



## **Residential Property Development Frequently Asked Questions**

This document discusses frequently asked questions related to development on residential property. All information is from the Town of Kernersville Unified Development Ordinance. It is important to remember that most construction **legally requires either a Building or Zoning Permit** that can be obtained from the Community Development Department. Visit <https://toknc.com/community-development/development/permits/> for information on ViewPoint, the Town’s online permitting system, or contact the Zoning Administrator [cd@toknc.com](mailto:cd@toknc.com) if you have questions.

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## **Zoning Basics**

### **What is zoning?**

The purpose of zoning is to regulate property use and development within each district and ensure that the vision in the Town’s Comprehensive Plan is consistently met. Zoning divides the city into districts (zones). Zoning is just one piece of the review of any proposed development or project, and may also include review of building codes, environmental ordinances (watershed), and easements located on the property.

**What zone is my property in?**

The town has an [interactive zoning map](#) where you can search by property address or zoom in on an area of interest. Major residential zone categories include RS-20 (Residential Single-Family, minimum lot size 20,000 square feet), RS-12 (Residential Single-Family, minimum lot size 12,000 square feet), RS-9 (Residential Single-Family, minimum lot size 9,000 square feet), RS-7 (Residential Single-Family, minimum lot size 7,000 square feet), MU-S (Mixed Use-Special Use District), and TND-S(Traditional Neighborhood Development-Special Use District). MU-S and TND-S districts promote compact mixed used development projects.

**Dimensional Requirements**

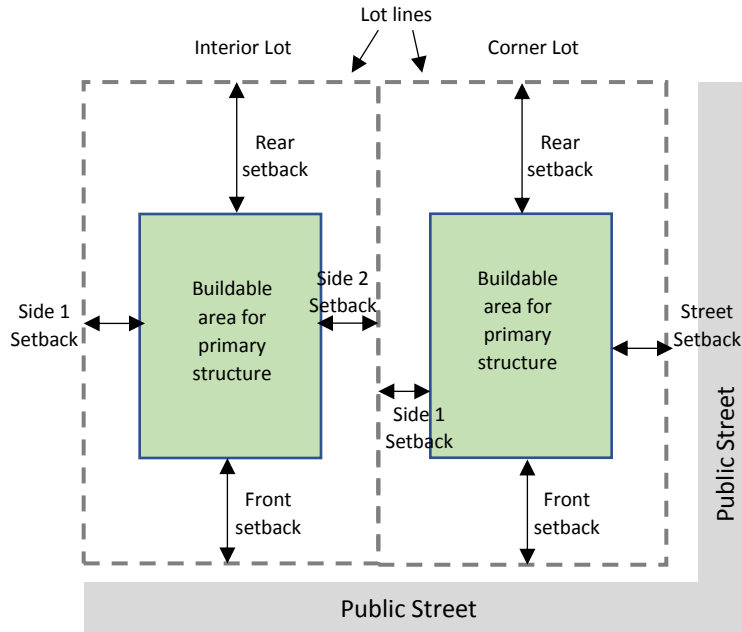
**What are the setbacks and other limitations for structures on my lot?**

The setback requirements (also known as “yards”) can be found in the Dimensional Requirements section of the ordinance for your zone. Each residential lot may contain one primary structure (the house) and additional accessory structures (sheds, detached garages, etc.) based on the Unified Development Ordinance. The primary structure and any accessory structures may have different setback requirements based on the proposed location of accessory structures. Below are the setbacks for the primary structure for properties located in the RS-20, RS-12, RS-9, RS-7, MU-S, and TND-S districts.

