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# GENERAL PROVISIONS

## ***Section 1.1 Establishment, Title, and Effective Date***

This article, inclusive of any amendments, shall be known as the Land Development Code of the Town Waxhaw. For convenience, it may be referred to throughout this code as “these regulations,” “this code,” or “this ordinance,” and throughout this and other town documents and policies as “The Land Development Code” or “The LDC”. This Code shall take effect on **DATE**, 2021.

## ***Section 1.2 Authority***

The Town of Waxhaw, further referenced elsewhere as “the Town” is authorized through the State of North Carolina General Statutes (NCGS) to exercise broad powers in the regulation of development within the Town’s zoning jurisdiction, including but not limited to: planning, zoning, subdivision, and environmental regulations. The regulations contained within this code apply fully to all land, uses, and structures within the boundaries of the zoning jurisdiction of the Town of Waxhaw. The Town through this Code intends to use all powers provided by virtue of NCGS Chapter 160D. This code shall also use specific powers granted in other sections of the NCGS that are specific to development activity.

## ***Section 1.3 Purpose and Intent***

The purpose of the Land Development Code is to provide clear and detailed direction for achieving the goals and objectives of Waxhaw’s Long Range Plans and legal standards for the proper development and stewardship of property in the Town’s jurisdiction. While no set of standards can assure complete and perfect public health and safety conditions in all circumstances, the adoption of carefully considered standards are intended to create a consistent and desirable quality of life environment for the community as a whole.

The Town, through implementation of this Code, intends to accomplish a variety of public purposes, including but not limited to:

- A. Responding uniformly and consistently to all planning and development matters
- B. Promoting the health, safety, and general welfare of the Waxhaw community as a whole while providing appropriate provisions to guide development and redevelopment of land
- C. Guiding the growth of the Town in a manner that creates a safe, healthy, and beneficial environment for those living, working, and playing within the community
- D. Encouraging the use of best practices in planning, transportation, and urban design concepts
- E. Requiring appropriate development standards to preserve and protect property values in order to secure the fiscal base for public services
- F. Ensuring adequate and economical provision of necessary public services caused by and attributable to development or redevelopment of land

#### ***Section 1.4 Applicability***

To the extent allowed by law, the provisions of this Code apply to all land, buildings, structures, and uses owned, leased, or otherwise controlled by any district, county, state, or federal government agencies. These regulations shall govern the development and use of land within the Town's jurisdiction.

#### ***Section 1.5 Relationship with Other Laws, Covenants or Deeds***

If there is found to be conflict between this Code and other legislative enactments of the Federal Government, the State of North Carolina, or the Town of Waxhaw, the stricter provision applies to the extent allowed by law. The Town does not enforce private easements, covenants, or restrictions.

#### ***Section 1.6 Exemptions***

This code shall not apply to the followings uses:

- A. Bona fide farms as defined in NCGS 160D and Chapter 13 *Definitions* of this Code, except that non-farm uses on farms shall be regulated herein.
- B. Horse farms on three or more acres as defined in Chapter 13.
- C. Any other use, structure, or land development explicitly exempted within the text of this Code or by state or federal law.

## **Section 1.7 Fractional Requirements**

Whenever any requirement of this Code results in a fraction of a unit, a fraction of a half or more will be rounded up to the next whole unit and a fraction of less than a half will be disregarded, unless fractional requirements are explicitly prescribed. When any requirement of these regulations results in a fraction of a dwelling unit, that fraction will be disregarded and the nearest lower whole number shall apply.

## **Section 1.8 Zoning Map and Interpretation of District Boundaries**

The zoning map depicts in graphic form the districts and boundaries described in this code. The official zoning map will be in digital format and shall be on file in the office of the Town Clerk. The Planning Department will maintain the official zoning map and provides updates to the Town Clerk.

### **Section 1.8.1 Interpretation of Boundaries**

Where uncertainty exists with respect to the boundaries of the various districts shown on the zoning map, the following rules will be used to interpret the map.

- A. Where a boundary line is located within a street or alley right-of-way, railroad or utility line right-of-way or easement, or stream it will be considered to be the centerline of said feature.
- B. Where a boundary line is shown as being located a specific distance from a physical feature such as a street or a stream, the distance from the feature will control.
- C. Where a district boundary is shown to coincide approximately with a property line or town limit line, the property or town limit line will be considered the district boundary, unless otherwise indicated.
- D. Zoning boundaries that do not coincide with a property line, parcel boundary, landmark, or similar feature will be determined using geospatial data included in the official zoning map.

### **Section 1.8.2 Maintenance and Updates**

- A. The Zoning Administrator or their designee is responsible for revising the official zoning map. The official zoning map can be updated only after an official action as detailed in Chapter 3 of this Code, unless otherwise stated in this section.
- B. The Zoning Administrator may administratively grant any nonsignificant change such as a mapping or scribing error.
- C. The Zoning Administrator may authorize printed copies of the official zoning map to be produced and shall maintain digital or printed copies of superseded versions of the official zoning map for historical reference.

### ***Section 1.9 Maps Adopted by State, Federal and Regional Agencies***

Maps adopted by State, Federal, and Regional agencies, including approved updates to those maps, can be referenced in order to enforce provisions of this Code. Examples of maps include but are not limited to flood insurance rate maps, watershed boundary maps, regional transportation maps, or other maps officially adopted by State, Federal and Regional agencies.

