

1.1. SHORT TITLE

This ordinance shall be known as the “Garner Unified Development Ordinance,” “this Ordinance,” or “UDO.”

1.2. AUTHORITY AND PURPOSE

1.2.1. Authority

The Town Council, pursuant to the authority conferred by the State of North Carolina General Assembly in General Statute Chapter 160D (G.S. § 160D), does hereby ordain and enact into law the articles and sections of this UDO.

1.2.2. Purpose

It is the intent of the Town Council that this UDO promote the health, safety, and general welfare of existing and future residents, businesses, and visitors of the Town by:

- A. Providing for adequate light, air, and open space;
- B. Creating a convenient, attractive, and harmonious community;
- ~~C. Protecting and preserving scenic, historic, or ecologically sensitive areas;~~
- ~~D.C.~~ Regulating population density and distribution;
- ~~E.D.~~ Regulating the uses of buildings, structures, and land;
- ~~F.E.~~ Facilitating economic growth and commerce;
- ~~G.F.~~ Ensuring adequacy and availability of public services including transportation, emergency response services, utilities, parks and recreational amenities, and affordable housing;
- ~~H.G.~~ Securing safety from fire, flood, and other dangers;
- H. Regulating the location and distribution of uses of land and buildings;
- I. Regulating the subdivision of land; ~~and~~
 —Furthering the public interest by additional means determined by the Town Council. _____

I. _____

J. _____

1.3. JURISDICTION

This UDO shall apply to all land within Town of Garner and its planning jurisdiction. All structures and land uses constructed or commenced after the effective date of this UDO and all enlargements of, additions to, changes in and relocations of existing structures and uses occurring after the effective date of this UDO shall be subject to this UDO. This UDO shall be effective throughout the Town's planning jurisdiction. The Town's planning jurisdiction comprises the entire area within the boundary described in Appendix A.

1.4. EFFECTIVE DATE

This UDO, as amended from time to time, was originally adopted and became effective on October 1, 2003. Amendments to this ordinance will and have occurred from time to time. The most recent major reorganization and update of this UDO occurred on <insert date of adoption>.

1.5. ADMINISTRATION

The Planning Director is appointed to serve as administrator of this UDO. Should this position at any time become vacant, the Town Manager shall designate another official to act as administrator until the office is filled. The Planning Director may designate any staff member to represent the Planning Director in any function assigned by this UDO but shall remain responsible for any final action.

1.6. INTERPRETATION

The Planning Director is responsible for ultimate interpretation of this UDO and any dispute with any interpretation or administrative decision may be appealed per the standards of this Ordinance.

1.7. CONFORMITY WITH ARTICLE PROVISIONS

1.7.1. Compliance Required

- A. The purpose of this Ordinance is to ensure compliance with the zoning, subdivision, and other design and dimensional standards of the Town.
- B. No structure or land shall hereafter be used, occupied, or modified, and no structure or part thereof shall be erected, moved onto, or structurally altered, except in compliance with the regulations of this Chapter, for the district in which it is located.
- C. No building, sign, structure, or land-disturbing activities, or any part thereof shall be erected, structurally altered, moved, or changed in use until a zoning permit has been issued by the Planning Director.

D. In the absence of public water or public sewer, no building permit shall be issued until the lot meets all other applicable requirements of this UDO and Wake County.

1.7.2. Minimum Requirements

For purposes of interpretation and application, the provisions of this UDO shall be the minimum requirements for the protection and promotion of public health, safety, and general welfare.

1.8. RELATIONSHIP TO OTHER ORDINANCES AND STATUTES

1.8.1. Conflicting Provisions

Whenever the requirements of this UDO are inconsistent with the requirements of any other lawfully adopted governmental rules, regulations, or ordinances, the most restrictive requirement imposing the highest standards, as determined by the Planning Director, shall govern. However, the Town shall not be responsible for enforcing other agencies' regulations.

1.8.2. Minimization

Where multiple ways to implement, administer, or construe a provision exist, the provision shall be implemented, administered, or construed to eliminate and minimize conflict with other provisions of the UDO.

1.8.3. Town Ordinances

If substantially similar provisions existed in previous Town ordinances, the provisions of this UDO shall not be considered new enactments but as continuations of existing rule. Unlawful nonconformities do not achieve legal conforming status by virtue of the adoption of this Ordinance alone.

1.8.4. Amendments to State Statutes

Whenever a North Carolina General Statute (a.k.a. "G.S.") section cited or referenced by any of these ordinance provisions is later amended or superseded, the ordinance provision shall be deemed to refer to the amended section or the section that most closely corresponds to the superseded section.

