

**AN ORDINANCE TO AMEND VARIOUS PROVISIONS
OF THE *UNIFIED DEVELOPMENT ORDINANCE*
(TC2100006)**

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

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 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 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 Article 3, Applications and Permits, and Article 4, Zoning Districts]

Sec. 3.16 Historic District or Landmark Designation

[Paragraphs not listed remain unchanged]

3.16.4 Designation of a Landmark Sign**A. Procedure**

The following procedure shall be used to designate signs as Landmark Signs. No sign shall be considered a Landmark Sign unless it has received that designation through this process.

1. An application for a landmark sign designation shall be submitted in accordance with paragraph 3.2.4, Application Requirements.
2. The Planning Director, or designee, shall forward the application and all supporting material to the Historic Preservation Commission.
3. The applications shall be considered by the Historic Preservation Commission. The Commission shall review the application and may designate the sign as a Landmark Sign, deny the designation, or request additional information in order to make a decision. A sign which is denied a designation shall be considered a nonconforming sign which shall be removed.
4. If the sign is designated as a Landmark Sign, a copy of the application shall be submitted to the Inspections Department. ~~After designation, the applicant shall have 60 days to bring any signs that pose a hazard into a structurally safe condition. Failure to assure that the signs are safe and do not pose a hazard shall result in loss of the Landmark Sign designation.~~
- 4.5. The ~~Inspections-Planning~~ Department shall issue a sign permit for the sign if the sign is found to be structurally safe. Landmark Signs shall conform to all other provisions of this section not in conflict with the privileges of the landmark designation.
- 5.6. Landmark signs shall be subject to the privileges and regulations of Sec. 11.7, Landmark Signs, but Article 11, Sign Standards, shall otherwise not apply.

B. Approval Criteria

1. The Historic Preservation Commission may establish a schedule to review applications for Landmark Sign designations.
2. To qualify as a Landmark Sign, the sign shall meet all of the following criteria:
 - a. Be recognized as important to the culture or history of the jurisdiction, or possess unique characteristics, or incorporate materials or craftsmanship not commonly found in newer signs.
 - b. Bear a close resemblance to its appearance when it was installed.
 - c. The current state of the sign is determined to be structurally sound, and it does not pose a safety hazard due to its location relative to street intersections or by extension into the public right-of-way.
 - d. The HPC may impose conditions on the approval of a designation to address safety issues, required maintenance, or required preservation of the sign.

Sec. 4.8 Airport Overlay (-A60, -A65)

[Paragraphs not listed remain unchanged]

4.8.4 Additional Requirements

E. Avigation Easement

The developer of new development in the Airport Overlay-A60 or -A65 shall grant an avigation easement to the Raleigh-Durham Airport Authority for the subject property. A copy of the recorded avigation easement shall be provided to the Planning Director prior to approval of a site plan or preliminary/minor plat for the subject property. The easement must, at a minimum, convey a perpetual right and easement for the free and unobstructed overflight of aircraft over and in the vicinity of the property. The easement must be appurtenant to the property, and must not be subordinated to any other interest such as mortgage or lien.

PART 2

[Amendments to Article 5, Use Regulations]

Sec. 5.1 Use Table

[Paragraphs and portions of tables not shown 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
Public and Civic Uses																								
Parks and Open Areas	Cemeteries, mausoleums, columbaria, memorial gardens	P _L	P _L	P _L	P _L	P _L			P _L	P _L			L _L		‡			‡	‡	‡	L	L	L	5.3.3B
OFFICE																								
Office	All office uses						P	P	P	P	P	P	P		‡		‡	‡	‡	P	P	P		
	Drive-through facilities							L	L	L	L	L	L		‡		‡	‡	‡			L	5.3.4I	
	<u>Research and development</u>						P	P	P	P	L	P	P	P		‡		‡	‡	P	P	P	<u>5.3.7</u>	
INDUSTRIAL USES																								
Light Industrial Service	All light industrial service,												L	L	P	P				‡	L	L	L	5.3.6D

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
	except as listed below																							
	Research and development											L	P	P	P				+		P	P	P	5.3.7
	Recycling centers													M	M									
	Transfer stations													L	L									5.3.6F

Sec. 5.2 Use Categories

[Paragraphs not listed remain unchanged]

5.2.5 Commercial Use Categories

I. Vehicle Service

Characteristics: Direct service to passenger vehicles, light and medium trucks, and other consumer motor vehicles such as motorcycles, boats, and recreational vehicles.

Principal Uses	Accessory Uses	Uses Not Included
Car wash Vehicle service, major; including alignment shop, auto body shop, auto paint facility, auto upholstery shop, towing service Vehicle service, minor; including auto detailing, auto repair, battery sales and installation, fuel sales (other than with a convenience store), quick lubrication facilities, tire sales and mounting	Ancillary indoor storage Associated offices Incidental sale of parts Single-bay, automatic car wash Towing Vehicle fueling Vehicle storage	Convenience store with gasoline sales (see Retail Sales and Service) Retail sale of farm equipment and machinery and earth moving and heavy construction equipment (see Heavy Industrial) Vehicle parts sale as a principal use (see Retail Sales and Service) Maintenance yard or facility (see Light Industrial Service)

J. Office Use Categories

Characteristics: Activities conducted in an office setting and focusing on business, professional, or financial services.

