

**AN ORDINANCE TO AMEND VARIOUS PROVISIONS
OF THE *UNIFIED DEVELOPMENT ORDINANCE*
(TC1900006)**

WHEREAS, the Durham County Board of Commissioners wishes to amend certain provisions in the *Unified Development Ordinance* by making various technical and minor policy revisions, and technical revisions to comply with various state legislation; and

WHEREAS, it is the objective of the Durham County Board of Commissioners to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community;

NOW, THEREFORE, be it ordained that Article 1, General; Article 2, Review Authority; Article 3, Applications and Permits; Article 4, Zoning Districts; Article 5, Use Regulations; Article 6, District Intensity Standards; Article 7, Design Standards; Article 8, Environmental Protection; Article 9, Landscaping and Buffering; Article 10, Parking and Loading;; Article 12, Infrastructure and Public Improvements; Article 14, Nonconformities; Article 15, Enforcement; Article 16, Design Districts, and Article 17, Definitions, of the *Unified Development Ordinance* are amended to make the following changes set forth in the deletions (strikethroughs) and additions (underlining) below:

PART 1

[Amendments to Sec. 12.11, Performance Guarantees, due to Session Law 2019-79.]

Sec. 12.11 Performance Guarantees

12.11.1 Filing of Performance Guarantees

A. Applicability

1. A performance guarantee, as described below, shall be for the completion of required if landscaping, recreational facilities, committed elements, or required infrastructure including but not limited to storm water, streets, sidewalks, or water and sewer improvements, has not been completed in accordance with the approved construction drawings, site plan, or plat as applicable.
2. For a project requiring multiple guarantees, a single guarantee may be posted in lieu of multiple guarantees. This allowance shall not apply to guarantees required for erosion control and stormwater control measures.

B. Amount

1. The responsible department shall require a performance guarantee in the amount of 125% of the reasonable estimated cost, ~~as determined by the applicable director or designee,~~ to complete the infrastructure or other improvement calculated as of the time the performance guarantee is issued, as determined by the applicable director or designee. ~~Administrative costs, inflation, and other contingencies shall be allowed for estimating the cost.~~
2. Any extension of the performance guarantee necessary to complete required improvements shall not exceed 125% of the reasonably estimated cost, ~~as determined by the applicable director or designee,~~ of completion of the remaining incomplete

improvements still outstanding at the time the extension is obtained, as determined by the applicable director or designee.

C. Timing

~~Where the improvements have not been completed before final plat approval or issuance of a certificate of compliance for a building within the approved project, the responsible department director(s) or designee(s) shall specify the time period within which such improvements must be completed. The applicable department director or designee shall specify when a performance guarantee shall be submitted.~~

12.11.2 Form and Conditions of Performance Guarantee

A. Form

A performance guarantee may be in the form of a surety bond, letter of credit, or other form of guarantee that provides equivalent security to a surety bond or letter of credit.

B. Conditions

A performance guarantee shall be conditioned upon the performance of all work necessary to complete the specified improvements and the delivery of all necessary encroachment agreements, with said performance and delivery to be done within a stipulated time period by a specified completion date as allowed per NCGS 160A-372(g)(1a).

C. Release of Guarantee

The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgment by the City or County that the improvements and conditions for which the performance guarantee is being required are complete.

D. Extension

If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete limited to the duration necessary to complete required improvements. A developer shall demonstrate reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension.

12.11.3 Issuance of Certificate of Compliance

For required improvements other than infrastructure, if the responsible department director or designee determines the completion of the improvement prior to issuance of a certificate of compliance is not practicable, and sufficient justification for the delay has been shown, certificates of compliance may be issued if an adequate performance guarantee is provided. In such event, the requirements for performance guarantees within this section shall apply.

PART 2

[Amendments due to Session Law 2019-111]

1.10 Transitional Provisions

[Paragraphs not listed remain unchanged]

1.10.3 Effect of this Ordinance on Approved Plans and on Completed Applications**B. Timely Submission of Information**

Applicants who have substantially complete applications as provided above shall comply with all requests for further information and submit all necessary revisions of submitted plans in a timely manner. ~~A delay of more than 90 days in submission of information or revisions requested shall constitute effective withdrawal of the application, with loss of all fees paid.~~ Paragraph 3.2.4G, Active Application Time Period, shall apply, and ~~Any~~ any new application shall then conform with the provisions of this Ordinance.

3.2 Common Review Procedures

[Paragraphs not listed remain unchanged]

3.2.4 Application Requirements**G. Active Application Time Period**

1. Requests for additional information, corrections, or other modifications for all applications, unless otherwise indicated in this Ordinance, shall be returned to the Planning Director or designee within six months from the date comments on the application are officially issued. Failure to meet this deadline shall result in the application to be considered withdrawn and voided, thus requiring a new application, including all requirements associated with a new application.
2. Requests for additional information, corrections, or other modifications for applications submitted to address a Notice of Violation shall be returned to the Planning Director or designee within 30 days from the date comments on the application are officially issued. Failure to meet this deadline shall result in the application to be considered withdrawn and voided, thus requiring a new application, including all requirements associated with a new application.

Sec. 3.5 Zoning Map Change

[Paragraphs not listed remain unchanged]

3.5.1 Description**B. Initiation**

A zoning map change may be initiated by the governing body, the Planning Commission, the Board of Adjustment, the Planning Director or designee, a citizen or the property owner or their agent, except as follows:

1. ~~that a~~ petition for a zoning map change with a development plan may only be initiated by the property owner or their agent.
2. A petition for a zoning map change that is considered a “down-zoning”, as defined per NCGS 160A-384 and 153A-343, as applicable, shall only be initiated by the applicable governing body, unless written consent is provided by all owners of property subject to the zoning request.

3.6 Subdivision Review

[Paragraphs not listed remain unchanged]

3.6.7 Preliminary Plat Approval

C. Action by the Planning Director

- ~~1. Staff review agencies shall complete review and transmit comments back to the Planning Director or designee.~~
- ~~2. If the applicant fails to submit revised plats in response to the comments of the staff review agencies within 90 days of receiving such comments from the Planning Director, or designee, the Planning Director shall consider the application to have been withdrawn by the applicant. An extension period may be granted by the Planning Director or designee.~~

3.7 Site Plan Review

[Paragraphs not listed remain unchanged]

~~3.7.6 Submittal of Corrections~~

- ~~A. Corrections or modifications for site plans shall be returned to the Planning Director or designee within 90 days from the date comments are officially issued or the site plan application shall be considered withdrawn.~~
- ~~B. Corrections or modifications for site plans submitted to address a Notice of Violation shall be returned to the Planning Director or designee within 30 days from the date comments are officially issued or the site plan application shall be considered withdrawn.~~
- ~~C. An extension period may be granted by the Planning Director or designee.~~

~~3.7.76 Final Approval~~[text remains unchanged]

~~3.7.8-7 Issuance of Building Permits~~ [text remains unchanged]

~~3.7.9-8 Inspections of Required Improvements~~[text remains unchanged]

~~3.7.10-9 Issuance of Certificate of Compliance~~[text remains unchanged]

~~3.7.11-10 Coordination with Major Special Use Permits~~[text remains unchanged]

~~3.7.12-11 Coordination with Construction Drawings~~[text remains unchanged]

~~3.7.13-12 Continuing Validity of Site Plans~~[text remains unchanged]

3.9 Special Use Permit

[Paragraphs not listed remain unchanged]

3.9.6 Approval of a Minor Special Use Permit

- D. Conditions may be incorporated as part of the approval of the special use permit to assure that adequate mitigation measures are associated with the use or design pursuant to NCGS 160A-381 and 153A-340, as applicable. The conditions shall become a part of the minor special use permit approval. Violations of any of the conditions shall be treated in the same manner as other violations of this Ordinance.