**Primary Structure setbacks (ft), minimum lot width (ft), and structure height (ft) (UDO 3-1.1)**

Zoning District	Min. Lot Width	Front Setback	Rear Setback	One Side Setback <sup>1</sup>	Combined Setback <sup>2</sup>	Street Setback <sup>3</sup>	Max. Height
RS-20	95	30	30	7	20	20	40
RS-12	75	20	25	7	20	20	40
RS-9	65	20	25	7	20	20	40
RS-7	50	15	20	5	15	20	40
MU-S	30	10	--	--	--	10	60
TND-S	18	4	--	--	--	4	60

- 1. One Side Setback-** the primary structure may be this close to the adjacent property on one side only.
- 2. Combined Setback-** this number is the minimum total combined side setback and comes from adding the total side setbacks on both sides of the property. For example, in the RS-20 district, if your side setback is 7 ft. from one neighboring lot the other side must be at least 13 ft. If you are 8 ft. from one side, you must be at least 12 ft. on the other, and so on.
- 3. Street Setback-** this setback only applies to lots whose side setback is adjacent to a public street (corner lot). Street setbacks are greater than the side setbacks for interior lots.



**Example:**

If the lots in this diagram were in an RS-20 district, the front and rear setback would be 30' from the lot lines. For the interior lot (on the left), if Side 1 was 7', then Side 2 can be as close as 13' to the adjacent lot on the right as long as the combined side setbacks were no less than 20' total. Remember that 7' is the narrowest side setback allowed in RS-20.

The corner lot (on the right) would have the same front and rear setbacks as the adjacent lot on the left. While the Side 1 setback could still be as close as 7' to the adjacent lot on the left, the Street setback is required to be a minimum of 20' off the road.

**Accessory Structure setbacks, yard coverage, and maximum size (UDO 3-1.2, F)**

1. **Setbacks**- depending on the location and height, setbacks for accessory structures may be different from the primary structure.
  - a. **Interior Lots**- an accessory structure 17 ft. or less in height and structurally detached from the principal structure (and separated by at least 3 ft.) on the zoning lot may be erected on any interior lot in either the required side or rear yards, if no part of said structure is less than 75 ft. from the front lot line nor less than 3 ft. from a side or rear lot line. If the accessory structure is more than 17 ft. in height, within 3 ft. of the principle structure, or less than 75 ft. from the front lot line, the setbacks for the primary structure apply.
  - b. **Corner Lots**- an accessory structure less than 17 ft. in height and structurally detached from the principal structure (and separated by at least 3 ft.) on the zoning lot may be erected on a corner lot, provided that:
    - i. Said structure shall be erected in the required side yard not abutting the street, and no part of said structure is less than seventy-five (75) feet from the front line nor less than three (3) feet from a side or rear lot line; or,
    - ii. Said structure shall be erected in the required rear yard and shall not project beyond, or nearer to, the street than the front setback line of the district, as extended, of the adjacent lot whose front yard abuts the corner lot in question. This only changes the street setback in the RS-20 district from 20 ft. to 30 ft. for accessory structures. The street setback remains 20 ft. in RS-12, RS-9, and RS-7; 10 ft. in MU-S; and 4 ft. in TND-S.
2. **Yard Coverage**- multiple accessory structures are allowed provided they do not occupy more than 25% of the area of the required yard.

- 3. Maximum Size-** the maximum area of any single accessory structure may not exceed 5% of the actual size of the zoning lot or the minimum permitted lot size of the zoning district, whichever is smaller. However, an accessory structure up to five hundred seventy-six (576) square feet in area shall be permitted in all districts. This is the equivalent of a 24 x 24 structure. Requests for structures containing greater area may be considered under the special use permit process through the Board of Adjustment.

#### **How do I measure setbacks?**

Setbacks are measured from the actual property lines and not from fences, curbs, sidewalks, or street pavement edges. A property survey may be necessary to verify the location of property lines prior to construction. From the property line, setbacks are usually measured to the foundation edge of the structure. Section 3-1.2(B) of the Unified Development Ordinance exempts certain architectural features such as eaves from the setback requirement, as long as they extend less than 3 ft. into the setback. Any feature that exceeds a 3 ft. projection should be included in the setback measurement.

#### **My proposed structure can't meet the setbacks – are there any other options?**

Every effort should be made to design a development that meets the required setbacks and other dimensional criteria. Variances are very rare, and must be granted by the Board of Adjustment. Please contact the Zoning staff to discuss at (336) 996-7166.