1.8.5. Validity

If, for any reason, any condition imposed pursuant to these regulations is found to be illegal or invalid, such condition shall be null and void and of no effect. _____

Commentary: For instance, if this UDO references G.S. § 160D-702, which grants the regulation of zoning to local governments from the state, and the state should subsequently reorganize the statutes, then the reference in this Ordinance shall be understood to reference the most current statute. This shall be honored even if this Ordinance fails to modify references immediately at the time that the state statutes should be reorganized.

1.9. CONSISTENCY WITH ADOPTED PLANS

1.9.1. General

The Town Council intends that this UDO shall guide the administration of the Town's adopted planning policies within the Town and its extraterritorial jurisdiction.

1.9.2. Comprehensive Plan

The most current Comprehensive Plan is hereby incorporated by reference.

1.9.3. Zoning

The zoning regulations in this UDO are in accordance with the Comprehensive Plan and the Town of Garner Official Zoning Map (also known as "zoning map") which is hereby incorporated by reference.

1.9.4. Other Plans and Policies

All other Town-adopted plans, maps, policies, and documents and all other outside agency maps, plans, policies, and documents referenced herein or necessary to enforce the provisions of this UDO are hereby incorporated by reference.

1.9.5. Conformity

Subject to Article 9, Nonconformities, no person may use, occupy, or sell any land or buildings, or authorize or permit the use, occupancy under their control, except in accordance with all applicable provisions of this UDO. _____

1.10. TRANSITIONAL PROVISIONS

1.10.1. Vested Rights

- A. 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.
- B. Nothing in this UDO shall require a change to a phasing plan approved prior to the adoption 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 developer shall continue construction activities, as evidenced by an active building permit or other vested right, in order to continue a project under a previous phasing plan.
- C. If construction is not completed according to the applicable permit terms, the Town Council may, for good cause shown, grant an extension of up to one year for such construction.

1.10.2. Permit Choice

- A. Pursuant to G.S. § 160D-108, any complete application submitted before the effective date of an amendment to this UDO may be evaluated and decided, at the applicant’s discretion, in conformance with applicable permits and regulations in effect at the time of submission of the application.
- B. If construction is not commenced or completed according to the applicable terms of the application, the Town Council may, for good cause shown, grant an extension of up to one year for such construction.

1.10.3. District Conversion

The zoning districts in effect prior to the effective date of this UDO are hereby converted, as shown on the following table:

Figure 1.10-A: District Conversions

PREVIOUS DISTRICT		NEW DISTRICT	
RESIDENTIAL ZONING DISTRICTS			
R-40	Single Family Residential	R-40	Single Family Residential 40

R-20	Single-Family Residential	R-20	Single-Family Residential 20
R-15	Single-Family Residential	R-15	Single-Family Residential 15
R-12	Single-Family Residential	R-12	Single-Family Residential 12
R-9	Single-Family Residential	R-9	Single-Family Residential 9
MF-1	Multi-Family 1	MF-1	Multifamily Residential 1
MF-2	Multi-Family 2	MF-2	Multifamily Residential 2
R-5	Manufactured Home-Park/Subdivision	RMH	Manufactured Home-Park/Subdivision
-MH	Mobile Home Floating District	-MH	Manufactured Home Floating Zone (formerly Mobile Home Floating District)
COMMERCIAL ZONING DISTRICTS			
—	New	NO	Neighborhood Office
NB	Neighborhood Business	NC	Neighborhood Commercial (formerly Neighborhood Business)
CBD	Central Business District	CBD	Central Business District
OI	Office and Institutional	OI	Office and Institutional
CB	Community Business	CR	Community Retail (formerly Community Business)
OVERLAY ZONING DISTRICTS			
—	Conservation Buffer Area	CBA	Conservation Buffer Area
—	Lake Benson Conservation	LBC	Lake Benson Conservation
—	Timber Drive Overlay	O-TD	Timber Drive Overlay
—	U.S. 70/401 Overlay	O-70	U.S. 70/401 Overlay