3.10 Sign Permit

[Paragraphs not listed remain unchanged]

3.10.3 Action by the Planning Director

- ~~B. Corrections or modifications for sign permit applications shall be returned to the Planning Director or designee within 30 days from the date comments are officially issued or the application shall be considered withdrawn. An extension period may be granted by the~~

~~Planning Director or designee with documentation that a good faith effort is being made to address the issued comments.~~

- CB.** Signs shall be installed in accordance with the approved sign permit within six months of the date of official permit approval or the permit shall expire and require a new sign permit application and approval. The Planning Director or designee may extend the validity of the sign permit with documentation that a good faith effort is being made to install and receive final approval of the subject sign(s).

3.15 Appeal of Administrative Decision

[Paragraphs not listed remain unchanged]

3.15.1 Applicability

An appeal by any person aggrieved by a final order, interpretation, or decision of any administrative official authorized to make decisions in regard to the provisions of this Ordinance ~~may shall~~ be taken to the Board of Adjustment, except as otherwise provided in this Ordinance or state statute.

3.15.7 Effect of Appeal

- A.** An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from, including any accumulation of fines, during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with NCGS 160A-393 or during pendency of any civil proceeding authorized by law, including NCGS 160A-393.1, or appeals therefrom, unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property; or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court.

PART 3

[Amendments due to SL2019-131 and SL2019-174]

Sec. 6.2 Residential Rural (RR) Development Intensity

[Paragraphs not listed remain unchanged]

6.2.4 Conservation Subdivision

B. Applicability of Regulations

- 3.** In the County jurisdiction, ~~Spray-spray~~ irrigation for the treatment of wastewater within a conservation subdivision shall require a major special use permit under Sec. 3.9, Special Use Permit, unless the area to be irrigated is a primary conservation area that is farmland or agricultural land. This requirement shall also apply within the City jurisdiction unless the system has been approved by the State.

Sec. 8.7 Watershed Protection Overlay Standards

[Paragraphs not listed remain unchanged]

8.7.2 General Requirements

F. Wastewater Treatment and Facilities

- d. In the County jurisdiction, ~~Wastewater~~ wastewater treatment facilities may be permitted in the F/J-A overlay through the issuance of a Major Special Use Permit pursuant to Sec. 3.9, Special Use Permit, subject to the restrictions described in Sec. 12.7, Water and Sanitary Sewer Systems. This requirement shall also apply within the City jurisdiction unless the system has been approved by the State.

Sec. 12.7 Water and Sanitary Sewer Systems

[Paragraphs not listed remain unchanged]

12.7.1 Water and Sanitary Sewer Systems

B. Public

Installation of improvements which are extensions to existing public systems shall be approved by the public utility providing the services. Sanitary sewer systems may be extended into the Rural Tier in the following instances:

1. In the County jurisdiction, and within the City jurisdiction where no State approval has been issued, ~~Through the issuance of approval of~~ a major special use permit pursuant to Sec. 3.9, Special Use Permit, provided that:
 - a. Pump stations are equipped with battery-backed alarm systems connected to an automatic dialer to a 24-hour maintenance service; and
 - b. Provision is made for connection to a portable generator.
2. To serve an existing use or structure for which a health hazard has been documented by the County health department or the State of North Carolina.

The additional requirements of paragraph 8.7.2, General Requirements shall apply in watershed protection overlays.

C. Community

1. In the County jurisdiction, ~~Community~~ community systems designed to serve more than one user independent of public systems, may be approved through the issuance of a Major Special Use Permit pursuant to Sec. 3.9, provided that:
 - ~~1a.~~ The system will serve a development that is approved as a Conservation Subdivision pursuant to paragraph 6.2.4, Conservation Subdivision, or that satisfies the design requirements for such subdivisions;
 - ~~2b.~~ The facilities are licensed or permitted by the State of North Carolina, and the system operator is licensed by the State of North Carolina. The licensed operator shall inspect the plant daily with the exception of weekends and holidays to determine that the plant is operating adequately. All monthly reports that are sent to the State of North Carolina shall be copied to the Durham Environmental Health Director;
 - ~~3c.~~ The facilities shall be non-discharge, meet North Carolina reuse standards, including, but not limited to, separating liquids and solids, and have permanent standby power sufficient to ensure normal operation in the event of a power failure;
 - ~~4d.~~ The developer of the system (if a private system) provides a performance bond equal to at least 50% of the cost of the replacement of the system or \$100,000, whichever is greater, in the event that the operator of the system ceases to provide service or maintenance; and

- ~~5e.~~ The developer (or his/her successor) shall provide and maintain catastrophic property insurance to cover 100% of the replacement cost of the system; and,
 - ~~6f.~~ The approving authority makes a finding that the wastewater system proposed by the developer provides improved treatment over what would be provided through the use of an on-site ground absorption or spray irrigation wastewater treatment system.
 - ~~7g.~~ To assist the approving authority in making this finding, the applicant shall provide the approving authority with certifications from the state regarding the performance of the proposed facility relative to on-site systems. If such certification is not available or cannot be provided in a timely fashion, the applicant shall pay for a third party expert technical review of the proposed system to ensure that it will meet this standard.
2. Within the city jurisdiction, community systems as described in paragraph 1, above, shall be allowed if approved by the State of North Carolina.

Sec. 12.9 Other Utilities

[Paragraphs not listed remain unchanged]

12.9.1 Installation

- A. The applicant shall arrange for the coordinated installation of all other proposed utilities, including gas, electricity, and communications improvements, and shall ensure that site plans, preliminary plats, and final plats clearly show all related easements and right-of-way.
- B. ~~Except for electric transmission lines that cannot be installed underground, utilities~~ Utilities shall be installed underground for any subdivision requiring preliminary plat approval, except as follows:
 - 1. Where electric transmission lines cannot be installed underground.
 - 2. Electric transmission lines are located outside of the boundary of the development site and are existing above ground at time of application, even if subsequently relocated as part of the development.

PART 4

[Technical and minor policy amendments to various sections]

Sec. 2.1 Governing bodies

[Paragraphs not listed remain unchanged]

2.1.2 Powers and Duties

The governing bodies shall be responsible for final action regarding the following:

- A. Amendments to the adopted Comprehensive Plan, including the annual ~~Evaluation and Assessment~~ Rectification Report;

Sec. 2.7 Durham City-County Planning Department

2.7.4 Powers and Duties

C. The Planning Director or designee shall be responsible for final action regarding the following:

~~9. Applications for limited agriculture permits;~~

~~109.~~ Applications for architectural review; and

~~1110.~~ Applications for temporary use permits.

Sec. 3.2 Common Review Procedures

[Paragraphs and portions of tables not listed remain unchanged]

3.2.1 Applicability

The review procedures described below apply to the types of applications listed below, as may be limited by the individual subsections that follow.

~~P. Limited Agriculture Permit (City Only)~~

~~QP.~~ Architectural Review

~~RQ.~~ Reasonable Accommodation

3.2.2 Pre-Application Conference

B. A mandatory pre-application conference with the Planning Director or designee shall be required for the following development reviews:

1. Comprehensive Plan amendments (text or ~~future land use~~ map) not initiated by the City or County;

3.2.3 Neighborhood Meeting

A. All applicants shall hold a neighborhood meeting prior to submitting an application, but after a pre-application conference, for the following development reviews:

1. Comprehensive Plan amendment;
2. Zoning map change, including initial zoning map change ~~that requires a TIA pursuant to Sec. 3.3, Traffic Impact Analysis;~~
3. Conservation subdivision; and
4. Other applications as may be specified elsewhere in this Ordinance.