Principal Uses	Accessory Uses	Uses Not Included
Advertising office, business management consulting, data processing, financial business such as lender, investment or brokerage house, collection agency, real estate or insurance agent, professional service such as lawyer, accountant, bookkeeper, engineer, architect, sales office, travel agency, business incubator Bank	Ancillary storage Cafeteria Day care Health facility Helistop Meeting room On-site day care, school or facility where children are cared for while parents or guardians are occupied on the premises	Conference center, retreat house, event venue, or banquet hall (See Indoor Recreation) Contractor or others who perform services off-site, but store equipment and materials or perform fabrication or similar work on-site (see Light Industrial Service) Office/warehouse (see Warehouse and Freight Movement)

Characteristics: Activities conducted in an office setting and focusing on business, professional, or financial services.		
Principal Uses	Accessory Uses	Uses Not Included
Counseling in an office setting TV or radio studio Utility office Research and development	Other amenity for the use of on-site employees Internal support retail Restaurants (without drive through)	Research, testing, and development laboratory (see Light Industrial Service) Urgent care or emergency medical office (see Retail Sales and Service)

Sec. 5.3 Limited Use Standards

[Paragraphs not listed remain unchanged]

5.3.2 Residential Use Standards

D. Manufactured Home

Class A and Class B manufactured homes shall be permitted in accordance with the use table in Sec. 5.1, Use Tables, subject to the following:

1. Class A Manufactured Homes

- f. The manufactured home shall be set up in accordance with the standards set by the North Carolina Department of Insurance. [Except as otherwise required per NCGS §160D-910, Screening-screening](#) of the foundation area shall be by a continuous, permanent masonry foundation or masonry curtain wall in accordance with NC Building Code and Durham Minimum Housing Code regulations, unbroken except for required ventilation and access, and which shall be installed under the perimeter of the manufactured home.

5.3.3 Public and Civic Use Standards

B. Cemeteries, Columbaria, and Memorial Gardens

Cemeteries, columbaria, and memorial gardens shall be permitted in accordance with the use table in Sec. 5.1, Use Table, subject to the following:

- 1. In design districts no new cemeteries shall be allowed.
- 2. Cemeteries shall not exceed 300 graves in size.
- 3. [Refer to paragraph 7.8.9, Cemeteries, for additional requirements.](#)

Sec. 5.4 Accessory Uses and Structures

[Paragraphs not listed remain unchanged]

5.4.1 Accessory Structures

B. Accessory structures shall be located as follows:

- 1. Accessory structures associated with a single-family or duplex structure shall be located to the rear of the rear building line of the primary structure, with the following limitations and exceptions:

e. Attached Accessory Structures

[Attached accessory structures are allowed, where a single structure maintains a shared common wall along a side or rear lot line that separates two lots.](#)

[\(1\) This allowance does not supersede any applicable building code requirements.](#)

[\(2\) This allowance does not supersede placement requirements with respect to primary structures.](#)

5.4.12 Domestic Chickens (City Only)

G. Maintenance

1. The chicken coop, chicken pen, and surrounding area shall be kept ~~clean, dry, odor free, and in a neat and in~~ a sanitary condition at all times.

Commentary: The chicken coop should provide adequate security, ventilation, and shelter from moisture and ~~extremes of temperature~~ extremes. ~~The chicken pen should provide adequate security and sun and shade.~~ Chickens should have access to feed and clean water at all times, and such feed and water shall be inaccessible to rodents, wild birds, and predators. Chickens should be provided adequate bedding in the chicken coop, and perches are encouraged.

Sec. 5.5 Temporary Uses

[Paragraphs not listed remain unchanged]

5.5.2 Specific Temporary Uses

D. Construction Management Buildings

1. General

~~Construction~~ Temporary buildings used for the management of a construction site can be permitted as a temporary use incidental to construction being performed~~occurring~~ in accordance with a valid building permit. Manufactured homes are permitted during construction for this use.

2. Permitted Timeframe

~~Construction~~ The temporary buildings shall be removed prior to the issuance of a final certificate of compliance for the construction project, or upon the expiration of the building permit associated with the construction project.

L. Real Estate ~~Sales~~ Offices and Model Homes

1. General

Temporary facilities used as real estate sales or leasing offices or model homes may be located within new ~~subdivisions~~ residential development.

3. Permitted Timeframes

A facility permitted as a temporary real estate sales or leasing office shall be removed upon completion of sales or leasing in the ~~subdivision~~ residential development.

O. Temporary Structures on Nonresidential ~~Development~~ Construction Sites or ~~Residential Development with at Least 50 Units~~

~~1. General~~

~~Manufactured homes are permitted during construction.~~

~~2. Location~~

~~Such manufactured homes shall be located on the site and shall comply with all setback requirements of the district.~~

~~3.1. Permitted Timeframe~~

~~a.~~ The temporary structure(s) shall be permitted only while~~during~~ construction activities, ~~are being performed.~~

~~b.~~ but shall in no case be The temporary structure(s) are allowed for up to 24 months, and the permit permitted for periods longer than 24 months, although such permits can be renewed one time to provide an additional 12 months of use on the site.