—	I-40/US 70 Special Highway Overlay	O-40	I-40 Overlay
—	New	GR-OD	Garner Road Overlay District
OBSOLETE DISTRICTS			
MR-1	Multi Residential 1	MR-1	Multi Residential 1
RCD	Residential Cluster District	RCD	Residential Cluster District
R-12-PR	R-12 Planned Residential District	R-12-PR	Planned Residential District
MXD-1	Mixed Use Development District	MXD-1	Mixed Use Development District
<u>PREVIOUS DISTRICT</u>		<u>NEW DISTRICT*</u>	
RESIDENTIAL ZONING DISTRICTS			
<u>R-40</u>	<u>Single-Family Residential 40</u>	<u>RA</u>	<u>Rural Agricultural</u>
<u>R-20</u>	<u>Single-Family Residential 20</u>	<u>R2</u>	<u>Residential 2</u>
<u>R-15</u>	<u>Single-Family Residential 15</u>	<u>R5</u>	<u>Residential 5</u>
<u>R-12</u>	<u>Single-Family Residential 12</u>	<u>R5</u>	<u>Residential 5</u>
<u>R-9</u>	<u>Single-Family Residential 9</u>	<u>R5</u>	<u>Residential 5</u>
<u>MF-1</u>	<u>Multifamily Residential 1</u>	<u>MF-1</u>	<u>Multifamily Residential 1</u>
<u>MF-2</u>	<u>Multifamily Residential 2</u>	<u>MF-2</u>	<u>Multifamily Residential 2</u>
<u>RMH</u>	<u>Manufactured Home Park/Subdivision</u>	<u>RMH</u>	<u>Manufactured Home Park/Subdivision</u>
NONRESIDENTIAL AND MIXED USE ZONING DISTRICTS			
<u>NO</u>	<u>Neighborhood Office*</u>	<u>NC</u>	<u>Neighborhood Commercial</u>
<u>NB</u>	<u>Neighborhood Commercial (formerly Neighborhood Business)</u>	<u>NC</u>	<u>Neighborhood Commercial</u>

<u>CBD</u>	<u>Central Business District</u>	<u>TBD</u>	<u>Traditional Business District</u>
<u>OI</u>	<u>Office and Institutional*</u>	<u>CMU</u>	<u>Commercial Mixed Use</u>
<u>SB</u>	<u>Service Business*</u>	<u>CMU</u>	<u>Commercial Mixed Use</u>
<u>CR</u>	<u>Community Retail (formerly Community Business)</u>	<u>CMU</u>	<u>Commercial Mixed Use</u>
<u>FLOATING OVERLAY ZONING DISTRICTS</u>			
<u>-MH</u>	<u>Manufactured Home Floating Zone (formerly Mobile Home Floating District)</u>	<u>-MH</u>	<u>Manufactured Home Floating Zone</u>
<u>OVERLAY ZONING DISTRICTS</u>			
<u>CBA</u>	<u>Conservation Buffer Area</u>	<u>CBA</u>	<u>Conservation Buffer Area</u>
<u>LBC</u>	<u>Lake Benson Conservation</u>	<u>LBC</u>	<u>Lake Benson Conservation</u>
<u>SCC</u>	<u>Swift Creek Conservation</u>	<u>SCC</u>	<u>Swift Creek Conservation</u>
<u>O-TD</u>	<u>Timber Drive Overlay</u>	<u>RAO</u>	<u>Residential Arterial Overlay</u>
<u>-</u>	<u>Timber Drive East Overlay</u>	<u>RAO</u>	<u>Residential Arterial Overlay</u>
<u>O-70</u>	<u>U.S. 70/401 Overlay</u>	<u>CHO</u>	<u>Commerical Highway Overlay</u>
<u>O-40</u>	<u>I-40 Overlay</u>	<u>LAHO</u>	<u>Limited Access Highway Overlay</u>
<u>GR-OD</u>	<u>Garner Road Overlay District</u>	<u>CHO</u>	<u>Commerical Highway Overlay</u>
<u>OBSOLETE DISTRICTS</u>			
<u>MR-1</u>	<u>Multi-Residential 1*</u>	<u>MF1</u> or <u>MF2</u>	<u>Multi-family Residential 1 or 2</u>
<u>RCD</u>	<u>Residential Cluster District*</u>	<u>R</u>	<u>One of the Residential general use districts</u>
<u>R-12</u> <u>PR</u>	<u>Planned Residential District</u>	<u>CZ</u>	<u>Conditional Zoning District</u>

<u>MXD-1</u>	<u>Mixed Use Development District</u>	<u>CZ</u>	<u>Conditional Zoning District</u>
<p><u>Notes:</u></p> <p><u>* Not all properties necessarily translated to a direct remapping conversion to the district(s) shown here as each location was considered on a case-by-case with regard to the existing use and the surrounding properties at the time of the remapping.</u></p>			

1.10.4. Conditional Use District Conversion

On the earlier of either the adoption of this ordinance or January 1, 2021, any existing and legal Conditional Use zoning districts or Planned Unit Development (PUD) zoning districts that are valid and in effect shall be deemed a Conditional Zoning (CZ) district subject to the same conditions of approval or conditions of operation of the existing entitlement.

1.11. SEVERABILITY

The sections, paragraphs, sentences, clauses, phrases, requirements, and criteria of this UDO are severable to the least extent necessary to carry out the purpose and intent of this Ordinance.