3.2.5 Notice and Public Hearings

A. Summary of Notice Required

1. Notice shall be required for applications for development approval as shown in the table below.

Procedure	Published	Mailed	Posted
Comprehensive Plan Future Land Use Map Amendment	✓	✓	✓
Zoning Map Change, <u>including an initial zoning map change</u>	✓	✓	✓

2. Exceptions to the table above are as follows:

- a. Mailed notice for site plans shall be required only for major site plans pursuant to paragraph 3.7.3B, Major Site Plans.

- b. Posting and mailing for comprehensive plan amendments shall be required only for amendments that change a Tier designation or future land use map designation without an associated zoning map change.
- ~~c. For initial zonings where the City proposes adopting the existing County zoning designation, no posting is required as long as the property owner is notified by mailed notice. (see City of Durham Code of Ordinances: Part I, Chapter VI, Article 9, Sec. 94, Notice of public hearings).~~
- ~~d.c.~~ For Appeal of Administrative Decision, posting is not required when the appeal is not site specific.

2. Mailed Notice

a. Mailed Notice Table

The director of the appropriate department or designee shall provide notification as indicated in the notification table below:

Procedure	Property Owner	
	Subject Property, if applicable	Distance of Property from Subject Property, <u>including adjacent properties</u> ² (ft.)
<i>Comprehensive Plan</i> Future Land Use Map <u>or Tier Map</u> Amendment	✓	600
Zoning Map Change, <u>including an initial zoning map change</u>	✓	600
<u>Initial Zoning</u>	✓	<u>100</u>
Site Plans ¹	✓	600
Board of Adjustment	✓	600
Governing Body Quasi-Judicial Hearings	✓	600
Historic District Designation; Neighborhood Protection Overlay	✓	100
Historic Landmark Designation and Certificate of Appropriateness (Major Works)	✓	All adjacent properties ²
Historic District Preservation Plan Text Amendment	✓	All adjacent properties ²
Vested Rights Determination	✓	All adjacent properties ²

1 Mailed notice shall be required only for major site plans pursuant to paragraph 3.7.3B, Major Site Plans.

2 Adjacent properties shall include properties directly across the street from the subject property (where applicable). Properties are "adjacent" even if separated by a street, railroad, or other transportation corridor.

Sec. 3.4 Comprehensive Plan Adoption/Amendment

[Paragraphs not listed remain unchanged]

3.4.1 Applicability

- A. The governing bodies shall consider adoption of or amendments to the Comprehensive Plan, as may be required from time to time.
- ~~B. The governing bodies shall also consider adoption of or amendments to the Comprehensive Plan when zoning map change proposals are in conflict with the Plan, as determined by the Planning Director or designee.~~
- ~~CB.~~ Adoption of or amendments to the Comprehensive Plan shall only apply to the jurisdiction in which the subject property is located unless the property is the subject of an annexation petition, or the amendment is pursuant to paragraph 3.4.10, Rectification Report.
- ~~DC.~~ Amendments to the Comprehensive Plan can take the form of text and/or map amendments ~~or amendments to the Future Land Use Map.~~

3.4.2 Coordination with Applications for Zoning Map Change

A. Future Land Use Map

No separate application shall be required to amend a Future Land Use Map designation that is inconsistent with a zoning map change request. In accordance with state statute, if the zoning map change is approved, the Future Land Use Map shall be considered amended to the applicable land use designation. A recommendation on the land use designation shall be provided by the Planning Director or designee.

B. Tier Boundary Map

When a zoning map change request requires an amendment to a Tier boundary, an application for amending the Tier shall be submitted concurrently with the zoning map change application. The public hearings for both applications may be heard at the same time; however, decisions shall be rendered with separate motions.

- ~~A. When required to ensure consistency between the Comprehensive Plan and proposed zoning map changes, an application for a plan amendment shall be submitted concurrently with a map change may be heard at the same meeting; however, decisions shall be rendered with separate motions.~~
- ~~B. A Comprehensive Plan Amendment shall not be required for Initial Zoning Map Changes, as defined in Sec. 17.3, Defined Terms.~~

~~C. Administrative Withdrawal~~

~~— The Planning Director or designee may withdraw applications for a Comprehensive Plan amendment under the following circumstances:~~

- ~~— 1. The applicant has failed to submit required information within 90 days of a request for such information; or~~
- ~~— 2. The associated zoning map change is administratively withdrawn pursuant to paragraph 3.5.7C, Administrative Withdrawal.~~

Sec. 3.5 Zoning Map Change

[Paragraphs not listed remain unchanged]

3.5.4 ~~Coordination~~ Consistency with the Comprehensive Plan

- ~~A. All petitions for zoning map change shall be consistent with the Comprehensive Plan. A petition for zoning map change shall not be approved by the governing body when there is a~~

~~conflict with the Comprehensive Plan, as determined by the Planning Director or designee (see Sec. 3.4, Comprehensive Plan Amendment).~~

~~B. When required, an application for a plan amendment shall be submitted and reviewed concurrently with an application for zoning map change. The public hearings on both the plan amendment and zoning map change may be heard at the same meeting. The decisions, however, shall be rendered with separate motions.~~

A. Consistency with the Comprehensive Plan shall be considered with all petitions for a zoning map change.

B. If a zoning map change request is approved but determined inconsistent with the Future Land Use Map (FLUM) of the Comprehensive Plan, the FLUM shall be considered amended to the applicable land use designation. A recommendation on the land use designation shall be provided by the Planning Director or designee.

C. When a zoning map change request requires an amendment to a Tier boundary, an application for amending the Tier boundary shall be submitted concurrently with the zoning map change application. The public hearings for both applications may be heard at the same time; however, decisions shall be rendered with separate motions.

3.5.7 Deferral and Withdrawal of an Application for Zoning Map Change

C. Administrative ~~Withdrawal~~Voiding of an Application

The Planning Director or designee may ~~withdraw~~consider applications withdrawn and voided due to the failure of the applicant to submit required information within 90 days of a request for such information.

D. Resubmittal of Withdrawn Applications

Except in the case of an application where the applicant withdrew consent to a development plan, no application that was previously withdrawn or voided may be resubmitted until at least six months have elapsed since the date of withdrawal. In the case of applications withdrawn or voided as a result of the withdrawal of consent to a development plan after publication of a notice of a public hearing, no new application may be resubmitted until at least 12 months have elapsed since the date of withdrawal. The Planning Director or designee may waive this waiting period if the application has been substantially modified or if there has been a significant change in facts or circumstances since the application was withdrawn.

Sec. 3.19 Text Amendment

[Paragraphs not listed remain unchanged]

3.19.4 Action by the Planning Commission

C. Expedited Hearing

1. If the governing body has set an expedited hearing concerning a request, in accordance with paragraph 3.19.5B, Expedited Hearing, a public hearing before the Commission shall be held at the first available hearing date or prior to the hearing before the governing body.

~~2. The Commission shall make a recommendation based on the approval criteria in paragraph 3.5.10, Review Criteria, as appropriate.~~

~~32.~~ The Planning Commission may not continue, nor may a deferral be granted for, a request that is subject to an expedited public hearing.

