

Town of Highlands, North Carolina
UDO Text Changes
(Revised July 8, 2022)

Unified Development Ordinance of Highlands, NC (UDO)
Article 2 – Definitions, Section 2.3 Definitions

(EXISTING CODE LANGUAGE IN BLACK & PROPOSED AMENDMENTS IN RED.)

1. Particular terms, as hereinafter set forth, within Section 2.3 Definitions are hereby amended or added to the list of defined terms to read as follows:

ARTICLE 2 – DEFINITIONS

Sec 2.3 Definitions

Building, Multi-Family: Any building, other than a motel, hotel, or tourist home, **homestay or short-term rental** as defined in this Ordinance, ~~intended, designed, or used as a dwelling unit by two (2) or more families or households living independently of each other and including permanent provisions for separate living, sleeping, eating, cooking and sanitation facilities containing more than one (1) dwelling unit.~~ This term includes single-family attached dwellings, duplexes, and apartments.

Duplex: A building containing two (2) dwelling units located on the same lot or parcel.

Dwelling, Multi-Family: ~~A building constructed in compliance with the North Carolina Uniform Building Code containing two (2) or more dwelling units on a single lot, including but not limited to, apartment buildings and condominiums.~~ A dwelling unit designed, intended or used by more than one (1) family.

Homestay: The rental of no more than two (2) bedrooms within a portion of residential dwelling unit, for compensation, for a period of less than thirty (30) consecutive days where the owner, operator or manager also stays on the same parcel during any period of guest occupancy. This term does not include hotels, motels, or tourist homes, or short-term rentals.

Lodging: The use of a building, or any portion thereof, for someone to live or stay temporarily, often for periods of less than thirty (30) consecutive days in return for the payment of compensation. Lodging includes a hotel, motel, tourist home, homestay and short-term rental.

Multi-Family Residential Use: The use of a lot or parcel for human habitation by more than one (1) family for periods that are not temporary guest occupancy within a multi-family

building or a multi-family dwelling unit. This term does not include lodging uses such as hotel, motel, tourist home, homestay or short-term rental.

Single-Family Residential Use: The use of a single-family dwelling unit by a single family for human habitation for periods that are not temporary guest occupancy. This term does not include lodging uses such as hotel, motel, tourist home, homestay or short-term rental.

Short-term rental: The rental of a residential dwelling unit, for compensation, for a period of less than thirty (30) consecutive days. This term does not include homestays, hotels, motels, or tourist homes.

Temporary Guest Occupancy: The use of a dwelling unit in return for compensation where the occupancy of the structure by the paying guest or guests is for a period of less than thirty (30) days.

Tourist home: A building or part thereof, ~~other than~~ **not including** a motel, ~~or~~ hotel, ~~homestay or short-term rental~~, where sleeping accommodations **or lodging** of not more than four (4) **bedrooms** are provided ~~for occasional transient paying to guests with daily charge~~ **paying compensation**, where the owner, operator or manager also stays on the same parcel during any period of guest occupancy. This term includes ~~;~~ ~~tourist homes shall include~~ bed and breakfast homes, ~~or~~ inns, **or rooming or boarding houses.**

Unified Development Ordinance of Highlands, NC (UDO)
Article 4 – Applications and Permits, Section 4.7 Zoning Certification

(EXISTING CODE LANGUAGE IN BLACK & **PROPOSED AMENDMENTS IN RED.**)

2. **Portions of Article 4 are hereby amended as follows:**

ARTICLE 4 – APPLICATIONS AND PERMITS

Section 4.7 Zoning ~~Certificate~~ **Compliance Permit**

Sec. 4.7.1 Applicability

No person shall commence or proceed with construction of any new building, ~~fence or wall,~~ **or structure** as defined herein, or with the reconstruction, alteration, repair, moving, or demolition of any existing building, **or change the use of property** in any Zoning District prior to the issuance of a Zoning ~~Certificate~~ **Compliance Permit** in accordance with the following procedures.

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this Chapter attach to and run with the land.