### **Other Frequently Asked Questions**

#### **If I demolish a non-conforming structure, can I rebuild it in the same location? (UDO 5-4.2)**

Non-conforming structures, or structures that do not meet the dimensional requirements but existed as of the effective date of the Unified Development Ordinance, may continue under the following provisions:

- 1. Maintenance-** normal repair and maintenance may be performed to allow the continuation of nonconforming structures or improvements.
- 2. Renovation-** renovation of nonconforming structures or improvements is permitted if the renovation does not increase the floor area or cubical content of the structure or the area of any improvement.
- 3. Expansion-** expansion of nonconforming structures or improvements is permitted under the following provisions:
  - a. The proposed expansion of the nonconforming structure or improvement conforms to the dimensional requirements and other standards of this Ordinance; and,
  - b. The proposed expansion of the nonconforming structure or improvement conforms to the parking requirements of Section 3-3, the bufferyard requirements of Section 3-5, and the TO District provisions of Section 2-1.6(B). The bufferyard standards shall apply to the entire zoning lot, not to remaining vacant land existing as of the effective date of the Unified Development Ordinance.
- 4. Reconstruction-** any nonconforming structure or improvement which is demolished or destroyed may be reconstructed on the same lot, provided such reconstruction shall be accomplished:

- a. Pursuant to a validly issued permit within two (2) years of demolition or destruction of the structure or improvement;
- b. Without any increase in the cubical content or floor area;
- c. Without any change in location except to provide greater front, side, or rear yard areas; and,
- d. Within two (2) years from issuance of a building permit.

**Can I add an apartment to my house or convert my garage into a dwelling unit? (UDO 2-6.4 B,C)**

Accessory dwelling units (ADU's) are permitted in residential areas under certain conditions. These conditions differ between attached ADU's and detached ADU's. Keep in mind, an accessory structure within 3 ft. of the primary dwelling is considered attached by the Unified Development Ordinance.

**1. Attached ADU's**

- a. **Occupancy Requirements-** a zoning permit for an attached accessory dwelling shall be conditioned upon the property owner signing a statement verifying that one of the occupancy requirements is being met. The zoning permit shall automatically terminate when the occupancy requirement is no longer met.
  - i. At Least Fifty-Five (55) or Handicapped- the principal or accessory dwelling unit shall be occupied by a person at least fifty-five (55) years of age or handicapped; or,
  - ii. Relation. The principal dwelling unit or the attached accessory unit shall be occupied by the following categories of persons:
    - 1. Any relative under the civil law of the first, second, or third degree of consanguinity to the head of the household owning and occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household;
    - 2. Adopted Person. A son or daughter by legal adoption, or the adoptive parents of the head of the household or such person's spouse, whether spouse is living or deceased;
    - 3. Other Dependent. A dependent of the head of the household or of such person's spouse as defined by the North Carolina Department of Revenue; or,
    - 4. Servant. A servant employed on the premises and the servant's family, but only if such servant receives more than one-half of his/her annual gross income in return for services rendered on the premises.

**b. Structure Requirements:**

- i. The principal building shall not be altered in any way so as to appear from a public street to be multiple family housing.
- ii. Prohibited alterations include, but are not limited to: multiple entranceways, multiple mailboxes, or multiple nameplates.
- iii. Wherever feasible and consistent with the State Residential Building Code, access to the accessory dwelling unit shall be by means of existing doors.
- iv. No new stairways to upper floors are permitted on any side of a building which faces a public street.

