

# ARTICLE 1

## GENERAL PROVISIONS

### SECTION 1.1 TITLE

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

### SECTION 1.2 AUTHORITY AND ENACTMENT

#### **1.2.1 Zoning and Subdivision**

The Board of Commissioners, pursuant to the authority conferred by the General Assembly of the State of North Carolina in NCGS [153A](#), Article 18, does hereby ordain and enact into laws these article and sections.

### SECTION 1.3 PURPOSE

#### **1.3.1 General**

For the purpose of promoting the health, safety, and general welfare, this Ordinance 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. (NCGS [153A-340](#))

#### **1.3.2 Zoning**

The zoning regulations in this Ordinance are in accordance with a comprehensive plan and are intended 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. (NCGS [153A-340](#))

### **1.3.3 Subdivision**

The purpose of this Ordinance 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. (NCGS [153A-330](#))

### **1.3.4 Flood Damage Prevention**

It is the purpose of this Ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities; require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction; control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters; control filling, grading, dredging, and all other development that may increase erosion or flood damage; and to prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

### **1.3.5 Wireless Communications Facilities**

The purpose and intent of this Ordinance to: (NCGS [153A-349.50](#))

- 1.3.501 Provide guidance and community standards for the siting of wireless communication facilities and to accommodate the growing need and demand for wireless communication services.
- 1.3.502 Minimize the impacts of wireless communication facilities on surrounding properties by establishing standards for location, structural integrity, and compatibility.
- 1.3.503 Encourage the location and co-location of wireless communication equipment on existing structures.
- 1.3.504 Minimize the visual, aesthetic, and public safety impacts and effects upon the historic and natural environments, and wildlife, and to reduce the need for additional antenna support structures.
- 1.3.505 Encourage coordination between the WCF developers and providers of wireless communication services.

- 1.3.506 Establish predictable and balanced codes governing the construction and location of wireless communications facilities, within the confines of permissible local regulations.
- 1.3.507 Establish technical and land use review procedures to ensure that applications for wireless communications facilities are reviewed and acted upon within a reasonable period of time.
- 1.3.508 Respond to the policies embodied in the [Telecommunications Act of 1996](#) in such a manner as not to unreasonably discriminate between providers of licensed and unlicensed services of personal commercial wireless services that may or may not be commercial in nature.
- 1.3.509 Protect the character of the County while meeting the needs of its citizens to enjoy the benefits of wireless communications services.
- 1.3.510 Consideration of and compatibility with the goals and objectives of the Moore County Land Use Plan and Code of Ordinances.
- 1.3.511 Seek to have shorter less obtrusive WCF countywide.
- 1.3.512 Allow for Permitted Use in all Zoning areas by Concealed WCFs.
- 1.3.513 Promote concealment of all future antenna support structures.

#### SECTION 1.4 BONA FIDE FARMS

The provisions of this Ordinance shall not apply to bona fide farms (defined in [Article 18](#)). This Ordinance does not impose nor exercise any controls over any tract of land where the land is used for the production of and activities relating to, or incidental to, the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, forestry, and all other forms of agriculture. Nor does it exercise control over any grain warehouses and warehouse operations that receive, load, weigh, dry, and store grain, farmhouse, barn, poultry house, or other farm buildings, including tenant or other houses for persons working on said farms, as long as such houses shall be in the same ownership as the farm and located on the farm and meets all North Carolina Building Codes required for the structure. Residences for non-farm use or occupancy and other non-farm uses shall be subject to the provisions of this Ordinance. (NCGS [153A-340b](#)) For purposes of determining if a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence for classification of a bona fide farm:

- 1.4.401 A farm sales tax exemption certificate issued by the Department of Revenue; or
- 1.4.402 A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to NCGS [105-277.3](#); or
- 1.4.403 A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; or
- 1.4.404 A forest management plan; or

- 1.4.405 A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

## SECTION 1.5 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 except as excluded above by bona fide farm exemption in §1.4 (Bona Fide Farms). 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.

## SECTION 1.6 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.

## SECTION 1.7 CONDITIONS, LIMITATIONS AND REPRESENTATIVES

Whenever any condition or limitation is included in an order authorizing a conditional use permit, 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, graphical, or verbal, shall be deemed a part of the application and may be relied upon in good faith by the County.

## SECTION 1.8 REPEAL OF CONFLICTING ORDINANCES

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.

## SECTION 1.9 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:

### **1.9.1 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.

### **1.9.2 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 Zoning Administrator as set forth in §3.3 (Zoning Permit) of this Ordinance. The issuance of a zoning permit is not required for any proposed structure twelve (12) feet or less in any direction, or if a building permit is not required.

## **SECTION 1.10 COMPLIANCE WITH PLANS**

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

## **SECTION 1.11 CONFORMING USES AND STRUCTURES**

**1.11.1** 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.

**1.11.2** Any use or structure existing prior to the effective date of this UDO that would be permitted by this UDO as a conditional use in the district in which it is located, may be continued as if a conditional use permit had been issued, provided that any use, structural, or other changes shall comply with the provisions of this UDO.

## **SECTION 1.12 EFFECT OF AMENDMENTS**

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.

## **SECTION 1.13 PRIOR TO EFFECTIVE DATE**

### **1.13.1 Projects Under Construction Prior to Effective Date**

1.13.101 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.

13.14.102 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.

1.13.103 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.

### **1.13.2 Applications Submitted Prior to Effective Date**

1.13.201 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.

1.13.202 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.

### **1.13.3 Planned Developments and Conditional Uses**

Where a planned development, conditional use district, conditional 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.

## **SECTION 1.14 GRAPHICS AND ILLUSTRATIONS**

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

## **SECTION 1.15 EFFECTIVE DATE**

This UDO was adopted on February 18, 2014 becoming effective February 18, 2014.