Sec. 4.7.2 Application Requirements

- A. Application for a Zoning ~~Certificate~~ **Compliance Permit** shall be filed with the Planning and Development Director and may be made prior to or in conjunction with application for a permit under the North Carolina State Building Code **if such a permit is required**, per the requirements of Sec. 4.2.3, Application Requirements, and shall at a minimum contain the information listed below. See also Sec. 4.7.3, Additional Requirements in Commercial Zoning Districts, and Sec. 4.7.8, Watershed Protection Permit.
 - a. A Site Plan, drawn to an appropriate scale, of the parcel of property showing its actual dimensions and indicating the size, location, and distance from property lines of the proposed building, any other existing building(s), and any other improvements proposed to be accomplished, including but not limited to driveways, sidewalks, and parking areas;

- b. A drawing of the proposed building drawn to scale and in sufficient clarity and detail to indicate the nature and character of the work to be done, and consisting at minimum of a floor plan and elevations of the building (except, however, that the Planning and Development Director may approve minor construction work without compliance with this requirement);
 - c. The use to which the completed project shall be devoted; and
 - d. Any other information the Planning and Development Director may deem reasonably necessary to evaluate the compliance of the applicant's proposal with the provisions of this Ordinance.
- B. The Planning and Development Director shall review each element of the application and if satisfied that the work described therein complies with the Zoning Ordinance, he shall issue a Zoning ~~Certificate~~ **Compliance Permit**; said ~~Certificate~~ **Permit** may be issued prior to or in conjunction with application for a permit under the North Carolina State Building Code **if such a permit is required**. After a Zoning ~~Certificate~~ **Compliance Permit** has been issued, no changes or deviations from the terms of the application, plans, or permit shall be made until specific written approval has been obtained from the Planning and Development Director. If the Planning and Development Director finds the application to be deficient or the information contained therein to be contrary to the provisions of this Ordinance, he shall reject the application and deny the applicant's request for a Zoning ~~Certificate~~ **Compliance Permit** in writing, setting forth the reasons for the rejection and denial.
- C. Approval of a Zoning ~~Certificate~~ **Compliance Permit** does not relieve the applicant of the obligation to procure any other permit, as required by this Ordinance or State and Federal Law. These include, but are not limited to Sec. 4.13, Landscape Plan Permits, Sec. 4.14, Land-Disturbing Activity Permits, Sec. 4.14.4, Erosion and Sedimentation Control Plan Requirements, and Sec. 4.17, Sign Permit and any permit required by the North Carolina State Building Code.
- D. A Zoning ~~Certificate~~ **Compliance Permit** shall expire twelve (12) months after the date of issuance if the work authorized has not been commenced. If after commencement the work is discontinued for a period of twelve (12) months, the ~~Certificate~~ **Permit** shall immediately expire. Upon expiration, the ~~Certificate~~ **Permit** shall become void, and no work may be performed until a new ~~Certificate~~ **Permit** has been secured.
- E. A Zoning ~~Certificate~~ **Compliance Permit** shall be in writing and may contain a provision requiring the development to comply with all applicable State and local laws. The Planning and Development Director may issue Zoning ~~Certificates~~

Compliance Permits in print or electronic form. Any Zoning ~~Certificate~~ **Compliance Permit** issued exclusively in electronic form shall be protected from further editing once issued.

- F. Applications for Zoning ~~Certificates~~ **Compliance Permits** may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for a Zoning ~~Certificate~~ **Compliance Permit** for such development as is authorized by the easement.

Sec. 4.7.10 Short-Term Rental Zoning Compliance Permit

In addition to the other requirements of Sec. 4.7, prior to the operation or use of any property as a Short-Term Rental or prior to January 1, 2023 for any property operating as Short-Term Rental use as of the effective date of this Section 4.7.10, the owner shall obtain a Short-Term Rental Zoning Compliance Permit issued by the Planning and Development Director subject to the standards set forth in Section 6.5.18 and requirements set forth in this section. Notwithstanding the foregoing, any property owner who entered into a contract or agreement with a tenant to use their property as a Short-Term Rental prior to September 1, 2022 shall not be required to obtain a Short-Term Rental Zoning Compliance Permit solely for those contracts or agreements entered into prior to September 1, 2022.