- v. Electric and/or gas utilities shall be supplied to both units through a single meter.
  - c. **Size of Unit-** an attached accessory dwelling unit shall occupy no more than twenty-five percent (25%) of the heated floor area of the principal building, but in no case shall be greater than seven hundred fifty (750) square feet. The sum of all accessory uses, including home occupations, in a principal residential building shall not exceed twenty-five percent (25%) of the total floor area of the building.
  - d. **Parking-** parking for the attached accessory dwelling shall be served by the same driveway as the principal dwelling.
  - e. **Number of Accessory Dwellings-** no more than one accessory dwelling, whether attached or detached, shall be located on a lot.
2. **Detached ADU's**
- a. **Occupancy Requirements-** a special use permit for the detached accessory dwelling must be approved by the Board of Adjustment in accordance with the requirements of Section 6-1 of the Unified Development Ordinance. In addition, the applicant must submit a statement verifying that the occupancy requirements of this section are being met. The permit shall automatically terminate with the termination of occupancy by such persons. The principal dwelling unit or the detached accessory unit shall be occupied by the same relative categories as Attached ADU's.
  - b. **Dimensional Requirements-** any detached accessory dwelling shall comply with all dimensional requirements applicable to accessory structures in Section 3-1.2(F) and (G) of the Unified Development Ordinance.
  - c. **Building Requirements-** any detached accessory dwelling shall comply with all building, plumbing, electrical, and other applicable codes, other than a manufactured housing unit.
  - d. **Manufactured Home-** a Class A or B manufactured home may be used as a detached accessory dwelling in all districts where a conventional detached accessory dwelling is permitted.
  - e. **Number of Accessory Dwellings-** no more than one accessory dwelling, whether attached or detached, shall be permitted on the same lot.

**What are the rules for swimming pools in residential districts? (UDO 2-5.68)**

Private swimming pools are permitted as accessory or principal uses in all residential districts, provided they meet the following requirements:

1. **Rear Yard Setbacks-** pools located in the rear yard of the property shall be no less than ten (10) feet from the rear property line but must meet principal building setbacks for the side yard.
2. **Front and Side Yard Setbacks-** pools located to the front and side of the principal building shall meet the front and side yard requirements of the residential district in which they are located.
3. **Completely Enclosed-** pools shall be completely enclosed by a fence, above average grade level, at least four (4) feet in height. For purposes of this section, the exterior walls of a house or building may be incorporated as a portion of such fence to create a fully enclosed area around the pool. All fence openings or points of entry into the pool shall be equipped with gates. Gates shall be equipped with self-closing and self-latching devices for keeping the gate or door securely closed at all times. The fence and gate shall be void of any holes or openings larger than five (5) inches or ten (10) centimeters in one dimension. A construction fence shall be erected

prior to such time as water is placed within the pool and remain until such time as a permanent fence is installed.

- 4. Business-** no private swimming pool shall be operated as a business.

### **I have an easement on my property, can I build on it?**

Residential properties may be subject to many different types of easements. An easement is a legal right to use another's land for a specific limited purpose. In other words, when someone is granted an easement, they are granted the legal right to use the property, but the legal title to the land itself remains with the owner of the land. The two main types of easements on residential property are utility and drainage easements.

- 1. Utility Easements-** a utility easement allows a utility the right to use and access specific area of another's property for laying gas, electric, water, and sewer lines. No part of any building shall be constructed within the boundaries of a utility easement unless specifically granted and authorized by the utility.
- 2. Drainage Easements-** the purpose of a drainage easement is to protect upstream property owners by having an easement that ensures stormwater can drain through downstream properties. Where a drainage easement exists the property owner cannot construct anything or modify the landscape in a manner that obstructs the drainage. If a property obstructs drainage flow through an easement it is civil matter with the upstream property owner. The town does not approve development permits within a drainage easement, including the following uses:
  - Tennis and basketball courts;
  - Swimming pools;
  - Dams or anything that would block the flow of water;
  - Walls or other structures made of wood, brick or block;
  - Sheds or other buildings;
  - Fences obstructing flow of water;
  - Landscaping, such as raised beds or any other obstructions which would block water flow or interfere with storm drain pipe integrity or function.

### **Can I put a Manufactured Home in a residential district? (UDO 5-2.8)**

Manufactured homes are not permitted in the RS-20, RS-12, RS-9, RS-7, MU-S, or TND-S districts except as permitted as a detached Accessory Dwelling Unit. Existing manufactured homes removed from a lot in these districts must be replaced within 180 days in order for the continuance of the non-conforming use.