- c. The temporary structure shall be removed from the site when construction ceases, or the building permit expires, whichever occurs first.

2. Location

Temporary structures shall be located on the site and shall comply with all setback requirements of the district, and shall not be placed within required landscaping.

PART 3

[Amendments to Article 6, District Intensity Standards, and Article 7, Design Standards]

Sec. 6.6 Affordable Housing Bonus

[Paragraphs not listed remain unchanged]

6.6.1 General Requirements

- G. ~~An annual report shall be provided by the project developer or manager to the Community Development Director for sites within the City's jurisdiction, or to the County Manager for sites within the County's jurisdiction, which identifies the incomes of persons residing in the affordable housing dwelling units, and the housing costs including rents, mortgages, utilities, association fees being charged, to verify the units qualify as affordable housing dwelling units. Compliance and reporting shall be pursuant to the City's adopted Affordable Housing Bonus Polices & Procedures, as amended.~~

Sec. 6.7 Cluster Subdivision

[Paragraphs not listed remain unchanged]

6.7.6 Perimeter Treatment

Property on the edge of cluster developments shall be developed in one or more of the following ways: either:

- A. ~~Be s~~Set aside asin open space, that includes a buffer with an opacity of 20%, as set forth in Article 9, Landscaping and Buffering; ~~or.~~
- B. In the Urban Tier, an alley is provided along the perimeter with joint access provided to property not part of the subject subdivision.
 - 1. Lots adjacent to, and accessing the alley, can be platted with cluster subdivision dimensional requirements.
 - 2. The required project boundary buffer or a vegetative screening per paragraph 9.7.2C, Evergreen Hedges, whichever is greater, shall be provided along the side adjacent to properties not part of the subdivision. Intrusions into the buffer or screening are allowed to provide access to the alley.
- ~~BC.~~ Be platted as single-family or two-family residential lots as follows:
 - 1. When adjacent to, or directly across a public right-of-way from, property that is not a cluster subdivision or is a conventional lot within a cluster subdivision, then the lot shall be platted with conventional subdivision dimensional requirements.
 - 2. When adjacent to, or directly across a public right-of-way from, property that is a cluster subdivision, and the adjacent property is open space or is a lot with reduced dimensional requirements due to clustering provisions of this or previous ordinances, then the lot can be platted with cluster subdivision dimensional requirements.

Sec. 6.8 Infill Development in Residential Districts

[Paragraphs not listed remain unchanged]

6.8.2 Yards

A. Street Yards

1. Context Area

- a. The context area for the required street yard of the subject lot shall be the established street yards (as defined by the distance between the primary structure on each property and the edge of the right-of-way) on residential lots, including structures converted to nonresidential use, with residential zoning along the same block face.

~~(1) For the purposes of this section, all lots on both sides along a cul-de-sac or other similar street section shall be considered a block face.~~

~~(2) Corner lots shall be included only if the main entrance of the primary structure on the lot faces the subject block face.~~

2. Required Street Yard

- b. If there are fewer than two lots that qualify within the context area, then at the discretion of the applicant:

~~(1) the subject infill lot shall use the The base zoning district requirements shall apply,
or~~

~~(2) A street yard measuring between the smallest and largest street yard of the opposing block face can be used.~~

- c. For corner lots, each street yard shall be determined separately.

~~**4. Corner Lots**~~

- ~~a. Each street yard shall be determined separately.~~

- ~~b. At the discretion of the applicant, the minimum street yard shall be either:~~

~~(1) The average street yard of the nearest two developed parcels (as defined by the distance between the primary structure on each property and the edge of the right-of-way) along the same block face and within the same zoning district;
or~~

~~(2) The base zoning district requirement.~~

Sec. 6.11 Planned Districts

[Paragraphs not listed remain unchanged]

6.11.3 Planned Development Residential (PDR)

F. Open Space

- 1. Required open space shall be provided based upon the density of the project as follows:

Residential Density	Percent of Gross Area
0 to 3.00 units per acre	15
3.01 to 6.00 units per acre	16
6.01 to 10.00 units per acre	17
10.01 to 16.00 units per acre	18
16.01 to 25.00 units per acre <u>or greater</u>	20

Sec. 6.12 Measurement and Computation

[Paragraphs not listed remain unchanged]

6.12.1 Height

- B. The height limitations shall not apply to steeples, decorative features including parapet walls less than four feet tall, air conditioning units, utility poles, mechanical features (including those for solar energy systems), ~~penthouses~~ roof access structures for mechanical equipment or stairways, belfries, lightning rods, antennas other than those regulated in Article 5, Use Regulations, water towers, clock towers, or any other tower up to 100 square feet in area which is not used for transmitting and receiving electronic signals or is not a corner tower element regulated within Sec. 16.3, Building Design.

