing increased housing choices;
6. facilitate the adequate provision of transportation, utilities, parks, recreation, and other public facilities;
7. maintain and enhance the character of various districts within the Town through an emphasis on design quality;
8. maintain and protect high quality aesthetic standards for development;
9. conserve the value of buildings and land;
10. conserve the natural resources and environmental quality of the Town and its environs;
11. protect development and residents from flooding and other natural hazards; and,
12. ensure the sustainability and viability of development by assuring the proper installation and maintenance of infrastructure necessary for continued use.

D. APPLICABILITY AND JURISDICTION

1. GENERAL APPLICABILITY

The provisions of this Ordinance shall apply to the development of all land within the corporate limits of the Town of Summerfield unless it is expressly exempted by a specific section or subsection of this Ordinance.

2. APPLICATION TO GOVERNMENTAL UNITS

Except as stated herein, the provisions of this Ordinance shall apply to:

- (a) development by the Town or its agencies or departments;
- (b) development of buildings by State or County agencies or departments, public colleges or universities, or other political subdivisions of the state, in accordance with the standards in NCGS § Section 160D-913; and,
- (c) to the full extent permitted by law, development owned or held in tenancy by the government of the United States, its agencies, departments or corporate services.

3. NO DEVELOPMENT UNTIL COMPLIANCE WITH THIS ORDINANCE

No land shall be developed without required applications and permits and without full compliance with the provisions of this Ordinance and all other applicable Town, County, State, and Federal regulations.

E. CONFORMANCE WITH ADOPTED PLANS

1. CONFORMANCE

This Ordinance is intended to ensure that all development within the Town's jurisdiction will be consistent with the goals, objectives, policies, strategies, and actions of adopted plans addressing the Town's growth and development, including but not limited to, the plans identified in Article 1.E.2 below. To the extent this Ordinance is or becomes inconsistent with the adopted plans, it should be amended, to the greatest degree feasible, to become or remain consistent with the adopted plans. Additionally, all amendments to this Ordinance's text or Official Zoning Map should maintain and enhance consistency between this Ordinance and the adopted plans.

2. ADOPTED PLANS

(a) Summerfield Comprehensive Plan

The 2010 Summerfield Comprehensive Plan shall serve as the basic policy guide for the administration of this Ordinance. The plan contains vision statements, policies, and actions guiding the management of growth and development of the physical environment of the Town. The vision statements, policies, and actions of the plan may be amended from time-to-time to meet changing circumstances and priorities.

(b) Special Area Plans

From time to time, the Town may adopt plans focused on specific geographic areas and corridors within the Town. Such plans are likely to include goals, objectives, policies, and actions related to, and serve as a guide to, various aspects of land use, development intensity, and design.

(c) Functional Plans

From time to time, the Town may adopt plans for specific infrastructure and services (e.g., local streets plan, parks and recreation master plan, greenway and trails plan, emergency management plan). Such plans typically contain goals, objectives, policies, and actions related to the form and timing of the Town's growth and development as well as to the location and design of public infrastructure.

(d) Intergovernmental Cooperative Planning

From time to time, the Town may participate in collaborative planning efforts with the State of North Carolina, Guilford County, and other government jurisdictions in the area. Examples may include water resources planning, watershed management, and regional transportation planning, among others. Such planning may be a source of guidance on decisions related to land use and development.

F. RELATIONSHIP WITH OTHER LAWS**1. CONFLICTS WITH OTHER TOWN CODES OR LAWS**

Unless the context establishes otherwise, if a provision of this Ordinance is inconsistent with another provision of this Ordinance or with a provision found in other adopted Town codes or ordinances, the more restrictive provision shall govern unless the more restrictive provision specifies otherwise. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

2. CONFLICTS WITH PRIVATE AGREEMENTS

The Town shall not be responsible for monitoring or enforcing private covenants and restrictions (e.g., homeowners association {HOA} restrictive covenants). Property owners shall be responsible for knowledge of and adherence to private covenants and restriction.

3. CONFLICTS WITH STATE OR FEDERAL LAW

If a provision of this Ordinance is inconsistent with a provision found in the law or regulations of the State or federal government, the more restrictive provision shall control, to the extent permitted by law.

4. EXISTING AGREEMENTS OR VESTED RIGHTS

Nothing in this Ordinance is intended to repeal, supersede, annul, impair, or interfere with any existing private agreements or established vested rights pursuant to all applicable laws, provided such agreements or rights are lawfully established and remain in effect.