- A. In order to obtain a Short-Term Rental Zoning Compliance Permit, the owner shall submit an application that complies with the requirements of Section 4.7.2 and pay all applicable fees as set forth in the Town's adopted fee schedule.
- B. In addition to the application requirements of Section 4.7.2, an application for a Short-Term Rental Zoning Compliance Permit shall include the following information:
1. The address and parcel identification number of the property;
 2. Name and contact information for the owner of the property;
 3. Name and contact information for the operator or manager if other than the owner;
 4. The number of bedrooms on the property intended to be used for occupancy;
 5. A copy of the Macon or Jackson County Tax Department property information card for the subject property;

6. A copy of the Macon or Jackson County Occupancy Tax Registration Form for the subject property;
7. Either: (a) an improvement permit issued by Macon County Environmental Health Services or the Jackson County Department of Public Health; or (b) certificate issued within the preceding sixty days from a Level 4 installer or other specialist approved by the Town that the septic system serving the property is safe and adequate for the number of bedrooms reported in subsection 4;
8. A copy of the standard short-term rental agreement for the property, containing the addendum required by Section 6.5.18 (A)(8);
9. An acknowledgment that the applicant is aware of the occupancy restrictions on the use of the property as a short-term rental and the applicant's agreement to abide thereby;
10. A statement by the operator that the information in the application is correct.

Sec. 4.7.11 Non-Conforming Use Permit

All property owners seeking to establish the right to continue a nonconforming use shall, in accordance with Article 7 (Nonconformities), submit to the Planning and Development Director an application for a Non-Conforming Use Permit no later than January 1, 2023 or within ninety (90) days of the use becoming nonconforming.

KEY: "P" = PERMITTED "S" = SPECIAL "L" = LIMITED X = NOT ALLOWED		RESIDENTIAL			NONRESIDENTIAL					
USE CATEGORY	SPECIFIC USE	R-1	R-2	R-3	B-1	B-2	B-3	B-4	GI	NOTES:
RESIDENTIAL USES										
HOUSEHOLD LIVING	Single-family dwellings detached	P	P	P	P	P	P	P	X	Sec. 6.3.1.A
	Single-Family Residential Use	P	P	P	P	P	P	P	X	
	Modular homes	P	P	P	P	P	P	P	X	Sec. 6.3.1.B
	Manufactured homes	X	L	L	X	X	X	X	X	Sec. 6.3.1.C
	Multi-family building, including duplexes, apartments and single-family attached dwelling	X	X	S	X	X	X	X	X	
	Multi-family dwellings	X	X	S	X	X	X	X	X	Sec. 6.3.2
	Multi-Family Residential Use	X	X	S	X	X	X	X	X	

4. **Section 6.3.2 Multi-family Dwelling is hereby amended to rename the heading to “Multi-family building or dwelling”**
5. **Section 6.3.3 Residential Accessory Uses and Structures is hereby amended to amend Subsection A as follows:**
 - A. *Customary Accessory Outbuildings.* Appurtenant to single-family dwellings such as private garages, noncommercial buildings such as greenhouses and workshops. **No residential or lodging use of any kind is allowed.**
6. **Section 6.5 Commercial Uses is hereby amended to add a new subsection 6.5.18 for Short-Term Rental use to read as follows:**

Section 6.5 Commercial Uses

Section 6.5.18 Short-term rentals

Short-term rentals are hereby recognized as an independent use category within the planning jurisdiction of the Town of Highlands. These standards are intended to maintain the character of residential neighborhoods and the quiet enjoyment of all residents' homes.