Sec. 4.1 General

[Paragraphs and portions of tables not listed remain unchanged]

4.1.1 Establishment of Districts

A. The following zoning districts are hereby established, and are intended to implement the Comprehensive Plan. Each district is only appropriate in development tiers where it effectively implements the plan, as set forth below.

Symbol	District	Development Tier					Former Districts
		Rural	Suburban	Urban	Compact Neighborhood	Downtown	
Design Districts							
CD-C	Compact Design – Core				✓		– NEW –
CD-S1	Compact Design – Support 1				✓		– NEW –
CD-S2	Compact Design – Support 2				✓		– NEW –
CD-P(N)	Compact Design – Pedestrian Business Sub-district (Ninth Street)				✓		– NEW –
CSD-C	Compact Suburban Design- Core				✓		– NEW –
CSD-S1	Compact Suburban Design- Support 1				✓		– NEW –
CSD-S2	Compact Suburban Design- Support 2				✓		– NEW –
DD-C	Downtown Design – Core					✓	– NEW –
DD-S1	Downtown Design – Support 1					✓	– NEW –
DD-S2	Downtown Design – Support 2					✓	– NEW –

Sec. 5.1 Use Table

[Paragraphs and portions of tables not listed remain unchanged]

5.1.2 Use Table

USE CATEGORY	SPECIFIC USE	RESIDENTIAL						NONRESIDENTIAL								PLANNED					DESIGN			NOTES:
		RR	RS	RS-M	RU	RU-M	RC	CI	CN	OI	CG	SRP	SRP-C ³	IL	I	PDR	UC	CC	IP	MU	DD	CD	CSD	
AGRICULTURAL USES (City Only)																								
RESIDENTIAL USES																								
Household Living	Single-family	L	L	L	L	L	L		L							‡				‡	L	L	L	6.2.1, 6.3.2, 6.4.2, 6.5.2, 6.10.2, 6.11.3, 6.11.7, 7.1.2, 7.1.3, 7.1.4, 7.1.5, 7.1.6, Art. 16
	Two-family	<u>L</u>	<u>L</u>	L	L	L	L		<u>L</u>							‡				‡	L	L	L	<u>6.2.2</u> , 6.3.2, 6.4.2, 6.5.2, <u>6.10.2</u> , <u>6.11.3</u> , <u>6.11.5</u> , <u>6.11.7</u> , Art. 16, 7.1.7
	Multifamily	<u>L</u>	<u>L</u>	L	L	L	L	L	L	L	L		L			‡		‡ L		‡	L	L	L	<u>6.2.2</u> , 6.3.2, 6.4.2, 6.5.2, 6.10.2, 6.11.3, 6.11.5, 6.11.7, 7.1.8, 7.1.9, 7.1.10, Art. 16

Sec. 5.3 Limited Use Standards

[Paragraphs not listed remain unchanged]

5.3.3 Public and Civic Use Standards

F. Government Facilities

Government facilities shall be permitted in accordance with the use table in Sec. 5.1, Use Table, subject to the following:

1. Following the initial approval of government facilities through the special use permit process, expansions of up to ~~35%~~20% of the area originally approved through the special use permit process pursuant to Sec. 3.9, Special Use Permit, ~~may~~can be approved administratively, unless such administrative approval is explicitly prohibited as a condition of the special use permit.
2. Administrative approvals of expansions of government facilities shall not waive any conditions of approval of the special use permit.
3. In residential districts, parking located between the structure and the street shall be set back from the right-of-way beyond the minimum or maximum street yard, as applicable.

J. Places of Worship

Places of worship shall be permitted in accordance with the use table in Sec. 5.1, Use Table, subject to the following:

1. Following the initial approval of a place of worship through the special use permit process, expansions of up to 20% of the area originally approved through the special use permit process pursuant to Sec. 3.9, Special Use Permit, can be approved administratively, unless such administrative approval is explicitly prohibited as a condition of the special use permit.
2. Administrative approvals of expansions shall not waive any conditions of approval of the special use permit.
13. In residential districts, parking located between the structure and the street shall be set back from the right-of-way beyond the minimum or maximum street yard, as applicable.

K. Schools – Elementary, Middle, or High

Schools shall be permitted in accordance with the use table in Sec. 5.1, Use Table, subject to the following:

1. Use permits for public schools shall not be limited as to number of students. Notwithstanding any conditions on existing use permits, public schools may enroll the number of students that they are legally entitled to enroll under State building codes and other applicable State laws.
2. Following the initial approval of schools through the special use permit process, expansions of up to 20% of the area originally approved through the special use permit process pursuant to Sec. 3.9, Special Use Permit, ~~may~~can be approved administratively, unless such administrative approval is explicitly prohibited as a condition of the special use permit.
3. Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.
4. In residential districts, parking located between the structure and the street shall be set back from the right-of-way beyond the minimum or maximum street yard, as applicable.

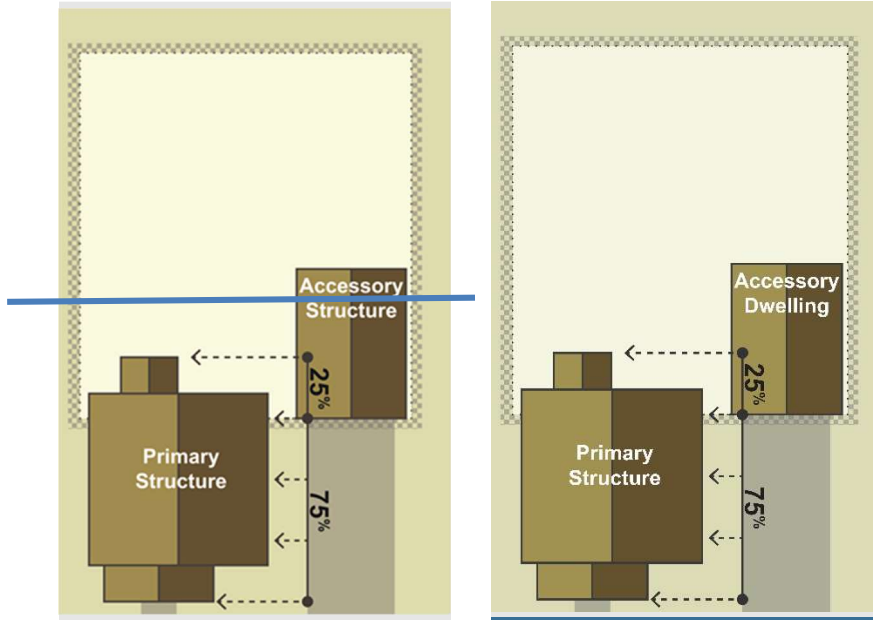
Sec. 5.4 Accessory Uses and Structures

[Paragraphs not listed remain unchanged]

5.4.2 Accessory Dwellings

B. General

7. In addition to the accessory structure location requirements in paragraph 5.4.1B.1, an accessory structure containing an accessory dwelling unit can be located to the side of the primary structure, provided that:
 - a. The structure shall not extend forward of the rear 25% of the primary structure; and
 - b. The minimum side yard of the zoning district shall apply.



Sec. 6.3 Residential Suburban (RS) Development Intensity

[Paragraphs and portions of tables not listed remain unchanged]

6.3.1 Development Standards

A. Dimensional Standards

1. All residential development in the RS districts shall meet the standards in the table below. For illustrations, lot dimensions, and required yards for each housing type, see Sec. 7.1, Housing Types.