G. OFFICIAL ZONING MAP**1. GENERALLY**

The Official Zoning Map designates the location and boundaries of the various base zoning districts and overlay areas established in this Ordinance. It shall be kept on file at Summerfield Town Hall and is available for public inspection during normal business hours. It may be kept in either hardcopy or digital form. It shall be the final authority as to the status of the current zoning district classification of land in the Town and shall only be amended in accordance with this Ordinance. The Official Zoning Map shall include all map amendments approved to date, which may not yet have been physically altered on the map.

Pursuant to NCGS 160D-105, current and prior Zoning Maps shall be maintained in paper or digital format in the Town Hall for public inspection. Any state or federal maps incorporated by reference into the Zoning Map shall also be maintained.

2. MAP INCORPORATED BY REFERENCE

The Map, and all notations thereon, is incorporated by reference and made part of this Ordinance.

3. ZONING CLASSIFICATION OF LANDS ADDED TO JURISDICTION**(a) Town Council Determination**

The Town Council shall determine the zoning designation of lands added to the Town's jurisdiction through annexation at the time such lands are added based on the following factors:

- (1) the land's designation on adopted plans addressing the Town's growth and development;
- (2) the land's current land use;

- (3) the existence of a previously approved site or subdivision plan;
- (4) the character of adjacent lands;
- (5) current County zoning classifications; and,
- (6) landowner requests; and,
- (7) other factors considered relevant at the time of the annexation.

(b) Relationship to Annexation Requests

Where an area is proposed to be added to the Town's jurisdiction through annexation, the landowner may apply for a Map Amendment (Rezoning) (see Article 3.D.1) requesting a specific base zoning district classification along with the annexation petition. In such a case, the public hearing for the map amendment application may be held concurrently with any public hearing required for the annexation, but the public hearings shall be advertised separately and as required by statute. Such request shall be considered as stated in (a) above.

4. INTERPRETATION OF ZONING MAP BOUNDARIES

The Administrator shall be responsible for interpretations of the Official Zoning Map in accordance with the standards in Article 3.B.1 *Interpretation* and the following standards:

(a) Centerline

Where a boundary line lies within and follows a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated roadbed or utility easement.

(b) Edge Line

Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated roadbed or utility easement.

(c) Property Lines

Boundaries shown as approximately following a property line shall be interpreted as following the property line as it existed when the boundary was established. If a subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the property line moving 10' or less, the zoning boundary shall be interpreted as moving with the property line. In the event that a district boundary line divides a lot or tract, each part so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.

(d) Watercourses

Boundaries shown as approximately following a river, stream, canal, lake, or other watercourse shall be interpreted as following the centerline of the watercourse as it actually exists, and as moving with that centerline to the extent the watercourse moves as a result of natural processes (flooding, erosion, sedimentation, etc.).

(e) Watersheds

Outer boundaries of General Watershed Area districts indicated as approximately following ridge lines or streets shall be construed to follow ridge lines (the actual drainage basin boundaries). Watershed Critical

Area district outer boundaries not forming the inner boundaries of General Watershed Area districts shall be construed in the same manner. Boundaries between General Watershed Area districts and Watershed Critical Area districts indicated as approximately following major landmarks (identifiable major features) such as streets shall be construed to follow the centerlines of such features or, where applicable, the projections of the centerlines of such features.

(f) Corporate limits

Boundaries shown as approximately following established municipal corporate limits or other political boundaries shall be interpreted as following the corporate limits or boundary.

(g) Extensions

Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such.

(h) Scaling

If the specific location of a depicted boundary cannot be determined from notations on the Official Zoning Map or application of the above standards, it shall be determined by using the map's scale to determine the boundary's distance from other features shown on the map.

Where the actual locations of existing physical or natural features vary from that shown on the Official Zoning Map, or in other circumstances not covered by this subsection, the Administrator shall have the authority to interpret the district boundaries. Appeals of the Administrator's decision shall be reviewed by the Board of Adjustment in accordance with the provisions of this Ordinance (see Article 3.B.1(d)(2)).

5. CHANGES TO OFFICIAL ZONING MAP

Changes made in zoning district boundaries or other matters portrayed on the Official Zoning Map shall be made in accordance with the provisions of this Ordinance (see Article 3.D.1). Where the ordinance enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the Administrator may enter on the Official Zoning Map notations reflecting the ordinance wording. The Administrator shall maintain copies of superseded versions of the Official Zoning Map for historical reference.

H. EFFECTIVE DATE AND TRANSITIONAL PROVISIONS

1. EFFECTIVE DATE

This Ordinance shall become effective on July 1, 2021, and repeals and replaces the Summerfield Development Ordinance currently in existence prior to the effective date of this Ordinance.