6.12.3 Required Yards**A. General Standards for Required Yards**

4. For lots that have multiple property lines that are to the side and rear of a lot, only one lot line shall be considered a rear property line for determining the rear yard, and all others shall be considered side lot lines.
5. For corner lots, there shall be only one rear yard and the other yards shall be side or street yards as applicable.

Sec. 7.1 Housing Types

[Paragraphs not listed remain unchanged]

7.1.8 Multiplex**A. Description**

A multiplex is a multifamily housing type with three or four individual units ~~consolidated into a single structure using common walls~~ on a single lot. Individual units can be attached or detached, and can be located on separate floors or ~~on the same level~~ side-by-side. Parking is often shared in a single consolidated area, even when garages and carports are used.

7.1.9 Apartment**A. Description**

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

Sec. 7.8 General Performance Standards

[Paragraphs not listed remain unchanged]

7.8.9 Cemeteries

- A. The establishment and/or disturbance of cemetery sites shall be in accordance with applicable local, state, and federal laws and regulations.
- B. For development on property abutting or containing an established cemetery, a field survey shall be provided to identify the extent of the cemetery and any potential unmarked gravesites.
- C. Public access shall be maintained to any property containing a cemetery.

PART 4

[Amendments to Article 8, Environmental Protection]

Sec. 8.4 Floodplain and Flood Damage Protection Standards

[Paragraphs not listed remain unchanged]

8.4.4 Development in Special Flood Hazard Areas and Future Conditions Flood Hazard Areas**E. Density Credit**

- ~~E1.~~ No density credit shall be allowed for land in the floodway or non-encroachment area, except ~~in the RR District where 100% density credit shall be given for land in the floodway or non-encroachment area in Conservation Subdivisions pursuant to paragraph 6.2.4, Conservation Subdivisions~~ as otherwise allowed in this Ordinance.
- ~~F2.~~ The amount of land in the floodway fringe or non-encroachment area fringe shall be credited for residential density on adjacent land in the same development at a rate of 50% of that allowed by the zoning, except ~~in the RR District where 100% density credit shall be given for land in the floodway fringe or non-encroachment area fringe in Conservation Subdivisions pursuant to paragraph 6.2.4, Conservation Subdivisions~~ as otherwise allowed in this Ordinance.
3. The portions of the Special Flood Hazard Areas and Future Conditions Flood Hazard Areas located within required riparian buffers shall be given 100% credit.

Sec. 8.5 Riparian Buffer Protection Standards

[Paragraphs not listed remain unchanged]

8.5.12 Variances**A. Within the Neuse River Basin****3. Variance Requirements**

- a. There are practical difficulties or unnecessary hardships that prevent compliance with the strict letter of the riparian buffer protection requirements; Practical difficulties or unnecessary hardships shall be evaluated in accordance with the following:
- ~~(5) The applicant did not purchase the property after the effective date of 15A NCAC 02B .0233, Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers, and then requesting an appeal; and~~
- ~~(65)~~ The hardship is unique to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice;

B. Outside of the Neuse River Basin**3. Variance Requirements**

- a. There are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements. The following criteria must all be met in order to make such finding:
- ~~(5) The applicant did not purchase the property after the effective date of this Ordinance, and then request a variance; and~~
- ~~(65)~~ The hardship is rare or unique to the applicant's property.

Sec. 8.7 Watershed Protection Overlay Standards

[Paragraphs not listed remain unchanged]

8.7.2 General Requirements

B. Impervious Surface Limits

2. The impervious surface limit provisions of this section can be exceeded through an impervious surface credit transfer. Credit for the impervious surfaces allowed on one or more parcels (“donor parcels”) can be transferred to non-contiguous parcels (“receiving parcels”), such that the amount of impervious surface available for a development project would be the total of what is normally allowed on the receiving parcel plus what is transferred from the donor parcel(s). Impervious surface credit transfer is subject to the following provisions:
 - d. The impervious surface credit transfer shall be reviewed and approved through use of the [final plat process pursuant to Sec. 3.6, Subdivision Review, or the](#) site plan process pursuant to Sec. 3.7, Site Plan Review, [as applicable](#).

Sec. 8.8 Steep Slope Protection Standards

[Paragraphs not listed remain unchanged]

8.8.5 Density Credits

- A. Except in Design Districts, the amount of land designated as steep slopes shall be credited for residential density at a rate of 15% of that allowed by the zoning, [except as otherwise allowed in this Ordinance](#).
- C. [The portions of steep slope areas located within required riparian buffers shall be given 100% credit.](#)

PART 5

[Amendments to Article 9, Landscaping and Buffering, and Article 10, Parking and Loading]

9.4 Project Boundary Buffers

[Paragraphs not listed remain unchanged]

9.4.1 Applicability

G. Along Rights-of-Way

3. [Notwithstanding the above allowances, buffers shall be provided for mass graded residential development in the Suburban Tier per paragraph 9.4.3C.6.](#)

Sec. 10.3 Required Parking

[Paragraphs not listed remain unchanged]

