

# Article 1: General Provisions

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## 1.1 TITLE

This ordinance shall be known and may be cited as the City of Southport Unified Development Ordinance (UDO). This ordinance may be referred to as “this ordinance” of which contains zoning, subdivision, signage, wireless telecommunication, and other land development regulations.

## 1.2 AUTHORITY

- A. This ordinance is adopted pursuant to the authority contained in North Carolina General Statute (NCGS) 160A-174 which states that a city may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city, and may define and abate nuisances.
- B. Zoning provisions enacted herein are under the authority of NCGS 160A-381 to 160A-392, which extends to cities the authority to enact regulations which promote the health, safety, morals, or the general welfare of the community.
- C. Subdivision provisions enacted herein are under the authority of NCGS 160A-372 which provide for the coordination of streets within proposed subdivisions with existing or planned street and with other public facilities, the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or alternatively, for the provision of funds to be used to acquire recreation areas serving residents of more than one neighborhood in the immediate area, and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding.
- D. This UDO, which combines zoning and subdivision authority, is further enacted under the authority of NCGS 160A-363.

## 1.3 EFFECTIVE DATE

The provisions in this ordinance were originally adopted September 23, 2020 and became effective on September 23, 2020 and as subsequently amended.

## 1.4 JURISDICTION AND ZONING MAP

- A. This ordinance shall be effective throughout the city’s planning jurisdiction. The city’s planning jurisdiction comprises the area within the corporate boundaries of the city as well as the extraterritorial area as shown on the “Official Zoning Map” for the City of Southport. Such planning jurisdiction may be modified from time to time in accordance with NCGS 160A-360.
- B. A copy of the official zoning map showing the boundaries of the city’s planning jurisdiction shall be available for public inspection in the Planning and Inspections Department office.

## 1.5 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the UDO Administrator shall employ the following rules of interpretation:

- A. Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerline;

- B. Boundaries indicated as approximately following lot lines, city limits, or extraterritorial boundary lines, shall be construed as following such lines, limits, or boundaries;
- C. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such shorelines;
- D. Where a district boundary divides a lot each part of the lot or tract so divided shall be used in conformity with the regulations established by this ordinance for the district in which said part is located, nor shall a change in lot line be construed to have modified a zoning district boundary;
- E. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.
- F. Where any further uncertainty exists, the UDO Administrator shall interpret the intent of the map as to location of such boundaries.

## 1.6 RELATIONSHIP TO EXISTING ZONING AND SUBDIVISION ORDINANCES

- A. To the extent that the provisions of this ordinance are the same in substance as the previously adopted provisions that they replace in the city's zoning and subdivision ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this ordinance merely by the repeal of the previous ordinance(s).
- B. Any violation of the previous zoning ordinance or subdivision regulations shall continue to be a violation under this ordinance and any other applicable ordinances, laws, or statutes. Violations of this ordinance shall be subject to the penalties set forth herein, and any other applicable ordinances, laws, or statutes, unless the use, development, construction, or other activity complies with the express terms of this ordinance.

## 1.7 INTERPRETATION AND CONFLICT

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this ordinance to interfere with, abrogate, or annul any easements or covenants between parties; provided, however, that where this ordinance imposes a greater restriction upon land development, the use of land or buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements, the provisions of this ordinance shall govern.

## 1.8 RELATIONSHIP TO THE COMPREHENSIVE PLAN

It is the intention of the Board of Aldermen that this ordinance implement the planning policies adopted by the Board of Aldermen for the city and its extraterritorial planning area, as reflected in the comprehensive plan and other planning documents. While the Board of Aldermen reaffirms its commitment that this ordinance and any amendment to it be in conformity with adopted planning policies, the Board of Aldermen hereby expresses its intent that neither this

ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

## 1.9 NO DEVELOPMENT OR LAND DISTURBANCE UNTIL COMPLIANCE WITH THIS ORDINANCE

- A. No land shall be developed, occupied, or used without full compliance with the provisions of this ordinance and all other applicable City, County, State, and Federal laws, rules, and regulations. Compliance with regulations from the following agencies may be required prior to issuance of any land development permit: US Fish and Wildlife Service, US Army Corp of Engineers, Brunswick County Environmental Health, NC Division of Coastal Management, NC Department of Transportation, and/or the NC Department of Environmental Quality among others.
- B. No alteration of vegetation, trees, or landscape material in excess of three (3) inches DBH shall occur on a lot or building site prior to the issuance of a zoning or tree removal permit. Some clearing of understory trees and shrubs may be required to prepare a site for survey, inspection by governmental agencies as part of any permitting process, or to stake the proposed building site.
- C. On densely vegetated lots, a walking access trail not to exceed three (3) feet may be cleared for access purposes. Permission to clear any understory trees and shrubs less than three (3) inches DBH for said walking access shall be permitted following consultation with the UDO Administrator; however, clearing shall be kept to an absolute minimum.

## 1.10 COMPUTATION OF TIME

- A. Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.
- B. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three (3) days shall be added to the prescribed period.

## 1.11 SEVERABILITY

It is hereby declared to be the intention of the Board of Aldermen that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentence, clauses, or phrases of this ordinance since the same would have been enacted without the incorporation into this ordinance of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

## 1.12 FEES

- A. Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, subdivision plat approval, zoning amendments, variances, appeals and any other applicable land development permit. The amount of the fees charged shall be as set forth in the city's budget or as established by resolution of the Board of Aldermen filed in the office of the city clerk.
- B. Fees established in accordance with Subsection (A) shall be paid upon submission of a signed application and no application shall be considered complete without submission of the applicable fee.