

ARTICLE 1. GENERAL PROVISIONS

Section 1-1. Title

This Ordinance shall be known and may be cited as the “Town of Calabash, North Carolina, Unified Development Ordinance,” and may be referred to as the “Calabash UDO.” The map herein referred to, which is identified by the title “Official Zoning Map, Calabash, North Carolina,” shall be known as the “Zoning Map.”

Section 1-2. Authority

- (A) This Ordinance is adopted pursuant to the authority contained in North Carolina General Statute (NCGS) Chapter 160A which states that a town 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 Town, and may define and abate nuisances.
- (B) Whenever any provision of this Ordinance refers to or cites a section of the NC General Statutes and that section is later amended or superseded, the Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.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 is designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the 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. 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, and to preserve the fishing, dining, and shopping village character.

Section 1-4. Jurisdiction

- (A) The provisions of this Ordinance shall apply within the corporate limits of the Town and the extraterritorial limits now in effect and as shown on the “Official Zoning Map” and as may be hereinafter adopted. Such planning jurisdiction may be modified from time to time in accordance with NC General Statutes 160A-360.
- (B) In addition to other locations required by law, a copy of the official zoning map showing the boundaries of the Town’s planning jurisdiction shall be available for public inspection at the Town Hall.
- (C) In accordance with NC General Statutes 160A-392, the Town of Calabash UDO applies to state-owned lands only when a building is involved.

Section 1-5. Identification of Official Zoning Map

- (A) The Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk and bearing the seal of the Town under the following words: “This is to certify that this is the Official Zoning Map of the Unified Development Ordinance, Calabash, North Carolina,” together with the date of the adoption of this Ordinance.
- (B) If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Zoning Map, such changes shall be entered on the Zoning Map promptly after the amendment has been approved by the Board of Commissioners, with an entry on the Zoning Map denoting the date of amendment and signed by the Town Clerk. No amendment to this Ordinance which involves matter portrayed on the Zoning Map shall become effective until after such change and entry has been made on said map.
- (C) When the Zoning Map is officially replaced, unless the prior map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption of amendment.

Section 1-6. Effective Date

The provisions in this Ordinance were originally adopted and became effective on **July 13, 2010**.

Section 1-7. Relationship to Existing Zoning and Subdivision Ordinances

To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions that they replace in the Town’s zoning, subdivision, and flood damage ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided.

Section 1-8. Relationship to Coastal Area Management Act (CAMA) Land Use Plan

It is the intention of the Board of Commissioners that this Ordinance implement the planning policies adopted by the Board of Commissioners for the Town and its extraterritorial planning area, as reflected in the CAMA land use plan and other planning documents. The Board of Commissioners reaffirms its commitment that this Ordinance and any amendment to it be in conformity with adopted planning policies.

Section 1-9. Prerequisite to Final Subdivision Plat Recordation

After the effective date of this ordinance, subdivisions meeting the requirements of minor subdivision shall be approved by the Planning and Zoning Board and Administrator. All Major subdivisions must have final approval from the Board of Commissioners upon recommendation from the Planning & Zoning Board.

Any final plat, either major or minor, shall be recorded with the Register of Deeds within 90 days from the date of approval by the Administrator or Board of Commissioners. If the final plat is not recorded within this period, it shall expire. The plat may be resubmitted for review and it shall be reviewed against the Ordinance in effect at that time.

Section 1-10. Fees

- (A) Reasonable fees sufficient to cover the actual costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, conditional-use permits, special use permits, stormwater permits, subdivision plat approval, site plan approval, zoning amendments, variances, changes to Zoning Ordinance text and map, and other administrative relief. The amount of the fees charged shall be as established by resolution of the Board of Commissioners filed in the office of the Town Clerk.
- (B) Fees established in accordance with Subsection (A) shall be paid upon submission of a signed application or notice of appeal.
- (C) Violations are a Class 3 Misdemeanor that includes varying monetary penalties. Each day a violation continues shall be a separate violation. All fees and penalties included in Section 10.99 of the Calabash General Code of Ordinances shall apply to penalties and violations contained herein.

Section 1-11. 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, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, covenants, or agreements, the provisions of this Ordinance shall govern.

Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants inoperative.

Section 1-12. Severability

It is hereby declared to be the intention of the Board of Commissioners 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.

Section 1-13. 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 1-14. Required Yards Not to be Used by Buildings

The minimum yards or other open spaces required by this Ordinance for each and every building shall not be encroached upon or considered as meeting the yard and open space requirements of any other building.