Dimensional Standard	RS-20		RS-10		RS-8		RS-M		
	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max. without Development Plan	Max. with Development Plan (see paragraph 3.5.6)
Residential Density (units per acre)	—	2.0	—	4.0	—	5.0	—	8.0	18.0
Small Lot Option ³	---	2.0	---	12.0	---	12.0	---	12.0	18.0

³Per paragraph 7.1.2C.1, Applicability, the small lot option is not allowed in the RS-20 district. Refer to that paragraph for further limits on the other RS districts.

Sec. 6.10 Nonresidential District and Group Living Development Intensity

[Paragraphs not listed remain unchanged]

6.10.1 Nonresidential and Group Living Development Standards**B. Suburban Tier****2. Standards for the SRP, IL, and I Districts****d. Additional Height****(1) IL District**

On sites with a minimum three-acre site-lot area, the maximum height can be increased as follows:

(a) Maximum 90 feet with a 50-foot street yard.

(b) Maximum 120 feet with a 75-foot street yard.

(c) Over 120 feet to a maximum 145 feet with a 75-foot street yard and issuance of a minor special use permit pursuant to Sec. 3.9, Special Use Permit.

(2) In the IL with site-lot acreage less than three acres, SRP, and I Districts, additional height, up to 145 feet, is allowed if approved through the issuance of a minor special use permit pursuant to Sec. 3.9, Special Use Permit.

Sec. 6.12 Measurement and computation

[Paragraphs not listed remain unchanged]

6.12.3 Required Yards**B. Encroachments into Required Yards**

7. Decks, uncovered terraces, and at-grade patios can extend up to four feet into any required side yard, or up to eight feet into any required street yard, or within four feet of a rear property line. Non-enclosed covered decks or porches can extend six feet into required street and rear yards; however, a minimum setback of five feet from the property line shall be maintained.

6.12.4 Density**A. ~~Calculation of Density~~Number of Units Allowed**

~~Density calculations may result in a fraction~~The calculation of the number of units allowed per minimum or maximum density requirements can result in a fraction of a unit. If the fraction is less than one-half, the fraction shall be deleted. If the fraction is one-half or greater, the number shall be rounded up to the next whole number.

Sec. 7.1 Housing Types

[Paragraphs and portions of tables not listed remain unchanged]

7.1.3 Zero Lot Line House**B. Development Standards**

Zero Lot Line House Standards	RS-10	RS-8	RS-M	RU-5, RU-5(2)	RU-M	RC
Cluster Subdivision						
Lot Dimensions (min.)						
<u>Note: "*" denotes (Suburban Tier/Urban Tier)</u>						

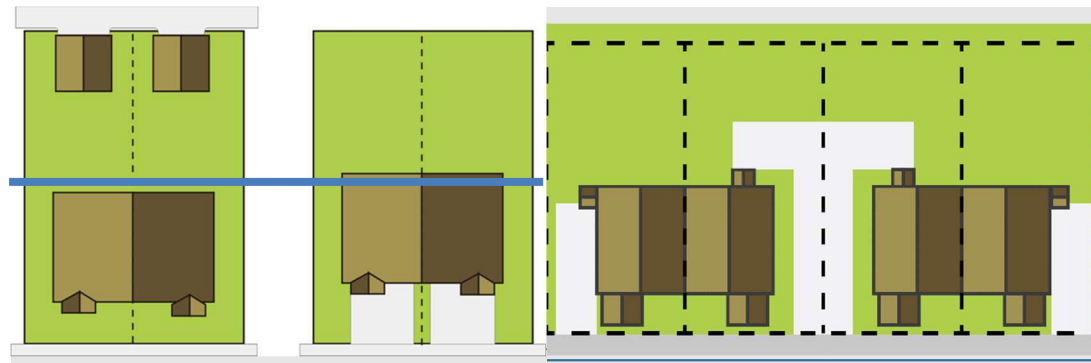
G. Small Lot Option

Paragraph 7.1.2C, Small Lot Option, can apply [and the provisions within that paragraph shall apply](#). The following shall also apply:

1. If a lot in a new zero lot line subdivision is adjacent to the side of an existing, developed residential lot that is not zero lot line, then:
 - a. The new lot shall not be zero lot line; or
 - b. The required side yard shall be adjacent to the existing lot.
2. The minimum side yard shall be nine feet.

7.1.4 Traditional House**D. Small Lot Option**

Paragraph 7.1.2C, Small Lot Option, can apply [and the provisions within that paragraph shall apply](#).

7.1.5 Attached House**B. Development Standards**

Attached House Standards	RS-20	RS-10	RS-8	RS-M	RU-5, RU-5(2)	RU-M	RC
Conventional Subdivision							
Lot Dimensions (min. square feet)							
Note: "*" denotes (Suburban Tier/Urban Tier)							
"Per Pair" denotes that the minimum number required applies to the pair of units. For example in RU-M, the lot area means the sum of the two lots necessary for the pair of units must be at least 3,500 square feet.							
Lot Area per Pair (w/o averaging.)	---/20,000*	---/10,000*	---/8,000*	5,000	5,000	3,500	3500
Lot Area Per Pair (with averaging) ¹	---/17,000*	---/8,500*	---/6,800*	4,250	4,250	2,975	2,975
Lot Width per pair (feet)	---/100*	---/75*	---/60*	35	45	35	35

7.1.6 Duplex

B. Development Standards

Duplex Standards	RS-20	RS-10	RS-8	RS-M	RU-5, RU-5(2)	RU-M	RC
Conventional Subdivision							
Lot Dimensions (min. square feet) Note: "*" denotes (Suburban Tier/Urban Tier)							
Lot Area (w/o averaging.)	---/20,000*	---/10,000*	---/8,000*	5,000	5,000	3,500	3500
Lot Area (with averaging) ¹	---/17,000*	---/8,500*	---/6,800*	4,250	4,250	2,975	2,975
Lot Width (feet)	---/100*	---/75*	---/60*	35	45	35	35

D. Small Lot Option

Paragraph 7.1.2C, Small Lot Option, can apply [and the provisions within that paragraph shall apply.](#)

7.1.10 Apartment

A. Description

An apartment is a multifamily housing type on a single tract or parcel of land containing ~~three~~ [five](#) or more units. Apartments can vary in height; the individual units can be located on separate floors or side-by-side. Parking is often shared in a consolidated area, even when garages and carports are used.

Sec. 7.2 Open Space

[Paragraphs not listed remain unchanged]

7.2.3 Design and Use of Required Open Space

A. Recreational Open Space

Where open space is required, at least one-third shall consist of recreational open space.

