

Chapter

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1.1 PURPOSE

The purpose of this Ordinance is to promote and protect the public health, safety, investment, and general welfare of the citizens and residents of Elkin and its extraterritorial jurisdiction (ETJ). It is a comprehensive, unified set of regulations that govern the subdivision, the development, and the use of land.

1.2 AUTHORITY

The Elkin Unified Development Ordinance (UDO) is hereby adopted under the authority and provisions in the North Carolina General Statutes (N.C.G.S.) § 160D-101. Whenever any provision of this appendix refers to or cites a section of the N.C.G.S. and that section is later amended or superseded, the appendix shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

1.3 TITLE

This Ordinance is officially titled as the "Unified Development Ordinance of the Town of Elkin, North Carolina" and shall be known as the "UDO."

1.4 JURISDICTION

The Elkin UDO shall be effective throughout the Town of Elkin and its extraterritorial planning jurisdiction (ETJ) exercised by Ordinance and denoted on the Zoning Map as is on file at the Town of Elkin Planning Department. The planning jurisdiction of the Town may be modified from time to time in accordance with N.C.G.S. § 160D-202.

1.5 CONFORMANCE TO UDO PROVISIONS

A. Conformance in General

From and after the adoption of the UDO, no real property lying within the jurisdiction of the UDO shall be subdivided except in conformance with all applicable provisions of the UDO. In addition, after the effective date of the UDO, no plat for subdivision of land within the jurisdiction of the UDO shall be certified for recording by the Administrator, and the Clerk of Superior Court shall not order the recording of a plat until it has been submitted and approved in accordance with the provisions of the UDO.

Furthermore, no land or structure shall be used or occupied, and no structure or parts shall be constructed, erected, altered, or moved, unless in conformity with all the regulations herein specified for the zoning district in which it is located. Every building erected, moved, or structurally altered shall be located on a lot conforming to the requirements of the district.

B. Exemptions for Bona Fide Farms

1. As established by Session Law (S.L.) 2011-363, property that is used for bona fide farm purposes within Elkin's Extra Territorial Jurisdiction (ETJ) shall be exempt from the provisions of this Ordinance. For the purpose of applying exemptions to bona fide farms, "property" means a single tract of property or an identifiable portion of a single tract. In order to determine whether a property is being used for bona fide farm purposes, refer to the definition for "Bona Fide Farm" contained in Chapter 12.
2. As permitted under S.L. 2011-34, an accessory building of a "bona fide farm" within the Town of Elkin's zoning jurisdiction has the same exemption from the building code as it would have under county zoning as provided by N.C.G.S. § 160D-903.

1.6 NONCONFORMITIES UNDER PRIOR ORDINANCE

Any nonconformity under the previous Zoning Ordinance will also be a nonconformity under this Ordinance, if the circumstances that resulted in the nonconforming status under the previous Ordinance continue to exist. If a nonconformity under the previous Ordinance becomes conforming because of the adoption of this Ordinance, then the nonconformity will cease to exist.

1.7 USES AND STRUCTURES RENDERED NONCONFORMING

When a lot is used for a purpose that was a lawful use before the effective date of this Ordinance and this Ordinance no longer classifies such use as either a permitted use or special use in the zoning district in which it is located, such use shall be considered nonconforming and shall be controlled by the provisions of Chapter 8 of this Ordinance.

Where any building, structure, or lot that legally existed on the effective date of this Ordinance does not meet all standards set forth in this Ordinance, such building, structure, or lot shall be considered nonconforming and shall be controlled by the provisions of Chapter 8 of this Ordinance.

1.8 CONFLICT WITH OTHER LAWS

It is not intended that this Ordinance repeal, supersede, annul, impair, or interfere with any existing easements, private agreements, vested rights or building permits previously adopted or issued pursuant to law and currently effective.

All existing lots of record, platted prior to the adoption of this Ordinance that do not meet the dimensional standards contained within this Ordinance and upon which no buildings have been erected, shall be legally nonconforming upon the date of adoption of this Ordinance. Such existing lots of record shall not be subject to the new lot standards herein; however, buildings upon such lots shall be subject to standards in this Ordinance.

Furthermore, should the courts declare any section or provisions of this chapter invalid, such decision shall not affect the validity of the Chapter as a whole or any part thereof, other than the part so declared to be invalid.

1.9 OFFICIAL ZONING MAP

The official zoning map of the Town dated 1990 is hereby replaced with the digital "Official Zoning Map of the Town of Elkin," dated December 13, 2021.

1.10 COMPREHENSIVE PLAN

As a condition of adopting and applying zoning regulations under this Chapter, the Town shall adopt and reasonably maintain a comprehensive plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction, S.L. 2019-111 . Plans shall be adopted by the Town Council with the advice and consultation of the Planning Board. Adoption

and amendment of a comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by N.C.G.S. § 160D-601. Plans adopted under this Chapter may be undertaken and adopted as part of or in conjunction with plans required under other statutes. Plans adopted under this Chapter shall be advisory in nature without independent regulatory effect. Plans adopted under this Chapter do not expand, diminish, or alter the scope of authority for development regulations adopted under this Chapter. Plans adopted under this Chapter shall be considered by the Planning Board and governing board when considering proposed amendments to zoning regulations as required by N.C.G.S. § 160D-604 and N.C.G.S. § 160D-605. If a plan is deemed amended by N.C.G.S. § 160D-605 by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan.

1.11 EFFECTIVE DATE

These regulations shall become effective on December 13, 2021. Upon adoption, these regulations shall supersede, repeal, and replace the Elkin Zoning Ordinance, as made effective on January 13, 2020 and the Elkin Subdivision Ordinance, made effective September 28, 2012.

1.12 VIOLATIONS CONTINUE

Any violation of provisions existing on the effective date of this Ordinance shall continue to be a violation under this Ordinance and be subject to penalties and enforcement under Chapter 10, unless the use, development, construction, or other activity complies with the provisions of this Ordinance.

1.13 LIABILITY FOR DAMAGES

This Ordinance shall not be construed to hold the Town or its authorized representatives responsible for any damage to persons or property by reason of the inspection or reinspection authorized in this Ordinance or for any actions taken by landowners or developers to comply with the procedures or standards of this Ordinance.

1.14 VALIDITY AND SEVERABILITY

It is the legislative intent of the Town Council in adopting this Ordinance that all provisions shall be liberally construed to protect and preserve the health, safety, investment, and general welfare of the inhabitants of the Town. If any Section, subsection, sentence, 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. The Town Council hereby declares that it would have passed this Ordinance and any Section, subsection, sentence, clause, and phrase, thereof, irrespective of the fact that any one or more Sections, subsections, sentences, clauses, or phrases be declared invalid.