

ARTICLE 1. GENERAL PROVISIONS

Section 1.1 Short Title/Purpose.

This chapter shall be known and may be cited as the Edenton Land Development Ordinance. This ordinance is designed to serve as a land development regulatory document which combines traditional zoning provisions, subdivision regulations, flood damage prevention regulations, and street and utility standards. The principal objectives of the Edenton Land Development Ordinance are to (i) assist in the implementation of the town's land development plan, (ii) provide a flexible means to administer land development regulations, and (iii) expedite the land development permit review process.

Section 1.2 Authority.

(a) Zoning provisions enacted herein are under the authority of North Carolina General Statute (NCGS) 160D, Article 7 Zoning, which extends to towns/cities the authority to enact regulations which promote the health, safety, morals, or the general welfare of the community. It authorizes cities to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. This section further authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district. The statutes also require that all such regulations shall be uniform for each class or type of building throughout each district, but that the regulations in one district may differ from those in other districts. *(Amended 9/14/2021)*

(b) Subdivision provisions enacted herein are under the authority of NCGS 160D, Article 8 Subdivision Regulations which provide for the coordination of streets within proposed subdivisions with existing or planned street and with other public facilities, the dedication or reservation or 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. *(Amended 9/14/2021)*

(c) Whenever any provision of this chapter refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, the chapter shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

Section 1.3 Purpose.

This Unified Development Ordinance and Zoning Map are made in accordance with a Comprehensive Plan and is designed to promote the public health, safety, and general welfare. To that end, these regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to control development of flood prone areas and regulate stormwater runoff/discharge; to regulate signs; and to establish proceedings for the subdivision of land; and to promote the health, safety, morals, or general welfare of the community. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and

its 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. The regulations may not include, as a basis for denying a zoning or rezoning request from a school, the level of service of a road facility or facilities abutting the school or proximately located to the school. *(Amended 9/14/2021)*

Section 1.4 Jurisdiction/Applicability.

(a) This chapter shall be effective throughout the town's planning jurisdiction. The town's planning jurisdiction comprises the area within the corporate boundaries of the town as well as the area described in that ordinance adopted by the Town Council on November 14, 1989, entitled an "Ordinance Establishing Extraterritorial Jurisdiction," which ordinance is recorded in book____, page____ of the Chowan County Registry. Such planning jurisdiction may be modified from time to time in accordance with Section 160D-202 of the North Carolina General Statutes. *(Amended 9/14/2021)*

(b) In addition to other locations required by law, a copy of a map showing the boundaries of the town's planning jurisdiction shall be available for public inspection in the Zoning Administrator's office.

(c) Except as hereinafter provided, no building or structure shall be erected, moved, altered, or extended, and no land, building, or structure or part thereof shall be occupied or used unless in conformity with the regulations specified for the district in which it is located. *(Amended 9/14/2021)*

(d) *Exemptions. (Amended 9/14/2021)*

- (1) These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site-specific plan as required by the requirements previously adopted or previously approved vested rights in accordance with NCGS 160D-108. Any preliminary or final subdivision plat approvals required for such approved or exempted site-specific plans shall be conducted in accordance with the requirements of the previous Unified Development Ordinance.
- (2) In accordance with NCGS 160D-913, this UDO is applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions. Notwithstanding the provisions of any general or local law or ordinance, except as provided in Article 9, Part 4 of NCGS 160D, no land owned by the State of North Carolina may be included within an overlay district or a conditional zoning district without approval of the Council of State or its delegee.
- (3) The following are not included within the definition of a subdivision (as provided in Article 2), and are not subject to the regulations of this Ordinance:
 - The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown on its subdivision regulations.

- The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.
 - The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
 - The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision regulations.
 - The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
- (4) The provisions of this Ordinance shall not apply to existing bona fide farms. A bona fide farm is any tract of land containing at least three acres which is used for the production of, or activities relating to, or incidental to, the production of crops, fruit, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural or forest products having a domestic or foreign market.

Section 1.5 Conflicts with Other Regulations.

(a) 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, covenants, or other agreements between parties. *(Amended 9/14/2021)*

(b) When the requirements of this UDO, made under the authority of NCGS 160D, require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of NCGS 160D shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of NCGS 160D the provisions of that statute or local ordinance or regulation shall govern. *(Amended 9/14/2021)*

Section 1.6 North Carolina State Building Code.

The Town of Edenton Building Code with appendices and the North Carolina State Building Code are incorporated herein by reference, and serve as the basis for Building Inspector authority to regulate building construction. This Ordinance is not intended to conflict with or supersede the North Carolina State Building Code regulations. In addition, the town's minimum housing code is also incorporated herein by reference. All quasi-judicial procedures prescribed in Section __ apply to these codes/ordinances. *(Amended 9/14/2021)*

Section 1.7 Relationship to Comprehensive Plan.