1. Table of Recreational Open Space

Recreational open space shall be provided by the type and percentages indicated in the following table:

Types of Recreational Open Space	Maximum Percent by Tier		
	Suburban	Urban	Compact
Property developed for active recreational purposes with fixed improvements (ballfields with fixed improvements (e.g., goals, backstops, bleachers, etc.), tennis or basketball courts, golf courses, swim clubs, etc.); all-weather trails; playgrounds	100%	100%	100%
Benches, picnic tables, shelters, gazebos, multi-use fields	30%	30%	30%
Publicly accessible plazas and courtyards	—	100%	100%

- B. The remaining required open space, and 100% of required open space where recreational open space is not required as indicated in paragraph 7.2.3A.2, shall consist of the type and percentages indicated in the following table:

Open Space Use	Maximum Percent by Tier			
	Rural	Suburban	Urban	Compact
Natural or Vegetated				
Agriculture, horticulture, silviculture or pasture uses	100%	50%	—	—
Naturally vegetated or revegetated to appear naturally vegetated.	100%	100%	100%	100%
Severe development constraints or other conditions that affect their usability by residents of the development, including properties in the flood fringe, floodway, water bodies, exceptionally low or wet soils, or steep slopes.	100%	50%	100%	100%
Durham Inventory Sites	100%	100%	100%	100%
Tree protection areas, project boundary buffers	100%	100%	100%	100%
Recreational				
Property developed for active recreational purposes <u>with fixed improvements</u> (ballfields with fixed improvements (e.g., Goals, backstops, bleachers, etc.), tennis or basketball courts, golf courses, swim clubs, etc.); all-weather trails; playgrounds).	100%	50%	50%	50%
Benches, picnic tables, shelters, gazebos, multi-use playfields	100%	50%	50%	50%
Publicly accessible plazas and courtyards	—	—	100%	100%
Other				
Stormwater management and community wastewater disposal systems <u>if active recreational uses are incorporated</u> . Easements for drainage, access and underground utilities	25%	25%	50%	50%
Land dedicated per Sec. 12.5, Recreation Land	100%	100%	100%	100%

7.2.4 Open Space Calculation

B. Minimum Dimension

1. Within the Compact Neighborhood Tier other than Design Districts, a horizontal dimension of at least ten feet in all directions shall be the minimum required to be considered open space.
2. Within the Rural, Suburban, and Urban Tiers, a horizontal dimension of at least 25 feet in all directions shall be the minimum required to be considered open space.

Sec. 8.3 Tree Protection and Tree Coverage

[Paragraphs not listed remain unchanged]

8.3.1 Tree Coverage Standards

D. Preserved Tree Coverage

5. Construction in Preserved Tree Coverage Area

- a. Preserved tree coverage areas shall not be ~~used for active recreational purposes~~disturbed, except the following:
 - ~~(i)~~(1) Unpaved walking paths and foot trails constructed with minimal disturbance of tree roots and existing vegetation. No tree ~~eight-six~~ inches dbh or greater shall be removed for the construction of the trail.
 - ~~(ii)~~(2) Paved trails that are public trails and are shown on the most recent version of the Durham Trails and Greenways Master Plan. In no case shall the clearing of the trail corridor exceed 16 feet in width.
 - ~~(iii)~~(3) Amenity areas containing such items as picnic tables and benches provided that such areas are unpaved and no larger than 200 square feet or 10% of the tree coverage area, whichever is smaller. No tree ~~eight-six~~ inches dbh or greater shall be removed for the construction of an amenity area.

8.3.5 Specimen Trees

- C. In order to receive additional credit for major specimen trees, a major specimen tree survey shall be required showing specific location, species, size, and root protection zone of all major specimen trees to be saved. This survey shall be included on all site, landscape, grading, utility, demolition, and erosion control plans.

Sec. 8.8 Steep Slope Protection Standards

[Paragraphs not listed remain unchanged]

8.8.3 Steep Slope Areas

A. Applicability

2. Slope is the relationship of vertical rise to horizontal run, expressed as a percentage.
 - a. Except in the ~~Patterson Place Compact Neighborhood Tier~~CSD District, steep slope areas shall be defined as land areas that:
 - (1) Have a grade of 25% or more;
 - (2) Have an area of 5,000 square feet or greater; and
 - (3) Are located within 200 feet of any floodway fringe or perennial stream or within 100 feet of an intermittent stream.
 - b. In the ~~Patterson Place Compact Neighborhood Tier~~CSD District, steep slope areas shall be defined as land areas that:
 - (1) Have a grade of 15% or more;
 - (2) Have an area of 2,500 square feet or greater; and
 - (3) Are located within 200 feet of any floodway fringe or perennial stream or within 100 feet of an intermittent stream.

8.8.4 Steep Slope Development Limitations

B. Grading and Uses

1. Except in the ~~CSD District~~Patterson Place Compact Neighborhood Tier, on any tract proposed for construction, no more than 15% of the steep slope area on the tract shall

be graded. For purposes of this calculation, the land areas of individual steep slope areas on the tract shall be added together to establish the total steep slope area for the tract.

2. In the ~~CSD District~~Patterson Place Compact Neighborhood Tier, on any tract proposed for construction, ~~0% of the~~no steep slope area ~~on the tract~~ shall be graded. The only allowed disturbance shall be:
 - a. ~~The only allowed disturbance shall be unpaved~~Unpaved walking paths and foot trails constructed with minimal disturbance of tree roots and existing vegetation; ~~and-~~
 - b. No tree ~~eight-six~~ inches dbh or greater shall be removed for the construction of the trail.

Sec. 9.4 Project Boundary Buffers

[Paragraphs not listed remain unchanged]

9.4.7 Interactive Buffer Model

A. Alternative Buffers Permitted

2. In the Rural and Suburban Tiers, the interactive buffer model can be used under the following conditions:
 - a. ~~shall not be used, except where~~Where the slope of the buffer exceeds 15%; ~~or~~
 - b. Where an existing condition prevents applying the minimum required width, and limited to the section where the condition exists. Buffer width shall not be reduced through use of the model.

Sec. 9.9 Fences and Walls

[Paragraphs not listed remain unchanged]

9.9.1 Height

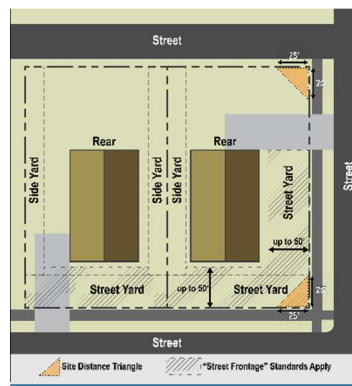
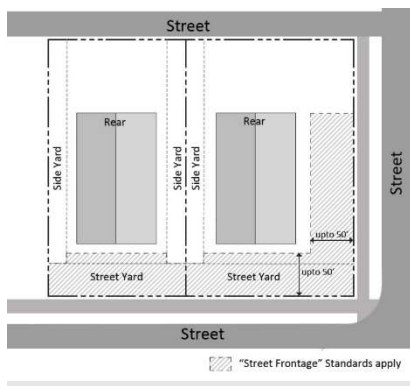
- A. The maximum height of a fence or wall shall be as shown in the table below, unless:
 1. A higher fence or wall is allowed by other provisions of this Ordinance; or
 2. The fence is associated with a recreational facility, such as a tennis court; or
 3. The fence is associated with an electrical substation; or
 4. As required by the state or federal government.

Fence or Wall Location	Maximum Height, in Feet	
	Rural	Other Tiers
Street Frontage		
By Right, Non-Electric	8	4
<u>Street Frontage- Corner Lot Side Street</u>		
<u>By-right, frontage along building side starting at front building line</u>	8	<u>6</u>
With a Minor Special Use Permit:		
<u>Non-Electric</u>	—	8
Electric	10	10
No Street Frontage		

Fence or Wall Location	Maximum Height, in Feet	
	Rural	Other Tiers
By Right, Non-Electric	8	8
By Right, Electric	10	10

B. Fences or walls located between the structure and the public or private street, and located up to 50 feet from the street, shall use the “street frontage” standards, except for the following which shall utilize the “no street frontage” standards:

1. Fences or walls located ~~to the rear~~ behind the rear building line of a primary structure.
2. Fences or walls that are non-electric and are located along a side yard located beyond the minimum or maximum street yard, as applicable.