### ***Section 1.10 Illustrations***

The illustrations in this Code are not drawn to scale and are intended only to graphically represent the requirements and concepts contained herein. Where there is conflict between the text of this Code and an illustration, the text shall prevail.

### ***Section 1.11 Consistency with Plans and Studies, Payments in Lieu***

The provisions of this Code are intended for use in implementing the goals, objectives, and policies of the Town's adopted plans and any existing or future studies, including but not limited to: land use, transportation, traffic impact analysis, and recreation. This Code shall work to implement infrastructure, rights-of-way, easements, and other improvements that are depicted within these plans and studies.

Any amendments to this Code shall be consistent with the goals and objectives of the Town's adopted plans. If any amendment is found to be inconsistent with the Town's adopted plans, then it shall be considered only if it is determined to be reasonable based on provisions in Chapter 3 of this Code and NCGS 160D.

When implementation of improvements from adopted plans and studies is proven unfeasible, a payment in lieu of improvements may be accepted by the Town. The payment shall be equal to the full cost estimate of the improvements with said estimate having been found acceptable by the Town. All payments in lieu shall be used exclusively towards transportation and recreation improvements within the Town.

A payment in lieu for improvements associated with adopted plans and studies may be accepted by the Town when one of the following criteria is met:

- A. Circumstances that would cause the construction of the improvements to be impractical.
- B. The Town has committed and funded for the same improvements as part of one of the Town's adopted plans and Capital Improvement projects.
- C. A partner organization has committed and funded the same improvements as part of a documented plan or project schedule.

### **Section 1.12 Interpretations of Provisions/Omissions**

The provisions of this Code are considered the minimum requirements for the protection of public health, safety, and welfare. This Code shall be liberally interpreted in order to further its underlying purposes. In all cases, the highest standards shall be applied. The meaning of certain words and terms is provided in Chapter 13 - Definitions.

The omission of any specific use, dimension, word, phrase, or other provision of this code shall not be interpreted as permitting any variation from the general meaning and intent of the Code.

### **Section 1.13 Severability**

If any provision of this Code is declared invalid by a court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of such decision shall be limited to that provision or provisions that are expressly stated in the decision to be invalid; and such decision shall not affect, impair or nullify this Code as a whole or any other part thereof, but the rest of the Code shall continue in full force and effect.

### **Section 1.14 Vested Rights**

Pursuant to NCGS 160D, vested rights granting periods are as follows. These vested rights shall remain for the period of time from approval to construction commencing on a project that has been approved under the processes and procedures outlined in Chapter 3 *Administration and Enforcement Procedures* and Chapter 5 *Subdivision Regulations*:

- A. One Year – for administratively approved projects as defined in Section 3.2.
- B. Two Years – for site specific development plans associated with major subdivisions, conditional zoning, and special use permits applications as defined in Sections 3.3 and 3.4.
- C. Seven Years – for multi-phased developments containing 25 acres or more that is submitted for construction to occur in more than one phase and is subject to a master development plan with committed elements showing the type and intensity of use of each phase.

Any amendments to a plan with a vested right shall be reviewed and approved in the same process and manner of the original approval.

### **Section 1.15 Transitional Provisions and Permit Choice**

Applications that have approval prior to the adoption of this Code may continue under the provisions of the prior regulations. These approvals may proceed with development as long as they comply with the provisions in existence at the time of their approval.

Applicants with prior approvals may seek approval conforming to the provisions of this Code. If an applicant wishes to proceed with approval from this Code then the applicant shall resubmit their application.

If a regulation changes after an application is submitted, an applicant may choose which regulation to adhere to and complete their project under those regulations.

If an applicant lets their vested right lapse, then they will be subject to the new regulations.

**Section 1.16        *Approvals Run with the Land***

Unless provided otherwise by this Code or by law, all rights privileges, benefits, burdens, and obligations created by this Code shall run within the physical boundaries of the land.

**Section 1.17        *Water and Sewer Requirements***

The dimensional standards required for the various zoning districts in this Code are created based on the assumption that adequate water and sewage disposal systems are available to each and every lot. All developments shall be required to connect to the public water and sewer system. If water or sewer is not available then the development shall be responsible for extending the public water or sewer system to their property for connection to the utility in accordance with Union County Public Works policy.

The Town will review special circumstances on a case-by-case basis where a well or septic may be the only way to serve a property. These special circumstances shall be primarily limited to individual lots and shall be determined in concurrence with Union County Public Health.

**Section 1.18        *Repeal of Existing Unified Development Ordinance***

Upon adoption of this Code, all new development proposals must conform to the standards, requirements, and processes herein. Certain standards and regulations contained within the prior Unified Development Ordinance (UDO) versions will remain applicable to legal nonconformities and legacy zoning districts to the extent required to ensure their legal status.

Additionally, all development proposals that are still under review at the time of adoption of this code shall be allowed to continue through the process of the Unified Development Ordinance to their completion, provided that the process be completed by July 31, 2021. The Unified Development Ordinance shall be repealed to give this Code full force and effect on August 1, 2021.