(a) *Applicability.* As a condition of adopting and applying zoning regulations, the Town of Edenton 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. The town's comprehensive plan is intended to guide coordinated, efficient, and orderly development throughout the town's corporate limits based on an analysis of present and future needs. Planning analysis may address inventories of existing conditions and assess future trends regarding demographics and economic, environmental, and cultural factors. The planning process shall include opportunities for citizen engagement in plan preparation and adoption. In addition to a comprehensive plan, the town may prepare and adopt such other plans as deemed appropriate. This may include, but is not limited to, land use plans, small area plans, neighborhood plans, hazard mitigation plans, transportation plans, housing plans, and recreation and open space plans. If adopted pursuant to the process set forth in this section, such plans shall be considered in review of proposed zoning amendments. *(Amended 9/14/2021)*

(b) *Comprehensive Plan Contents.* A Comprehensive Plan may, among other topics, address any of the following as determined by the town:

- (1) Issues and opportunities facing the town, including consideration of trends, values expressed by citizens, community vision, and guiding principles for growth and development.
- (2) The pattern of desired growth and development and civic design, including the location, distribution, and characteristics of future land uses, urban form, utilities, and transportation networks.
- (3) Employment opportunities, economic development, and community development.
- (4) Acceptable levels of public services and infrastructure to support development, including water, waste disposal, utilities, emergency services, transportation, education, recreation, community facilities, and other public services, including plans and policies for provision of and financing for public infrastructure.
- (5) Housing with a range of types and affordability to accommodate persons and households of all types and income levels.
- (6) Recreation and open spaces.
- (7) Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands.
- (8) Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality.
- (9) Protection of significant architectural, scenic, cultural, historical, or archaeological resources.

- (10) Analysis and evaluation of implementation measures, including regulations, public investments, and educational programs. *(Amended 9/14/2021)*

(c) *Adoption and Effect of Plans.* Plans shall be adopted by the Town Council with the advice and consultation of the Planning Board. Adoption and amendment of the comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by Article 20, Part I. Plans adopted under NCGS 160D may be undertaken and adopted as part of or in conjunction with plans required under other statutes, including, but not limited to, the plans required by G.S. 113A-110. Plans adopted under NCGS 160D shall be advisory in nature without independent regulatory effect. Plans adopted under NCGS 160D do not expand, diminish, or alter the scope of authority for development regulations adopted under NCGS 160D. Plans adopted under NCGS 160D shall be considered by the Planning Board and Town Council when considering proposed amendments to zoning regulations as required by Sections 20.4 and 20.5. *(Amended 9/14/2021)*

If a plan is deemed amended by Section 20.5 by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan. However, if the plan is one that requires review and approval subject to G.S. 113A-110, the plan amendment shall not be effective until that review and approval is completed. *(Amended 9/14/2021)*

Section 1.8 No Use or Sale of Land or Buildings Except in Conformity With Chapter Provisions.

(a) Subject to Article 8 of this chapter (Nonconforming Situations), no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this chapter.

(b) For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

Section 1.9 Fees.

(a) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for all development permit approvals, zoning amendments, variances, appeals, Certificates of Appropriateness, and other administrative relief. The amount of the fees charged shall be as set forth in the town's budget or as established by resolution of the Council filed in the office of the Town Administrator *(Amended 1/14/03, 9/14/2021)*.

(b) Fees established in accordance with subsection (a) shall be paid upon submission of a signed application or notice of appeal.

Section 1.10 Severability.

It is hereby declared to be the intention of the Council 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, sentences, 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.

Section 1.11 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 days shall be added to the prescribed period.

Section 1.12 Development Approvals Run with the Land.

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approval made pursuant to this Ordinance attach to and run with the land. *(Amended 9/14/2021)*

Section 1.13 Refund of Illegal Fees.

If the Town of Edenton is found to have illegally imposed a tax, fee, or monetary contribution for development or a development approval not specifically authorized by law, the town shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum to the person who made the payment or as directed by a court if the person making the payment is no longer in existence. *(Amended 9/14/2021)*

Section 1.14 Split Jurisdiction.

If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the Town of Edenton and Chowan County may by mutual agreement and with the written consent of the landowner assign exclusive planning and development regulation jurisdiction for the entire parcel to either the town or the County. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the Chowan County register of deeds within 14 days of the adoption of the last required resolution. *(Amended 9/14/2021)*

Section 1.15 Pending Jurisdiction.

After consideration of a change in local government jurisdiction has been formally proposed, the local government that is potentially receiving jurisdiction may receive and process proposals to adopt development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date. *(Amended 9/14/2021)*

Section 1.16 Miscellaneous.

(a) As used in this ordinance, words importing the masculine gender include the feminine and neuter.

(b) Words used in the singular in this ordinance include the plural and words used in the plural include the singular.

Section 1.17 Effective Date.

The provisions in this chapter were originally adopted and became effective on May 27, 1969, as amended.