Sec. 10.3 Required Parking

[Paragraphs not listed remain unchanged]

10.3.1 Required Motorized Vehicle and Bicycle Parking

B. Required Parking

6. Change of Use

A change of use of an existing building shall not be required to provide additional parking in the following instances. New buildings or expansion areas of existing buildings within these districts shall be required to meet all off-street motor vehicle parking requirements.

a. Any change of use within an existing building in In the Pedestrian Business sub-district of a CD District, or within a CI District, shall not be required to provide additional parking spaces. New buildings or expansion areas of existing buildings within these districts shall be required to meet all off street motor vehicle parking requirements.

b. In any other district where an increase of no more than 20% additional parking would be required.

9. **Parking Reduction Allowed By-Right**

The minimum amount of motor vehicle parking can be reduced using the following methods, individually or in combination, for an overall maximum reduction of ~~20~~ 30%. For reductions applicable to Compact Neighborhood Tiers, see paragraph ~~ee~~, below.

a. **Shared Parking**

Proposed developments or change of use with two or more uses can reduce the total minimum parking requirements by a maximum of ~~20~~30% if the following factors are demonstrated through a parking generation analysis, prepared and sealed by a registered engineer with transportation expertise, documenting the following:

- (1) The peak hours for each use do not overlap; and
- (2) The proposed amount of parking is sufficient to accommodate the anticipated demands for each of the uses at peak hour.

b. ~~Additional Bicycle Parking and Public Transit~~

A maximum ~~5~~10% reduction is permitted ~~for if either of the following is met, and a maximum of 10% if both are met:~~

- ~~(1)~~ Proposed development sites or change of use sites where public transit stops exist or will be provided at a location approved by the transit provider as part of the site plan submittal.
 - ~~(a1)~~ The stop ~~is shall be~~ within one-quarter mile walking distance; and
 - ~~(b2)~~ The stop and development site ~~are shall be~~ connected via an existing or proposed paved and handicap-accessible walkway or sidewalk.
 - ~~(c3)~~ Crossings ~~must shall be~~ be at-grade and at appropriate intersections. No mid-block crossings shall satisfy this option.

~~(2) An additional six bicycle parking spaces are provided for every one motor vehicle parking space reduced.~~

c. Additional Bicycle Parking

A maximum of 5% reduction is permitted if an additional six bicycle parking spaces are provided for each motor vehicle parking space reduced.

d. Additional Tree Coverage

A maximum of 15% reduction is permitted if the following additional tree coverage is provided per one parking space:

- (1) An additional canopy tree is preserved and protected; or
- (2) One canopy tree and two understory trees are planted.
- (3) The following shall also apply:

- (a) An appropriate species per the Landscape Manual shall be used for planting.
- (b) A minimum dbh of six inches shall qualify as a preserved tree.
- (c) Root zone protection standards of this Ordinance shall apply.
- (d) The additional planted or protected tree(s) shall not count towards any other Ordinance requirement.

~~ee.~~ Reductions Applicable in Compact Neighborhood Tiers [Text remains unchanged]

10. Parking Reductions Allowed with a Minor Special Use Permit

Except for the Compact Neighborhood Tiers, reductions of more than ~~20~~30% of required motor vehicle parking shall require the approval of a minor special use permit pursuant to Sec. 3.9, Special Use Permit. In addition to the findings within paragraph 3.9.8A, General Findings, the following findings shall be made:

- a.** Current industry standards and parking rate methodologies were utilized;
- b.** Comparable developments that serve similar population densities or development intensities were studied; and

- c. The reduction will protect local, state, or federal designated historic resources, if applicable to the site.

10.3.2 Handicapped Accessible Parking

- A. Handicapped accessible parking spaces shall be provided in the amount required by the North Carolina State Building Code, as amended. ~~Parking spaces in accordance with the following table shall be provided to accommodate the needs of handicapped individuals.~~

Off Street Parking Spaces Provided	Minimum Handicapped Accessible Spaces Required
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of the total spaces provided
1,001 or more	20 spaces, plus one space for every 100 spaces over the first 1,000 spaces provided

- B. Where standard parking spaces are provided on-site, handicapped accessible spaces shall be provided on-site. Otherwise, they shall be located according to the North Carolina State Building Code, as amended.

Sec. 12.2 Ingress and Egress Requirements

[Paragraphs not listed remain unchanged]

12.2.2 Other Forms of Access

Unless otherwise allowed in this Ordinance, ~~ingress~~egress/egress easements not involving construction of a private street shall be permitted in the following circumstances:

B. Ingress/Egress/Regress Easements Other than Private Streets

1. Single-family Residence ~~In the Rural Tier~~

Easements shall be allowed for ~~the construction of~~ one single-family residence on an existing lot of record as of September 16, 1996. The parcel shall not be further subdivided.

2. ~~Other than in the Rural Tier~~Other Instances

a. Ingress/Egress/Regress Easements of Record

Ingress/egress/regress easements of record that were recorded as of September 16, 1996, can continue to serve as access.

b. Driveways

A driveway shall be allowed for vehicular access to multiple parcels or lots within a townhouse development or shopping center, even if those parcels or lots are individually owned. Any such driveway within a townhouse development shall be located entirely in a common area.

Sec. 12.10 Sedimentation and Erosion Control

[Paragraphs not listed remain unchanged]

12.10.2 Applicability

A. Exemptions

3. Agricultural Exemption

~~a.~~ As set forth in NCGS § 113A-52.01, land-disturbing activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including but not limited to:

- (1) Forage and sod crops, grain and feed crops, tobacco, cotton and peanuts;
- (2) Dairy animals and dairy products;
- (3) Poultry and poultry products;
- (4) Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all such animals;
- (5) Bees and apiary products;
- (6) Fur animals; and
- (7) Mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances;

~~b. In order for a land disturbing activity to be eligible for an agricultural exemption (no exemption is to be assumed until approval of the request by the County), it must be reasonably demonstrated to the County that the land on which the disturbance is taking place is intended for continuous agricultural use. To qualify for exemption under this section, an application for exemption shall be submitted to the County Sedimentation and Erosion Control Office. The Erosion Control Officer or designee shall review the application and grant or deny the exemption within 15 working days of receipt. The land owner shall receive notification of this decision in writing and have 10 working days to respond if the exemption is denied. The County Engineer or designee shall have five working days to review and decide on the appeal. Appeal of the County Engineer's or designee's decision may be made to the Board of Commissioners within 30 days of receipt.~~

~~The County may require preparation and approval of an erosion and sedimentation control plan for land disturbing activities applying for an application for exemption where sediment control measures are needed to protect against off-site damages due to sediment from the land disturbing activity as documented by the County staff.~~

Sec. 14.1 General

[Paragraphs not listed remain unchanged]

14.1.3 Continuation of Nonconformities

A. Legal nonconformities may continue subject to the limitations of this Article. Continuation, reconstruction, alteration, and/or expansion of such nonconformities shall be subject to the provisions of this Article.

B. Uses Requiring a Major or Minor Special Use Permit

Buildings or uses which lawfully existed at the time of the initial effective date of this Ordinance which would require the issuance of a special use permit may continue as a conforming use without the special use permit. However, any future expansion of the building or use in excess of 15% of the gross floor area or site size (measured from the size of the building or use at the time of ordinance adoption) requires the application for a special use permit in conformance with procedures found in this Ordinance.

