



**Date:** October 28, 2019

**To:** Wendell Davis, County Manager

**Through:** Jay Gibson, General Manager

**From:** Patrick O. Young, AICP, Planning Director

**Subject:** *Unified Development Ordinance* Text Amendment, FEMA FIRM Updates (TC1900003)

### Summary

Text amendment TC1900003 would adopt revised Flood Insurance Rate Map (FIRM) panels issued by the Federal Emergency Management Agency (FEMA) by December 6, 2019, as required by FEMA and state law.

### Recommendation

That the Board of Commissioners approve the attached Ordinance to amend Article 8, Environmental Protection, of the *Unified Development Ordinance*; and approve a consistency statement declaring the request consistent with the Durham *Comprehensive Plan* and that the request is reasonable and in the public interest. Information supporting these recommendations is found within this memo, attached documents, and any information provided through the public hearing.

### Background

FEMA has updated its flood hazard information for unincorporated areas of Durham County. These maps identify Special Flood Hazard Areas (SFHA) and Future Conditions Flood Hazard Areas, which are defined as follows:

**Special Flood Hazard Area (SFHA):** The land in the floodplain subject to a one percent or greater chance of being flooded in any given year based on current conditions hydrology.

**Future Conditions Flood Hazard Area:** The land area that would be inundated by the one percent (1%) annual chance flood based on future conditions hydrology as determined in paragraph 8.4.2, Applicability, of this ordinance.

The revised FIRM panels are effective December 6, 2019 and must be adopted by that date in order to maintain Durham's participation in the National Flood Insurance Program (NFIP). The Joint City-County Planning Committee (JCCPC) was presented with this text amendment on August 7, 2019, and had no concerns. The Planning Commission determined that the Ordinance request is consistent with the adopted *Comprehensive Plan* and that the request is reasonable and in the public interest based on comments received at the public hearing and the information in the staff report. The Durham City Council will consider this amendment at its November 18, 2019, meeting.

## Issues

The NFIP requires local communities, as a condition of future federal financial assistance and federally-backed property flood insurance, to participate in the flood insurance program, and to adopt floodplain ordinances consistent with federal standards to reduce or avoid future flood losses. FEMA implements the NFIP, and the North Carolina Division of Emergency Management serves as state coordinator. State law provides that once FEMA approves a floodplain map for the NFIP, each local government affected by the floodplain must incorporate the revised map into its floodplain ordinance. No new flood insurance coverage can be provided until that occurs.

This proposed text amendment has been reviewed by the North Carolina Department of Public safety, and would adopt the FIRM updates containing only unincorporated areas within Durham County, which are revised effective December 6, 2019, as required\*. Attachment C indicates the map panels (highlighted in yellow) that will be updated.

Changes Between 2007 and 2019 Maps	
<b>Panels 0910, 20, 30</b>	
<b>2007 acreage</b>	SFHA: 192 acres 1% Future Conditions: None
<b>2019 acreage</b>	SFHA: 187 acres 1% Future Conditions: 2.9 acres
<b>Panels 0855, 0856, 0865, 0864, 0874</b>	
<b>2007 acreage</b>	SFHA: 3,362 acres 1% Future Conditions: None
<b>2019 acreage</b>	SFHA: 3,500 acres 1% Future Conditions: 7.6 acres
<b>Total change</b>	SFHA: Additional 133 acres 1% Future Conditions: Additional 10.5 acres

## Consistency with the Comprehensive Plan; Reasonableness and in the Public Interest

The proposed changes are technical requirements mandated by FEMA and state law in order to maintain participation in the National Flood Insurance Program (NFIP). This is reasonable and within the public interest. Although not specifically addressed within the *Comprehensive Plan*, the proposed amendments do not conflict with any policies, goals, or objectives of the plan.

## Contact

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## Attachments

**Attachment A:** Statement of Consistency Pursuant to NCGS § 153A-341

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\* The Emergency Management Division of the state Department of Public Safety determined, in consultation with the Attorney General's Office, that North Carolina is not an auto-adoption state. Therefore, jurisdictions are required to update applicable ordinances as each FIRM panel is updated. A bill to re-organize and consolidate all of the planning and zoning enabling legislation was signed into law as Session Law 2019-111. The new legislation, effective in 2021, would allow for adoption by reference of flood maps.

**Attachment B:** An Ordinance to Amend the *Unified Development Ordinance* Regarding Flood Insurance Rate Map (FIRM) Updates (TC1900003)

**Attachment C:** FEMA Letter of Final Determination

**Attachment D:** FIRM Panel Map

**Attachment E:** Planning Commission comments