10.3.1 Required Motorized Vehicle and Bicycle Parking

A. Parking Rates

4. Parking Rate Table

Use Category	Specific Use	Motor Vehicle (MV) Spaces	Minimum Bicycle Parking, except in the Downtown and Compact Neighborhood Tiers
RESIDENTIAL USES			
Household Living	All household living ¹	2 per unit	Multifamily (except townhomes): 1 per 10 units
	Clubhouse and/or pool accessory to a residential development	No minimum	10% of motor vehicle parking provided, minimum 4 spaces
COMMERCIAL USES			
Indoor Recreation	Conference center, retreat house, event venue, banquet hall	1 per 250 SF seating area	1 per 5,000 SF seating area, minimum 2
Outdoor Recreation	All outdoor recreation, except as listed below	1 per 500 SF of enclosed floor area + 1 per 1,000 SF of outdoor use area	10% of required motor vehicle parking, minimum 4 spaces
	Campground, summer camp	1 per campsite + 1 per employee	5% of required MV parking
	Circus ground	1 per 600 SF of the area devoted to the circus, arcade, concessions, etc.	2% of required MV parking
	Clubhouse and/or pool accessory to a residential development	No minimum	10% of motor vehicle parking provided, minimum 4 spaces
	Firing range, outdoor such as rifle range, archery, skeet, handgun	Min 5 + 1 per firing position	No spaces required
	Golf course, country club (see "restaurants" for additional parking requirements associated with eating facilities)	4 per hole + 1 per 500 SF floor area	5% of required MV parking
	Stadium or arena, commercial amphitheater, ballfield	1 per 4 seats	1 per 30 seats, minimum 4 spaces, maximum 50 spaces.
OFFICE USES			
Office	All office uses, except as listed below	1 per 250 SF floor area	1 per 5,000 SF floor area, minimum 2 spaces
	Conference center, retreat house Research and development	1 per 250 SF floor area of office space + 1 per 1,000 SF floor area of laboratory + 1 per 5,000 SF floor area for greenhouses and other material or mechanical	1 per 5,000 SF office floor area, minimum 2 spaces + 1 per 20,000 SF floor area non-office, minimum 2 spaces 1 per 5,000 SF seating area, minimum 2

Use Category	Specific Use	Motor Vehicle (MV) Spaces	Minimum Bicycle Parking, except in the Downtown and Compact Neighborhood Tiers
		storage areas 1 per 250 SF seating area	
INDUSTRIAL USES			
Light Industrial Service	All light industrial service, except as listed below	1 per 1,000 SF floor area	1 per 20,000 SF floor area, minimum 2
	Research and Development	1 per 250 SF floor area of office space + 1 per 1,000 SF floor area of laboratory + 1 per 5,000 SF floor area for greenhouses and other material or mechanical storage areas	1 per 5,000 SF office floor area, minimum 2 spaces + 1 per 20,000 SF floor area non-office, minimum 2 spaces

B. Required Parking

1. The amount of motor vehicle parking shall be a percent of the amount indicated in paragraph 10.3.1A.4, Parking Rate Table. The minimum and maximum parking rates are as follows. For fractions, refer to paragraph 10.2.5, Calculation of Spaces.

Location	Minimum ⁴	Maximum
Compact Neighborhood Tier ^{1, 2, 3}		
All Districts except Compact Suburban Design (CSD) Districts	If use(s) are within 400 feet of the <u>Suburban or Rural</u> Tier boundary: 80%; Otherwise: None	100%
Compact Suburban Design District – Core (CSD-C)	None	50%
Compact Suburban Design District – Support 1 (CSD-S1)	None	100%
Compact Suburban Design District – Support 2 (CSD-S2)	50%	100%

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 applicable ~~all off street~~ motor vehicle parking requirements.

- ~~a. In the Pedestrian Business sub-district of a CD District, or within a CI District.~~
- ~~b. In any other district where an increase of no more than 20% additional parking would be required.~~

PART 6

[Amendments to Article 12, Infrastructure and Public Improvements; Article 16, Design Districts; and Article 17, Definitions]

Sec. 12.2 Ingress and Egress Requirements

[Paragraphs not listed remain unchanged]

12.2.2 Other Forms of Access**B. Ingress/Egress/Regress Easements Other than Private Streets****1. Single-Family Residence**

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

2. 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.

c. Driveways and other ingress/egress easements serving a residential development may extend through a non-residential zoning and may be used to satisfy access requirements. This is allowed if:

(1) The non-residential zoning allows for the same type of residential use as the zoning of the residential parcel(s), and

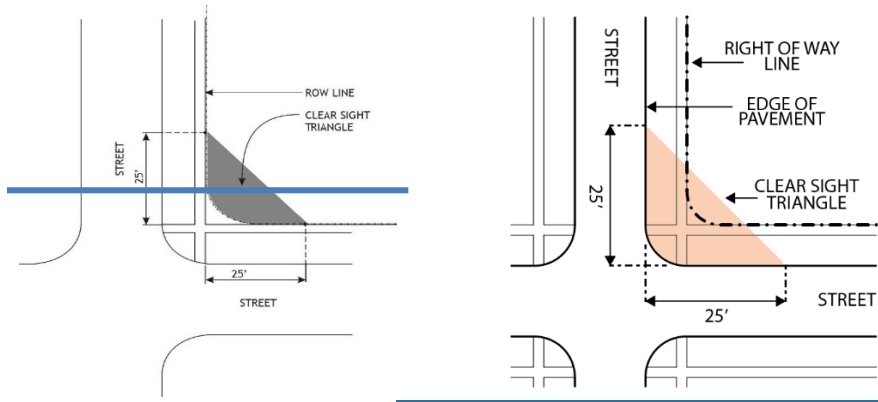
(2) The access drive or easement is not within an existing or proposed vehicle use area.

