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# **ARTICLE 1.**

## **PURPOSE AND APPLICABILITY**

### **Section 1.1 Title**

This Ordinance is officially titled as *Unified Development Ordinance of Boiling Spring Lakes, North Carolina*, and shall be known as the Unified Development Ordinance (UDO). The official map designating the various zoning districts shall be titled, *City of Boiling Spring Lakes Zoning Map*, and shall be known as the Zoning Map.

### **Section 1.2 Authority**

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. It is further authorized under NCGS 160A-382 which 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.

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.

This UDO, which combines zoning and subdivision authority, is further enacted under Section 1 of SL 2005-418, a revision to NCGS 160A-363.

### **Section 1.3 Purpose**

This Unified Development Ordinance is made in accordance with a comprehensive plan and 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.

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### **Section 1.4 Applicability**

#### ***1.4.1 Jurisdiction***

- (A) The regulations set forth in this Ordinance shall apply to all property within the City limits and within the various zoning districts as designated on the official zoning map, as established in Article 5, Zoning Districts.
- (B) 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.

#### ***1.4.2 Exemptions***

- (A) In accordance with NC General Statutes 160A-392, the City of Boiling Spring Lakes UDO applies to state-owned lands only when a building is involved.

### **Section 1.5 Relationship to Other Ordinances**

- (A) It is not intended that this Ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, vested rights, or building permits previously adopted or issued pursuant to law and currently effective.
- (B) Where any proposed development activity requires approvals or permits from other agencies, including federal, state, or other local agencies, all development approvals or permits issued pursuant to this Ordinance shall be conditional upon the issuance of said approvals or permits and evidence of such shall be provided to the UDO Administrator prior to issuance of a Certificate of Zoning Compliance or Certificate of Occupancy for the proposed development activity.

### **Section 1.6 Severability**

If any section or specific provision or standard of this Ordinance or any regulating district boundary arising from it is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

Should any section or provision of this Ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

### **Section 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. When provisions of this Ordinance are in conflict with any other provision or regulation contained herein then the more restrictive provision shall govern.

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### **Section 1.8 Identification of Official Zoning Map**

- (A) The Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map of the Unified Development Ordinance, Boiling Spring Lakes, North Carolina."
- (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, description of amendment, and signed by the City Clerk.

### **Section 1.9 Zoning Map Interpretation**

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

- (A) *Centerline.* Where a boundary line lies within and follows a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated road bed or utility easement
- (B) *Edge Line.* Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be on the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated road bed or utility easement.
- (C) *Lot Line.* Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, 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. A change in lot line shall not be construed to have modified a zoning district boundary.
- (D) *City Limits.* Boundaries indicated as approximately following City limits shall be construed as following the City limits.
- (E) *Watercourses.* Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

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- (F) *Extensions.* Boundaries indicated as parallel to or extensions of street or alley rights-of-way, utility easements, lot lines, city limits, county lines, or extraterritorial boundaries shall be so construed.
- (G) *Scaling.* In the case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map.
- (H) Where the UDO Administrator determines that physical features existing on the ground or actual property lines or other man-made boundary lines used to depict zoning district boundaries, are at variance with those shown on the Official Zoning Map, the UDO Administrator shall have the authority to interpret zoning district boundaries. Appeals of the decision of the UDO Administrator shall be reviewed by the Board of Adjustment.

### **Section 1.10 Interpreting Permitted Uses**

If a use is not specifically listed in any of the districts listed in this Ordinance, then such use shall be regulated as the use determined by the UDO Administrator to be most similar.

### **Section 1.11 Transitional Provisions**

#### ***1.11.1 Effective Date***

These regulations shall become effective on June 5, 2018 and as subsequently amended.

#### ***1.11.2 Violations Continue***

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.

#### ***1.11.3 Complete Applications***

- (A) Any development application submitted and accepted as complete before the effective date of this ordinance, but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted. To the extent such an application is approved and proposes development that does not comply with this ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 12: Nonconformities.
- (B) Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in place at the time of application acceptance. If the application fails to comply with the required time frames, it shall expire and future development shall be subject to the

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requirements of this ordinance.

- (C) An applicant with a pending application accepted before the effective date of this ordinance may opt to have the proposed development reviewed and decided under the standards of this ordinance and subsequent amendments contained herein.

***1.11.4 Approved Applications.***

Any development approvals granted before the effective date of this ordinance shall remain valid until their expiration date. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired. If the prior approval expires or is revoked (i.e., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall be applied for in accordance with the procedures and standards of this ordinance. To the extent a prior-approved application proposes development that does not comply with this ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 12: Nonconformities.

***1.11.5 Approved Conditional Use Permits.***

Lands subject to a Conditional Use Permit that is approved before the effective date of this ordinance shall continue to be subject to the terms and conditions of the Conditional Use Permit.

***1.11.6 Nonconforming Situations.***

If any use, structure, lot, or sign legally existed on the effective date of this ordinance, but does not fully comply with the standards of this ordinance, then that use, structure, lot, or sign shall be considered nonconforming under this ordinance and shall be controlled by the provisions of Article 12: Nonconformities.