

Zoning and Natural Gas Production in Lee County

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Disclaimer

- Presentation and material does not constitute legal advice — or guidance
- General reference purposes only
- Overview of some common regulations, which may impact drilling and production, not all noted
- Always consult with appropriate local government (e.g. planning department) officials or licensed legal counsel

Local and State Law

- No known current preemption of county or municipal planning and zoning authority, or general ordinance making authority, to enact ordinances governing drilling or fracturing

Background

- Lee County, City of Sanford, Town of Broadway fall under one Unified Development Ordinance (UDO)
- Other ordinance provisions (e.g., noise) could be different between jurisdictions
- Extraterritorial jurisdictions (ETJs) or corporate boundaries extended into Lee County?
- UDO includes zoning, flood damage prevention:
 - Uses and creation of uses (development)

Zoning

- Uses not listed as allowed are prohibited by default
- Can be subject to interpretation
 - Use interpreted under definition of another use
- Can be modified over time

Zoning

- Text
 - Definitions, Descriptions of districts
- Table of permitted uses
 - What is allowed in which [district](#)
 - How drilling/extraction is conducted also regulated under N.C.G.S., Article 27, Oil and Gas Conservation Act
- Map – zoning districts
 - E.g., Heavy Industrial

Text

"Development. The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, drilling, excavation, clearing of roadways or building sites, landfill or land disturbance and any use or extension of the use of land. This definition excludes normal earth working associated with crop farming or landscaping of an individual single-family residential lot. The term "development" includes all of the activities listed in the definition of "development" in 15A NCAC 2H.1002..."

Source: Appendix A, Unified Development Ordinance, Appendix A. - Definitions

Text

"Extractive Uses. Surface and/or subsurface natural resources which may be extracted from the land. This includes exploratory drilling or mining but excludes individual water well drilling."

Source: Appendix A, Unified Development Ordinance, Appendix A. - Definitions

Table of Permitted Uses

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Article 4

Table 4.6-1 PERMITTED USE MATRIX:

Key: "P" means permitted as of right, "S" means permitted as a special use, "D" means development regulations apply (see Article 5), "A" means permitted only as an accessory use, "-" means prohibited. Section numbers as provided in the use column (i.e. § 5.1) provide additional reference regarding the supplemental design standards as found within other sections of this Ordinance. Refer to Appendix A or the sources referred to under "Land Use Coding" for specific definitions of uses.

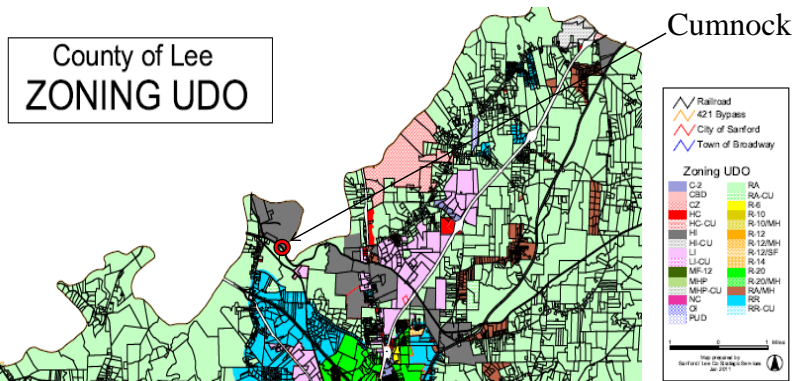
Use	LBCS Foundation	LBCS Structure	R-1 Residential Agricultural	RR Residential Residential	R-20 Residential Single-Family	R-14 Residential Single-Family	R-12SF Residential Single-Family	R-12 Residential Mixed	R-8 Residential Mixed	R-4 Residential Mixed	MF-12 Multifamily	NC Neighborhood Commercial	HC Highway Commercial	C-1 Light Commercial & Office	C-2 General Commercial	OMI Office & Institutional	CBD Central Business District	L1 Light Industrial	H1 Heavy Industrial
Accessory uses																			
Accessory uses (see § 5.1)	115b	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Residential Uses																			

Source: Appendix A, Unified Development Ordinance, Article 4, Zoning District Regulations, Table 4.6-1, Permitted Use Matrix

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Map



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Current Zoning and UDO

- Drilling not noted as an allowed use in text or table of permitted uses, or defined separately
- “Development” defined within UDO and Flood Protection sections of Code of Ordinances – and includes drilling

Current Zoning

- Gas or electric distributing facilities compressor stations or substations allowed in HI and LI Districts
- Other provisions may be required to allow production (resource extraction)

Other Regulations

- Development defined for flood damage prevention and includes “drilling”

Source: Code of Ordinances, City of Sanford, North Carolina, Chapter 20, Flood, Article 2, Flood Damage Prevention, Section 20-35, Definitions

- Development = Permit

“(a) *Development permit required.* A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities. ”

Source: Code of Ordinances, City of Sanford, North Carolina, Chapter 20, Flood, Article 2, Flood Damage Prevention, Section 20-61 Development permit and certification requirements

Other Regulations

“*Structure...* For purposes of the Floodplain Regulations, a “structure” does not include: ...(2) A gas pipeline or gas transmission or distribution facility, including a compressor station or related facility;...”

Source: Code of Ordinances, City of Sanford, North Carolina, Chapter 20, Flood, Article 2, Flood Damage Prevention, Section 20-35, Definitions

Other Considerations

- Noise
- Lighting
- Fencing
- Setbacks/Buffers
- Sedimentation and erosion
- Waste storage, treatment, transport, and disposal

Owner Protections


- Landowner can be cited and fined for ordinance violations (also civil issues)
- Means of Protection
 - Guidance from local officials – in writing
 - Compliance with ordinances and regulations
 - Work with officials and legal counsel in the beginning of the leasing process

Resources

- **Zoning and Land Use Regulation of Forestry**
(concepts apply to other uses as well)
www.ces.ncsu.edu/forestry/pdf/WON/won43.pdf
- **City of Sanford Planning and Development**
www.sanfordnc.net/planning_development/udo.html
- **Municode – Lee County UDO; City of Sanford, Code of Ordinances**
www.municode.com/library/clientlisting.aspx?stateID=33
- **Lee County – GIS Strategic Services**
www.leecountync.gov/Departments/GISStrategicServices/MapGallery/tabid/293/Default.aspx

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Resources

- **North Carolina Cooperative Extension – N.C. State University
Department of Agricultural and Resource Economics**
www.ag-econ.ncsu.edu

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