Section 1-15. Relationship of Building to Lot

Every building hereinafter erected, moved, or structurally altered, shall be located on a lot and in no case shall there be more than one principal building and its customary accessory buildings on the lot, except in the case of a designed complex of professional, residential, or commercial buildings in an appropriate zoning district (i.e., school campus, shopping center, and industrial park). Detached garages and carports must meet the same setback requirements as the principal building, just as if they were attached.

Section 1-16. Street Access

No building shall be erected on a lot which does not abut a street approved by the procedures contained in this UDO or have access to a public right-of-way, or private driveway, provided that in a business district or in a planned project in a residential district, a building may be erected adjoining a parking area or dedicated open space which has access to a street used in common with other lots.

Section 1-17. Reduction of Lot and Yard Areas Prohibited

No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yard or lots created after the effective date of this Ordinance shall meet at least these minimum requirements.

Section 1-18. Issued Building and/or Zoning Permits

The provisions contained herein shall not affect buildings, structures, and uses for which building and/or zoning permits were issued prior to the passage of this Ordinance, provided that the permit is not revoked and the activities for which the outstanding permits were issued are begun within 180 days of the date this Ordinance is adopted. Outstanding zoning permits not started within 180 days shall be null and void.

Section 1-19. Building Permits Based on Zoning Permits

(A) Building Permits/Zoning Permit Required.

- (1) A valid Zoning Permit and/or Conditional Use Permit shall be presented with any application for a Building Permit. No Building Permit shall be issued for any activity in a zoned area until such Zoning Permit is presented. All zoning and conditional use permits shall be issued in accordance with Article 12. It shall be unlawful to commence the excavation for or the construction of the building or other structure including accessory structures or to commence the moving or alteration of any structure or the use of any land or building including accessory structures, until the Administrator has issued a Zoning Permit for such work or use including a statement that the plans, specifications and intended use of such

land, or structure, in all respects conforms with the provisions of this Ordinance. Application for a Zoning Permit shall be made in writing to the Administrator on forms provided for that purpose. Zoning Permits shall be void after six months from date of issue unless substantial progress on the project has been made by that time.

- (2) A building permit is valid for one year from the date of issue. If construction is not started in 180 days, the applicant must apply for a permit renewal. The fee for renewal of the permit shall be the same as for the original permit.
- (B) Approval of Plans. It shall be unlawful for the Administrator to approve any plans or issue a building permit for any purpose regulated by this Ordinance until he/she has inspected such plans in detail and found them in conformity with this Ordinance. To this end, the Administrator shall require that every application for a building permit be accompanied by a plan or plat drawn to scale and showing the following in sufficient detail to enable the Administrator to ascertain whether the proposed activity is in conformance with the Ordinance.
- (1) The actual shape, location and dimensions of the lot.
 - (2) The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot.
 - (3) The existing and intended use of all such buildings or other structures, parking facilities, landscaping design and stormwater control measures.
 - (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.
- (C) Issuance of Building Permits. If the proposed activity as set forth in the application is in conformity with the provisions of this Ordinance, the Administrator shall issue a building permit. If any application for a building permit is not approved, the Administrator shall state in writing on the application the cause for such disapproval. Issuance of a permit shall, in no case, be construed as waiving any provision of this Ordinance or any other ordinance or regulation.
- (D) Determination of Exact Location of Zoning District Boundary Lines. The Administrator shall decide the exact location of zoning district boundary lines when a question arises concerning boundary lines shown on zoning maps, subject to administrative review by the Board of Adjustment.

Section 1-20. Certificates of Occupancy

- (A) No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied or moved until the Building Inspector or Administrator has issued a Certificate of Occupancy. Therefore, the change of occupancy provision shall not apply to rooms intended for transient rental.
- (B) A Temporary Certificate of Occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building or for other temporary uses.

- (C) Application for a Certificate of Occupancy may be made by the owner or his agent at the same time as submitting an application for a building permit, if needed. The Certificate of Occupancy shall be issued by the Building Inspector after all final inspections have been made.
- (D) In the case changing uses of existing buildings or other uses not requiring a building permit, after supplying the information and data necessary to determine compliance with this Ordinance and appropriate regulatory codes of the Town for the occupancy intended, the Building Inspector shall issue a Certificate of Occupancy when, after examination and inspection, it is found that the building or use in all respects conforms to the provisions of this Ordinance and appropriate regulatory codes of the Town for the occupancy intended.

Section 1-21. Other Permits

The Administrator shall be authorized to issue other permits as required by this Ordinance or the Board of Commissioners.