- A. Short-term rentals are permitted in the Zoning Districts identified in Sec. 6.2.2, Use Table, with the issuance of a Short-Term Rental Zoning Compliance Permit (See Section 4.7.10 Short-Term Rental Zoning Compliance Permit), subject to the following standards:
1. Short-term rental overnight occupancy shall not exceed two persons per bedroom plus two additional persons. Provided, however, the number of bedrooms permitted for a short-term rental shall not exceed the number of bedrooms approved for the dwelling in an improvement permit issued for the property. For properties served by a public wastewater system, overnight occupancy shall not exceed the lesser (i) two persons per bedroom plus two additional persons; or (ii) twelve persons.
 2. For non-conforming short-term rentals in residential zoning districts, the total number of overnight occupants who are not related by the fifth degree of consanguinity, blood, marriage, or adoption shall not exceed five (5). This provision shall not apply to children in foster care.
 3. Short-term rentals shall not be used for special events or gatherings in excess of the overnight occupancy limit.
 4. Occupants or guests of short-term rentals shall not park vehicles on the property other than within parking area(s) designated on the application for the Short-Term Rental Zoning Compliance Permit and in compliance with Chapter 7, Article IV of the General Code of Ordinances and Article 9 of this Unified Development Ordinance. Vehicles parked in public right-of-way so as to violate the Town's street or parking ordinances are subject to towing at the vehicle owner's expense.
 5. Household trash shall be bagged and disposed of in Town-approved trash receptacles and short-term rentals shall otherwise comply with Chapter 12 of the General Code of Ordinances, Solid Waste Management.
 6. Occupants of short-term rentals shall at all times comply with the Town's Nuisance Ordinance, Chapter 8; and Noise Ordinance, Chapter 8, Article II of the General Code of Ordinances.

7. The owner or operator, or an agent of the owner or operator, shall be fully responsive at any time that the property is used as a short-term rental to take and resolve complaints regarding operation of the short-term rental and its occupants and guests. The name and phone number of the owner, operator or an agent of the owner operator shall be conspicuously displayed inside near the main entrance of the short-term rental.
 8. There shall be no more than one (1) short-term rental contract governing a short-term rental during the same period of time the short-term rental is rented. Every contract for a short-term rental shall contain an addendum, in a form provided by the Town, setting forth the requirements of this Section and other applicable provisions of law. The operator shall obtain a signed acknowledgment from the renter(s) that they have received such addendum prior to delivering possession of the dwelling unit.
 9. Exterior signage is allowed in accordance with Sec. 13.4.1.C, Temporary Signs Allowed without a Permit.
- B. Any lawful nonconforming use of property as a short-term rental shall at all times comply with the standards set forth in this section as well as the regulations set forth in Article 7, Nonconformities.
- C. Failure to comply with the standards and regulations as found in this Section may be enforced by the remedies and penalties in Article 15 of this ordinance. If three (3) violations are committed by the owner or operator within a twelve (12) month period, the Short-Term Rental Zoning Compliance Permit may be revoked by the Planning and Development Director for a period of one (1) year; provided that, failure to use the property as a short-term rental during such one (1) year period shall not constitute a discontinuance of the use pursuant to Section 7.2.1.B.

(EXISTING CODE LANGUAGE IN BLACK & PROPOSED AMENDMENTS IN RED.)

7. Portions of Article 7 are hereby amended as follows:

ARTICLE 7 – NONCONFORMITIES

Section 7.1.1 Purpose

Zoning regulations established by the adoption of this Ordinance or amendments to this Ordinance may cause properties and uses which were lawful prior to the adoption of certain regulations to not meet requirements after adoption of the regulations. The purpose of this section is to establish procedures and regulations for the use of those properties or structures which are in conflict with the requirements of this Ordinance. It is not the intent of this section to encourage the continuance of nonconformities that are out of character with the standards of the zoning district. It is the intent of this section, however, to allow certain nonconforming situations to continue as legal exceptions to this Ordinance. **The provisions of this Section are intended and designed to limit substantial investment in nonconformities, to prohibit the intensification of nonconformities and to bring about eventual elimination or lessen their impact upon surrounding conforming uses in order to preserve the integrity of the area in which it is located.**

Section 7.2.1 Limitations on Nonconforming Uses

The lawful use of any building or premises at the time of the enactment of this Ordinance, or immediately preceding any applicable amendment thereto, may be continued even though the use does not conform with the provisions of this Ordinance, under, **and subject to**, the following conditions:

- A. A nonconforming use may not have its use changed to another nonconforming use;
- B. A nonconforming use may not be re-established after its discontinuance for a period of twelve (12) consecutive months. Continuous uninterrupted utility services without documented occupation or intermittent operation shall not constitute active operations. If the discontinuance of the use is seasonal it may be reopened provided it is done so within 12 continuance months or if caused by damage from an unintentional fire or other natural disaster, then the building in which the use is located may be repaired and/or reconstructed and the use may thereby be re-established provided repair or reconstruction has begun within twelve (12) months and completed with a Certificate of Compliance within two (2) years of such damage.

- C. A nonconforming use may not be changed, enlarged, expanded, or intensified, including expanding the use into any part of a building or property not previously occupied or in use as of the date when the legal nonconformity was established. A nonconforming use of property that is an accessory use as a result of its frequency or duration of proven historical use cannot be changed, enlarged, expanded, or intensified to become a principal use.
- D. All property owners seeking to establish the right to continue a nonconforming use shall submit to the Planning and Development Director an application for a Non-Conforming Use Permit no later than January 1, 2023 or within ninety (90) days of the use becoming nonconforming.
- E. Nonconforming short-term rentals.
 - 1. In addition to the requirements and provisions of subsections A-E above, all owners seeking to establish nonconforming status for a short-term rental use shall submit to the Planning and Development Director the following as part of its application for a Non-Conforming Use Permit:
 - i. A complete application for a Short-Term Rental Zoning Compliance Permit pursuant to Section 4.7.10; and
 - ii. Sufficient proof, including but not limited to occupancy tax records, rental contracts, and affidavits, to show that the property was operated or used as a short-term rental prior to September 1, 2022.
 - iii. Evidence demonstrating the total number of days per calendar year that the property was used for short-term rentals for each of the last five (5) calendar years.
 - 2. Once it is determined that a nonconforming short-term rental was established prior to September 1, 2022, a determination shall be made regarding the level of intensity of the short-term rental at the time the use was rendered nonconforming. To determine the nonconforming short-term rental's level of intensity at the time the use was rendered nonconforming, the applicant may choose: (1) the most number of days in one of the previous five calendar years that the property was used for short-term rentals; or (2) the number of days in the 365 days that the property was used for short-term rentals prior to becoming nonconforming. In determining the nonconforming short-term rental's level of intensity, the applicant may include contracts or rental agreements entered into with tenants for use of the property as a short-term rental prior to September 1, 2022. In the event an applicant is unable to provide evidence concerning the short-term rental

history as outlined herein, or the level of intensity is less than thirty (30) days, the property shall not be used as a short-term rental for more than thirty (30) days per calendar year. A Non-Conforming Use Permit and Short-Term Rental Zoning Compliance Permit issued for a nonconforming use shall state the intensity level established pursuant to this subsection.

- 3. A nonconforming short-term rental may not exceed its level of intensity as determined by Section 7.2.1(F)(2).
- 4. A nonconforming short-term rental use may not be changed, enlarged, expanded, or intensified, including the rental of the short-term rental for more days than the intensity level established under Section 7.2.1(F)(2) and documented in the Nonconforming Use Permit.

8. **Zoning Certificate References.** All references within the Town of Highlands Unified Development Ordinance to the term “Zoning Certificate” or “Zoning Certificates” shall be deleted and replaced with “Zoning Compliance Permit” or “Zoning Compliance Permits” as may be applicable.

9. **Severability.** Should any section or provision of this ordinance be declared invalid by any court of competent jurisdiction, such declaration shall affect the validity of any ordinance as a whole or any part thereof which is not specifically declared to be invalid. If any court of competent jurisdiction invalidates the application of any provision of this ordinance, then such judgement shall not affect the application of that provision to any other building, structure or use not specifically included in that judgment.

10. **Effective Date.** This Ordinance shall take effect and be in force from the date of its adoption by the Town Board of Commissioners.

READ, APPROVED AND ADOPTED this the ____ day of September, 2022.

TOWN CLERK

MAYOR