Sec. 12.3 Streets

[Paragraphs not listed remain unchanged]

12.3.1 Street Layout**D. Sight Triangles****1. Intersections and Corner Lots**

At intersecting streets, a sight triangle shall be established. The sight triangle shall be formed by connecting two points along the pavement edges or the extended lines of the pavement edges, 25 feet from where those extended lines meet. On any corner lot, a sight triangle shall be established. The sight triangle shall be formed by extending lines from the intersections of two streets (measured from the edge of the right of way) to points 25 feet from the corner of the rights of way of the intersecting streets and then connecting the two points.



F. Stub Outs

3. Connections

The proposed street layout in new development shall be coordinated with the existing street system, with connections made at all stub outs. Stub outs shall be built to the edge of the site.

a. Alternatives to building to the edge of the site are allowed per the following:

(1) A determination is made by NCDEQ that prevents the full construction of the stub, in which case the stub shall be constructed to the extent allowed by NCDEQ. The following shall also be required:

(a) A payment-in-lieu for the remainder of the stub out shall be required provided pursuant to the requirements of the *City's Reference Guide for Development*.

(b) Construction and slope easements, and the right-of-way required to build the stub out, shall be dedicated.

(2) Any other request to modify this requirement will require a variance for the minimum modification necessary to provide relief, per Sec. 3.16, Variance. If a variance is approved, the following shall also be required:

(a) A payment in lieu of construction shall be required pursuant to the requirements of the *City's Reference Guide for Development*.

(b) Construction and slope easements, and the right-of-way required to build the stub out, shall be dedicated.

b. Where no full connection can be made as a result of the topography of the site being developed is not provided, the developer shall install a cul-de-sac bulb or other turnout facility at the stub out constructed according to the ~~*City's Public Works Department*~~ *Reference Guide for Development*.

Sec. 16.1 Purpose, Applicability, and Use Regulations

[Paragraphs not listed remain unchanged]

16.1.3 Uses and Density

C. Buildings With One or Two Dwelling Units

1. Nonresidential Requirement

Buildings with one or two residential units shall include a separate, primary nonresidential use within the building other than home occupations.

2. Exemptions

- a. In the DD and CD districts, buildings within the S2 sub-district, development sites shall be exempt from the above requirement when adjacent to (including directly across a public right-of-way) a residential zoning district or use.
- b. In the CSD-S2, single-family and two-family subdivisions pursuant to paragraph 16.1.3D, Single-family and Two-family Subdivisions shall be exempt from the above requirement.

Sec. 16.2 Site Design

[Paragraphs not listed remain unchanged]

16.2.3 Service Areas

C. Utilities and Solid Waste Facilities

1. Solid Waste Collection

- a. All new development, not including structured parking, of 100,000 building square footage or greater shall provide trash compactors on site.
- b. Where shared solid waste facilities exist on sites to be redeveloped, the redevelopment shall continue to accommodate sufficient shared facilities.
- c. Sites designed with a trash compactor shall be designed to allow solid waste collection vehicles to back into the site. In all other instances, A site can may be designed to allow solid waste collection vehicles to back into the site. The following criteria shall apply in all instances:
 - (1) a-The on-site access location shall allow for a maximum of 40 feet into the site; sites given the following criteria:
 - (12) Pickup only occurs during off-peak hours, as determined by the Transportation Director or designee; and
 - (23) The street is not a State-maintained road.
- d. A dedicated area for the separation, collection, and storage of recyclables shall be provided.

16.2.4 Public Space

C. General Requirements

3. Public Space Amenities

d. Pedestrian Circulation

Pedestrian circulation shall be provided with a paved walkway with a minimum width of five feet.

- (1) In DD, brick double-sailor-course banding as required for sidewalks shall be incorporated into each public space walkway to provide a visual connection from the streetscape to the public space.
- (2) Lighting shall be provided for walkways and comply with Sec. 7.4, Outdoor Lighting.

e. Incidental Buildings

Incidental buildings are allowed pursuant to paragraph to 16.3.1I.3.c, Permanent Stands/Kiosks, and as follows:

- (1) Total incidental building coverage shall be no more than 25% of the required public space for the site.
- (2) The buildings shall be no taller than 15 feet.

(3) The buildings shall not extend in front of primary buildings along street frontages.

