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# Chapter 1. Purpose and Applicability

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## 1.1. Title

This appendix of the Knightdale Code of Ordinances shall be known as and may be cited as the "Unified Development Ordinance (UDO) for the Town of Knightdale," and may be referred to as the "Knightdale Development Ordinance" or "Knightdale UDO".

## 1.2. Authority

The Knightdale UDO is hereby adopted under the authority and provisions in Chapter 160D; Part 6, Article 21 of Chapter 143; and Article 8 of Chapter 160A of the North Carolina General Statutes (N.C.G.S.); and Article 14, Section 5 of the Constitution of North Carolina.

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any provision of this appendix refers to or cites a section of the N.C.G.S. and that section is later amended or superseded, the appendix shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.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. Jurisdiction

The Knightdale UDO shall be effective throughout the Town of Knightdale and its extraterritorial planning jurisdiction (ETJ). The planning jurisdiction of the Town may be modified from time to time in accordance with §160D-103 of the N.C.G.S.

## 1.4. Intent

A. **Declaration of Necessity**. In order to protect and promote the health, safety, and general welfare of the town and its ETJ, the Knightdale UDO is adopted by the Town Council to regulate and restrict by means of zoning and subdivision regulations the height and size of buildings and other structures; the appearance and design of developments; the percentage of lots that may be covered or occupied; the dimensions of setbacks; the size of open spaces; the density of population; the allocation of municipal water capacity; the construction and installation of infrastructure; and the location, use and design of landscaping, buildings, structures, and land for trade, industry, residence, and other purposes.

B. **Purpose**. The purpose of the regulations set forth in the Knightdale UDO shall be to fulfill the goals and objectives of the Town's Comprehensive Plan, as may be amended from time to time.

## 1.5. Required Conformance to Knightdale UDO Provisions

A. **Conformance in General**. Except as otherwise specifically provided in the Knightdale UDO, no land shall be subdivided; no land or structure shall hereafter be used or occupied; no excavation, removal of soil, clearing of a site, or placing of fill shall take place on lands contemplated for development; no infrastructure shall be constructed or installed; and no structure, or part thereof, shall be constructed, erected, altered, or moved, unless in compliance with all the applicable provisions of the Knightdale UDO.

B. **Certain Farmland Exempt**. Any tract of land that meets all the following requirements shall be exempt from the provisions of this ordinance:

1. Is at least ten (10) acres in size under common ownership;

2. Is used for dairying, the raising of agricultural products, the raising of horticultural products, timbering and silviculture, the raising of livestock or poultry; or houses facilities for the sale of onsite-produced products; and

3. Has generated at least an average of $1,000 in annual farm sales over the most recent three (3) year period.

   Timbering and silviculture operations are not exempt from the provisions and potential penalties of Section 7.4(B)(5)(b).

   This exemption does not apply to swine farms as defined in N.C.G.S. §106-802.

C. **Alternate Means of Compliance**. As part of a Development Agreement (DA) for a development project, the Town Council may apply alternate means of compliance with otherwise applicable UDO design, connectivity, sign, landscaping, parking, lighting, or similar standards allowing the ultimate intent or spirit of the Ordinance to be maintained. Alternate means of compliance should reflect the spirit and intent of the ordinance and are not provided to circumvent the variance procedures. Further, the DA shall be consistent with and include measures of the Water Allocation Policy. Alternate means of compliance shall only be approved if conditions are limited to impacts that are related to the development of the site and are intended to allow for voluntary alternate conditions to help further the goals and objectives of the Town Council not to alleviate hardships.

## 1.6. Conflict with Other Laws

When provisions of the Knightdale UDO impose higher standards than are required in any other statute or local ordinance or regulation, provisions of the Knightdale UDO shall govern. When the provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions of the Knightdale UDO, the provisions of that statute or local ordinance or regulation shall govern.

## 1.7. Permit Choice and Vested Rights

A. **Permit Choice**. If an application made in accordance with the adopted regulations of the Knightdale UDO is submitted for a development approval and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

B. **Process to Claim Vested Rights**. A person claiming statutory vested right may submit information to substantiate that claim to the Land Use Administrator who shall make an initial determination as to the existence of the vested right. The Land Use Administrator determination may be appealed under N.C.G.S. §160D-108. On appeal, the existence of the vested right shall be reviewed de novo. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided by N.C.G.S. §160D-108.

C. **Types and Duration of Statutory Vested Rights**. Except as provided by this Section and subject to subsection (B) of this section, amendments in local development regulations shall not be applicable or enforceable with regard to development that has been permitted or approved so long as the permit or approval remains valid and unexpired. Each type of vested right listed below is defined by and subject to the limitations provided in this Section and the cited sections of N.C.G.S. Vested rights established under this Section are not mutually exclusive. The establishment of a vested right under one subsection does not preclude the vesting under the other subsection.

1. **Site-Specific Vesting Plans**.

    a. **Duration**. A vested right for a site-specific vesting plan shall remain vested for a period of five (5) years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the Town. The Town may provide those rights regarding a site-specific vesting plan shall be vested for a period exceeding five (5) years, but not exceeding eight (8) years, in accordance with the process detailed in Section 12.2 (G)(4), if warranted by the size and phasing of the development, the level of investment, the need for the development, economic cycles, market conditions, or other considerations. This determination shall be at the discretion of the Town Council.

    b. **Relation to Building Permits**. A right vested as provided in this Section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of N.C.G.S. §160D-1007 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this Section exists.

2. **Other Local Development Approvals**. Pursuant to N.C.G.S. §160 D-1007, unless otherwise specified herein, all other development approvals expire one (1) year after issuance unless work has substantially commenced. Expiration of a development approval does not affect the duration of a vested right established as a site-specific vesting plan, a multiphase development plan, a development agreement, or a vested right established under common law.

## 1.8. Comprehensive Plan

It is the intention of the Council that the Knightdale UDO implements the planning policies adopted for the Town and its ETJ, as reflected in the Comprehensive Plan and other related planning documents. While the Council reaffirms its commitment that the Knightdale UDO and any amendment to it, be in conformity with adopted planning policies, the Council hereby expresses its intent that neither the Knightdale UDO nor any amendment to it may be challenged on the basis of any alleged non-conformity with any planning document.

## 1.9. 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 14, unless the use, development, construction, or other activity complies with the provisions of this ordinance.

## 1.10. Effective Date

These regulations shall become effective on July 21, 2021. Upon adoption, these regulations shall supersede, repeal, and replace the Knightdale UDO, as made effective on November 16, 2005.

Many provisions herein are a restatement of provisions of the Knightdale UDO, adopted November 16, 2005, and are hereby continued without interruption. All other provisions of this Ordinance shall become effective July 21, 2021.