

ARTICLE 1.

PURPOSE AND ORGANIZATION

Section 18-1: Title

This chapter shall be known as the land development code of the city of Wilmington, North Carolina.

Section 18-2: Authority

- A. The city of Wilmington enacts this chapter pursuant to the authority granted by the General Statutes of North Carolina, including Article 18 of Chapter 160D, Article XXIII of the Wilmington City Charter, and Session Law 1987-786.
- B. Whenever any provision of this chapter refers to or cites a section of the North Carolina General Statutes (NCGS) or the Wilmington City Charter, and that section is later amended or superseded, this chapter shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.
- C. It is not intended by this chapter to repeal, abrogate, annul, or in any way to impair or interfere with any existing provisions of law or ordinance, other than the ordinances superseded by this chapter, or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued, in conformity with law, relating to the use of buildings or premises, nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties. Where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires large yards, courts, or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations, or permits, or by such easements, covenants or agreements, the provisions of this

chapter shall control going forward.

- D. All suits at law or in equity and all prosecutions resulting from violations of any zoning, subdivision, sign, floodplain, or other ordinances heretofore in effect, in any of the courts of the United States or this state that are pending at the time of the adoption shall not be abated or abandoned by reason of the adoption of this chapter, but shall be prosecuted to their finality as if this chapter had not been adopted. Any and all violations of the existing ordinances, prosecutions for which have not been instituted, may be hereafter filed and prosecuted pursuant to the terms and provisions of this chapter. Nothing in this chapter shall be construed to abandon, abate, or dismiss any litigation or prosecution now pending, or that heretofore has been instituted or prosecuted.
- E. To the extent that the provisions of this chapter are the same in substance as the previously adopted provisions that they replace, they shall be considered as continuations thereof and not as new adoptions, enactments, or amendments unless otherwise specifically provided. A situation that did not constitute a lawful, nonconforming situation under the previously adopted code does not achieve lawful nonconforming status under this chapter merely by the repeal and replacement of the land development code. For example, a property developed prior to the enactment of the previous land development code and its predecessors is a legally nonconforming property and the enactment of this code does not change this status, and a property developed in violation of a prior version of the land development code while that code was effective continues to be in violation of this code unless this code specifically changes the provision of which the property was in violation. When provisions of this chapter refer to the date of adoption or effective date, such date shall mean the date of the original adoption or original effective date of the provision or the date the provision became applicable to an area as a result of annexation or other

change in jurisdiction of this chapter.

- F. The adoption of this chapter shall not extend the amortization period for any nonconforming situation under any previously adopted provisions.

Section 18-3: Jurisdiction

- A. This chapter shall be effective throughout the corporate limits of the city of Wilmington, North Carolina as now or hereafter fixed.
- B. The provisions of this chapter shall apply to the erection, construction, and use of buildings and land by the state of North Carolina and its political subdivisions. No land owned by the state of North Carolina, however, may be included within a conditional zoning district without approval of the Council of State or its designee.
- C. Notwithstanding any other provision in this chapter to the contrary, the provisions of articles 5 (except for Section 18-323: Transitional buffers), 6, 7, and 8 of this chapter shall not apply to the erection, construction, or use of buildings within the fenced and secured perimeter of the North Carolina State Port Authority's Port of Wilmington in an area beginning 800 feet west of the centerline of the mainline of the railroad track and extending west to the city limits and from Maritime Boulevard and extending south to the edge of the port's perimeter. The erection, construction, and use of buildings and land at the Port of Wilmington shall comply with all applicable state requirements.

Section 18-4: Purpose

- A. This chapter is intended to consolidate the city's major land development and land use regulations.
- B. The regulations in this chapter are designed to promote efficient traffic circulation; to minimize the risk of fire, panic, and other damages; to protect public health, safety, and general welfare; to provide adequate light and air; to protect residential neighborhoods, shopping districts, parks and recreational facilities, and natural resources from adverse impacts of inappropriate uses or site development features and to facilitate the adequate provision of transportation, potable water, sanitary sewerage, schools, parks, and other public facilities. These regulations represent a reasonable consideration of the character of the city's various neighborhoods and the suitability for particular uses of land. They have been made with a view to preserve the existing environment and maintain or enhance quality of life while assuring the greatest possible use and enjoyment of land on individual properties, balanced against the necessary protection and enjoyment of land uses on adjacent properties. All of this with the objective of promoting and protecting public welfare through the regulation of land use and land development activities.

Section 18-5: Relationship to long-range plans

It is the intention of the Wilmington City Council that this chapter implement the general planning policies expressed in the Wilmington-New Hanover County Coastal Area Management Act (CAMA) Land Use Plan Update, the city's comprehensive plan, corridor plans, special area plans, and other planning documents as adopted by the city council and as subsequently amended. While the city council intends that this chapter and any amendment to it shall be in conformity with adopted planning policies, the council hereby expresses its intent that neither this chapter nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

Section 18-6: Interpretation

- A. A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.
- B. Those uses identified as prohibited in reasonably expressed terms provide notice that those uses shall not be allowed.
- C. An unidentified use not addressed in this chapter where an owner is not on notice that a particular use is prohibited or otherwise regulated shall be liberally construed in favor of the landowner as to a permitted use.

Section 18-7: Severability

Should any section or provision of this chapter or any boundary of any district of the official zoning map herein or hereafter adopted be decided by the courts to be unconstitutional or illegal, such decision shall not affect the validity of these regulations and the official zoning map as a whole or any part thereof other than the part so decided to be unconstitutional or illegal.

Section 18-8: Effective date

The provisions of this chapter were adopted on August 17, 2021 and became effective on December 1, 2021.

Sections 18-9 - 18-15. Reserved.