Sec. 16.3 Building Design

[Paragraphs not listed remain unchanged]

16.3.1 Frontage and Building Types

I. Incidental Building Type

3. Types of Incidental Buildings

c. Permanent Sales-Stands/Kiosks

Commentary: Additional permits and license agreements may be required to use the public sidewalk.

(1) The maximum size of each stand or kiosk shall be 50 square feet, unless located within public space pursuant to paragraph 16.2.4C.3, Public Space Amenities.

(2) If located within public sidewalks or other public or private pedestrian walkways, required clear zones shall be maintained.

(3) Design Standards

The integrity of the stand or kiosk shall be maintained. Portions of the structure that are torn, broken, dented, or otherwise damaged shall be repaired or replaced.

(4) Signage

(a) A maximum of one sign per side is allowed.

(b) Maximum size per sign shall be eight square feet.

(c) Signs shall not contain changeable copy.

(d) Signs shall not extend above the roofline of the stand or kiosk.

16.3.3 Height

C. Sub-District Requirements

1. DD District

c. Maximum Building Height with Provisions

(4) Eligible Provisions

Project Provisions	Standards	Additional Height Allowance		
		Core	Support 1	Support 2
Historic Preservation	Undertake or incorporate the adaptive reuse of an existing historic structure, including local landmarks, National Register properties, contributing buildings in a historic district, or structures which the applicable governing body has determined to be of local historic significance. The renovation can add onto the structure but shall not demolish any historically significant portion of the structure.	45 feet	30 feet	—
Affordable Housing	At least 15% of the units in a project meet the definition of an affordable housing dwelling unit.	60 feet	45 feet	Due to varying base maximum heights, see "Maximum Building

Project Provisions	Standards	Additional Height Allowance		
		Core	Support 1	Support 2
				Height with Provisions” in paragraph 16.3.3C.1.a for the ultimate height allowance with this provision
Green Roof	Provide a green roof in accordance with City of Durham Public Works Standards, equivalent to at least 50% of the building footprint area.	15 feet	15 feet	—
Stormwater Capture and Reuse	Provide cistern(s) to collect stormwater from on-site rooftop impervious surfaces with a minimum volume to accommodate the first one inch of rainfall. To receive this credit the runoff must be captured and used on site for the purposes of flushing toilets or irrigation.	15 feet	15 feet	—
<u>Water Reclamation</u>	<u>Water reclamation and reuse from mechanical equipment or other on-site sources</u>	<u>15 feet</u>	<u>15 feet</u>	<u>---</u>
Materials and Articulation	Façade projections of at least 3 feet or recesses of at least 5 feet in depth covering at least 40% of the podium façade on all sides, and a minimum of 30% of each building façade the use of metal, brick, terracotta, stone, or other masonry materials.	30 feet	30 feet	—
Public Parking	<p>1. Provide parking within the development dedicated for public use. The public parking provided shall not count towards maximum parking allowed for the project.</p> <p>a. The public parking shall be in structured parking.</p> <p>b. The amount of parking shall be at least 50 spaces, or an amount equal to at least 20% of the minimum amount of parking required for the development, whichever is greater.</p> <p>2. At least three of the public parking spaces shall be electric vehicle charging spaces.</p> <p>3. Public parking spaces shall be accessible 24 hours/day and under control of the City through an operational agreement with the City. The City can, at its discretion, limit the hours of accessibility.</p>	30 feet	30 feet	—

2. CD District

d. Maximum Height with Provisions

(4) Eligible Provisions

The following shall be the eligible provisions that qualify for additional height:

Project Provisions	Standards	Additional Height Allowance		
		Core	Support 1	Support 2
Affordable Housing	The project implements Sec. 6.6, Affordable Housing Bonus.	45 feet	30 feet	Due to varying base maximum heights, see "Maximum Building Height with Provisions" in paragraph 16.3.3C.2.a for ultimate height allowance with this provision
Historic Preservation	Undertake or incorporate the adaptive reuse of an existing historic structure, including local landmarks, National Register properties, contributing buildings in a historic district, or structures which the applicable governing body has determined to be of local historic significance. The renovation can add onto the structure but shall not demolish any historically significant portion of the structure.	45 feet	30 feet	—
<u>Water Reclamation</u>	<u>Water reclamation and reuse from mechanical equipment or other on-site sources</u>	<u>15 feet</u>	<u>15 feet</u>	<u>---</u>
Materials and Articulation	Façade projections of at least 3 feet or recesses of at least 5 feet in depth covering at least 40% of the podium façade, and a minimum of 30% of each building façade the use of brick, terracotta, or stone materials.	30 feet	30 feet	—
Public Parking	<ol style="list-style-type: none"> 1. Provide parking within the development dedicated for public use. The public parking provided shall not count towards maximum parking allowed for the project. <ol style="list-style-type: none"> a. The public parking shall be in structured parking. b. The amount of parking shall be at least 50 spaces, or an amount equal to at least 20% of the minimum amount of parking required for the development, whichever is greater. 2. At least three of the public parking spaces shall be electric vehicle charging spaces. 3. Public parking spaces shall be accessible 24 hours/day and under control of the City through an operational agreement with the City. The City can, at its discretion, limit the hours of accessibility. 	30 feet	15 feet	—

Sec. 17.3 Defined Terms

Family Care Home: A residential facility as defined in NCGS § ~~168-21.160D-907~~.