14.4.1 Nonconforming Buildings or Structures**A. Special Flood Hazard Areas or Future Conditions Flood Hazard Areas**

- 1.** Reconstruction of buildings, including single family homes, that are located in Special Flood Hazard Areas or Future Conditions Flood Hazard Areas, shall not be permitted if the structure has experienced substantial damage or repetitive loss.
- 2.** Any construction or development in such areas shall be subject to ~~paragraph 8.4.4, Development in Special Flood Hazard Areas and Future Conditions Flood Hazard Areas~~Sec. 8.4, Floodplain and Flood Damage Protection Standards, in addition to the requirements of this section.

B. General

~~Additions or improvements to, or reconstruction of, nonconforming buildings and structures not located within Special Flood Hazard Areas or Future Conditions Flood Hazard Areas shall require approval of a minor special use permit pursuant to Sec. 3.9, Special Use Permit, unless exempted pursuant to paragraph 3, below.~~

- 1.** No enlargement or reconstruction shall have the effect of increasing the degree or extent of a nonconforming feature.
 - a.** Additions that are proposed between the minimum yard requirement and the existing building line, or are consistent with the existing height, shall not be considered to increase the degree or extent of the nonconformity.
 - b.** An addition shall be considered to increase the nonconformity if it extends further into required yards than the existing encroachment.
- 2.** No enlargement or reconstruction shall create new nonconformities or encroachments, unless a variance is approved pursuant to Sec. 3.14, Variance.

C. Approval

Additions or improvements to, or reconstruction of, nonconforming buildings and structures shall require approval of a minor special use permit pursuant to Sec. 3.9, Special Use Permit, unless exempted as follows:

~~**3.** The following are exempt from a minor special use permit requirement:~~

a1. Improvements, or additions of any size, that:

- ~~(1a)~~ Comply with all current ordinance requirements, and proposed height is consistent with or less than the existing height of the structure; or

- (2b) Brings the structure into greater conformity with current ordinance requirements.
 - b2. Projects that allow existing buildings to meet local health, sanitary, or safety code requirements or that are necessary to ensure safe living or occupancy conditions;
 - e3. Projects that require a certificate of appropriateness pursuant to Sec. 3.17, Certificate of Appropriateness;
 - d4. Additions, with a maximum increase in square footage of 10%, that are proposed between the minimum yard requirement and the existing building encroachment line;
 - e5. Reconstruction of the nonconforming structure that is within the original building footprint and is consistent with the height of the original structure. Proposed additional square footage shall meet the parameters of paragraphs c or d above, as applicable, to be exempt from the requirement of a minor special use permit;
 - f6. Reconstruction, enlargement of, or improvements to a nonconforming structure that is part of a housing program initiated by or supervised by the City, County, or an entity created by the City, County, or State of North Carolina, as long as the degree or extent of the nonconforming feature is not increased.
- CD. Time-Period Limitations for Reconstruction of Nonconforming Structures** [text remains unchanged]

Sec. 15.5 Sedimentation and Erosion Control Enforcement and Penalties

[Paragraphs not listed remain unchanged]

15.5.1 Inspections and Investigations

A. Inspection

Agents, officials, or other qualified persons authorized by the Sedimentation and Erosion Control Officer or designee will periodically inspect land-disturbing activities to ensure compliance with the North Carolina Sedimentation Pollution Control Act of 1973, as amended, and all rules and orders adopted pursuant to it, Sec. 3.8, Sedimentation and Erosion Control, Sec. 12.10, Sedimentation and Erosion Control, rules or orders adopted or issued pursuant to those sections or ~~(the Act)~~the Act, or an approved sedimentation and erosion control plan, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each plan.

15.5.3 Civil Penalties

A. Civil Penalty for a Violation

Any person who violates any of the provisions of the Act, this section, Sec. 3.8, Sedimentation and Erosion Control, Sec. 12.10, Sedimentation and Erosion Control, or rules or orders adopted or issued pursuant to those sections or the Act, or rule or order adopted or issued pursuant to this Ordinance, or who initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty amount that the ~~(city)(town)(county)~~County may assess per violation is \$5,000. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation, and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum

cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is \$25,000.

D. Collection

If payment is not received within 60 days after it is due, Durham County may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court of the county where the violation occurred, or where the violator's residence or principal place of business is located. Such civil actions must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

Sec. 16.1 Purpose, Applicability, and Use Regulations

[Paragraphs not listed remain unchanged]

16.1.3 Uses and Density

D. Single-family and Two-family Subdivisions in CSD-S2

Single-family and two-family subdivisions within the CSD-S2 shall meet the following standards:

1. The development shall comply with the density standards pursuant to paragraph 16.1.3E.3, CSD District Density Requirements.
2. No minimum lot size shall apply.
3. No minimum side or rear yard shall apply.
4. No frontage types shall apply.
5. Vehicular access shall be provided to the rear of each lot.
6. Each lot shall maintain a minimum street yard of five feet or comply with the forecourt frontage type build-to zone requirements.

7. Required Open Space

Open space shall be provided as follows:

- a. ~~Shall be a~~ minimum of 5% of gross area shall be provided;
- b. All open space areas sshall have a ~~minimum dimensional standard of 25 feet horizontal dimension of at least 25 feet in all directions~~; and
- c. All open space areas ~~Shall shall~~ meet the open space requirements ~~of requirements of~~ Sec. 7.2, Open Space.

Sec. 16.4 Streetscape, Right-of-Way, and Block/Lot Standards

[Paragraphs not listed remain unchanged]

16.4.2 Streetscape

F. Construction Specifications

5. Street Lights, ~~and~~ Mast Arms, and Other Utility Poles

a. Downtown Design District

- (1) Street lights shall be Memphis teardrop luminaire on the davit-arm, mounted on the North Yorkshire pole all by Holophane or equal, shall be utilized. The City of Durham's installation specifications shall be utilized.
- (2) Mast arms shall consist of a smooth signal arm mounted on a 16-fluted pole with the Huntington base by Valmont or equal. The Memphis teardrop luminaire on

the Atlanta cross-arm, both by Holophane or equal, shall be used atop the mast arm's pole. The mast arm specification, including pole and luminaire height and arm length, should be confirmed through the City of Durham's Transportation Department.

(3) Other utility poles shall be a consistent design and material with street lights.

b. Compact Design and Compact Suburban Design Districts

Street lights ~~and~~, mast arms, and other utility poles shall use a metal product approved by the City Transportation Department or NCDOT, as applicable.

Sec. 17.2 Abbreviations

CSD: Compact Suburban Design

CSD-C: Compact Suburban Design-Core

CSD-S1: Compact Suburban Design-Support 1

CSD-S2: Compact Suburban Design-Support 2

Sec. 17.3 Defined Terms

Agricultural Uses: Land used as pasture or in the commercial production of crops, forestry, horticultural products, fish hatcheries or aquaculture, and the keeping of livestock for commercial or noncommercial purposes. Also included in this definition of agricultural uses are agricultural accessory buildings and sales of farm products grown or produced on the premises. This definition does not include domesticated chickens allowed pursuant to Sec. 5.4, Accessory Uses and Structures, ~~any use conducted pursuant to a valid permit issued under Sec. 3.23, Limited Agriculture Permit~~, the commercial slaughtering of animals for marketing, and farm tenant dwellings.

Campground: A commercial recreational facility developed to accommodate the use of travel trailers, motorized homes, tents, cabins, or other similar device or facility used for temporary occupancy, with or without facilities for the exclusive use of its occupants. This definition shall not include manufactured homes, manufactured home parks or subdivisions, or the storage of recreational equipment or vehicles.

PART

That the Unified Development Ordinance shall be renumbered, including references, as necessary to accommodate these changes and clarifications.

PART

That this amendment of the Unified Development Ordinance shall become effective upon adoption.