2. VIOLATIONS CONTINUE

Any violation of the previous zoning regulations or subdivision regulations that also violate the provisions of this Ordinance shall continue to be a violation under this Ordinance and any other applicable ordinances, laws, or statutes and the Town may continue to take enforcement action against such violations in accordance with the provisions of the previous zoning regulations and/or subdivision regulations. Violations of this Ordinance shall be subject to the penalties set forth in Article 10: *Enforcement*, and any other applicable ordinances, laws, or statutes, unless the development complies with the express terms of this Ordinance or the other ordinances, laws, or statutes.

3. COMPLETE APPLICATIONS

(a) Any development application submitted and accepted as complete before the effective date of this Ordinance, but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted. To the extent such 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 8: *Nonconformities*.

- (b) Completed applications shall be processed in good faith and shall comply with any timeframes for review, approval, and completion as established in the regulations in effect at the time of application acceptance. If the application fails to comply with the required timeframes, it shall expire, and future development shall be subject to the requirements of this Ordinance.
- (c) An applicant with a pending application accepted before the effective date of this Ordinance may choose to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending application and submitting a new application in accordance with the standards of this Ordinance.

4. APPROVED APPLICATIONS

Any development approvals granted before the effective date of this Ordinance shall remain valid until their expiration date. 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. If the prior 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. To the extent a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 8: *Nonconformities*.

5. APPROVED CONDITIONAL USE ZONING

Lands subject to a conditional use zoning classification approved before the effective date of this Ordinance shall continue to be subject to the approved site plan and conditions even if the conditional use zoning district classification is amended as part of the adoption of this Ordinance.

6. NONCONFORMITIES

If any use, structure, lot, or sign legally existed on the effective date of this Ordinance but does not fully comply with the standards of this Ordinance, then that use, structure, lot, or sign shall be considered nonconforming under this Ordinance and shall be controlled by the provisions of Article 8: *Nonconformities*.

I. VESTED RIGHTS

Zoning "vested rights" as established under G.S. NCGS 160D-102, -108, and -108.1 ensures that a properly issued development approval will protect the applicant against zoning changes that will affect the allowable type and intensity of use.

1. PROCESS FOR ESTABLISHING A VESTED RIGHT

A person claiming a vest right (had obtained a building permit to construct a residence or started a development and/or had a site-specific plan approved by the board). The Zoning Administrator would determine if in fact the person has a vested right, and his decision may be appealed to the Board of Adjustment.

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the Zoning Administrator. The Zoning Administrator shall determine if a vested right exists. The Zoning Administrator's determination may be appealed to the Board of Adjustment. On appeal the existence of a vested right shall be reviewed *de novo*. In lieu of seeking such a determination, a person claiming a vested right may take an original civil action appeal to the Guilford County Superior Court.

2. DURATION AND TYPES OF STATUTORY VESTED RIGHTS

- (a) **Six months – Building Permits.** Pursuant to GS 160D-1111, a building permit expires six months after issuance unless work under the permit has commenced. If after commencement the work is discontinued

for a period of twelve (12) months, the permit shall immediately expire. No work authorized by any building permit that has expired shall thereafter be performed until a new permit has been secured.

- (b) **One year – Other Development Approvals.** Pursuant to GS 160D-403(c), unless otherwise specified by statute or local ordinance, all other development approvals expire one year after issuance unless work has substantially commenced. Expiration of a development approval shall not affect the duration of a vested right established under this section or vested rights established under common law
- (c) **Two years – Site-Specific Vesting Development Plans.** A site-specific development plan shall be vested for two years after it is approved. Amendments shall not extend the vesting period unless specified at the time of approval.
- (d) **Seven years – Multi-Phase Developments.** A multi-phase development approved containing 25 acres or more and subject to a master development plan with committed elements including a requirement to offer land for public use as a condition of its master development plan approval.
- (e) **Exceptions.** A vested right, once established as provided for by this section, precludes any zoning action by the town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except those explicitly outlined in GS 160D-108(f).

J. PERMIT CHOICE

If an application for development approval has been made and subsequent to the date of that application, a development regulation changes or is proposed, the development permit applicant may choose the version of the regulation existing at the time of the application. The applicant may choose the existing regulation without waiting for final action on the proposed regulation change.

K. SEVERABILITY

It is the legislative intent of Town Council in adopting this Ordinance that all provisions shall regulate development in accordance with the existing and future needs of the Town as established in this Ordinance and promote the public health, safety, and general welfare of landowners and residents. If any section, subsection, sentence, boundary, clause, or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. Town Council hereby declares that it would have passed this Ordinance and any section, subsection, sentence, boundary, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, boundaries, clauses, or phrases be declared invalid.