Vehicle Service, Major: Buildings and premises for uses such as auto detailing, alignment shops, auto body shops, auto paint facilities, auto upholstery shops, and towing service.

Vehicle Service, Minor: Buildings and premises for uses such as ~~auto detailing~~, auto repair, battery sales and installation, fuel sales (other than with a convenience store), quick lubrication facilities, and tire sales and mounting.

PART 7

[Amendments to Sedimentation and Erosion Control regulations in Article 3, Applications and Permits, and Article 15, Enforcement, due to newly adopted legislation in Session Laws 2021-121 and 2021-158]

Sec. 3.8 Sedimentation and Erosion Control

[Paragraphs not listed remain unchanged]

3.8.2 Application Requirements

A. Erosion and Sedimentation Control Plan

1. A sedimentation and erosion control plan shall be filed with the County Sedimentation and Erosion Control Office by either hard copy or digitally. A digital copy of approved construction drawings and approved site plan, where applicable, shall also be provided upon their approval.

~~Two copies of a sedimentation and erosion control plan and one preliminary set of construction drawings shall be filed with the County Sedimentation and Erosion Control Office. A digital copy of approved construction drawings must be submitted upon their approval.~~

2. A sedimentation and erosion control plan shall contain site drawings, vicinity maps, assumptions, calculations, narrative statements, and a construction sequence as needed to adequately describe the proposed development and the measures proposed to comply with the requirements of this Article.
3. A sedimentation and erosion control plan shall be prepared by, and bear the seal and signature of, a registered professional engineer, registered landscape architect, registered architect, registered land surveyor, or certified professional in erosion and sediment control. The County Sedimentation and Erosion Control Officer or designee may, however, deem such a seal and signature not necessary due to site simplicity (as the absence of sensitive geographical features and receiving watercourses) and the limited nature of the sedimentation and erosion control measures required. In the case of a single-family lot in a common plan of development where the developer and builder are different, such a seal and signature is not required unless there is a design feature requiring such under federal or State law or regulation.
4. The approval of sedimentation and erosion control plan is conditioned on the applicant's compliance with Federal, State and local water quality laws, regulations, and rules.
5. An approved sedimentation and erosion control plan shall be kept on file at the job site.

3.8.6 Self-Inspections

The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent of all permit holders, except for individual residential lots

smaller than 1 acre, shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with Sec. 12.10. The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections conducted by the Durham County Sedimentation and Erosion Control Office.

3.8.11 Transfer of Permits

Land disturbance permits may be transferred from one financially responsible party to another within the permit term. Transfer of a permit does not extend the permit term.

A. All Permit Transfers

1. In order to transfer a land disturbance permit from one financially responsible party to another, the following documents must be submitted under the name of the new financially responsible party:
 - a. Completed Durham County Financial Responsibility/Ownership Form With Landowner Consent Form (FRO);
 - b. Improvement security, if required.
2. Transfer of permit shall include entirety of original permitted area, unless approved in writing by the Durham County Erosion Control Office.

B. Single Family Lots:

For land-disturbing activities on a single-family residential lot involving new construction with land disturbance of less than one acre where the builder or developer is the owner of the lot being developed and the person financially responsible for the land-disturbing activity, the financial responsibility for land-disturbing activity on that lot transfers to the new owner upon the builder's or developer's conveyance of the lot to the new owner, recording of the deed in the office of the register of deeds, and notification to the Durham County Erosion control Office.

Sec. 15.5 Sedimentation and Erosion Control Enforcement and Penalties

[Paragraphs not listed remain unchanged]

15.5.1 Inspections and Investigations

C. Notice of Violation

If it is determined that a person engaged in land-disturbing activity has failed to comply with the Act, this section, 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, or an approved sedimentation and erosion control plan, a notice of violation shall be served upon that person. The notice may be served by any means authorized under NCGS § 1A-1, Rule 4. The notice shall inform the person of the actions that need to be taken to comply and specify a date by which the person must comply with the Act, this section, Sec. 3.8, Sedimentation and Erosion Control, Sec. 12.10, Sedimentation and Erosion Control, rules or orders adopted pursuant to those sections

or the Act, or an approved sedimentation and erosion control plan and inform the person of the actions that need to be taken to comply. If the person engaged in land-disturbing activity fails to comply within the time specified, enforcement action shall be initiated. If the person engaged in the land-disturbing activity has not received a previous notice of violation as specified in this section, the Erosion Control Officer or designee ~~shall deliver the notice in person and~~ shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program or cooperative extension program, or by the provision of written documents such as Department of Environmental Quality or County Sedimentation and Erosion Control Office documents. ~~If the Erosion Control Officer or designee is unable to deliver the notice of violation in person within 15 days following discovery of the violation,~~ the notice of violation may be served in the manner prescribed for service of process by NCGS § 1A-1, Rule 4, and shall include information on how to obtain assistance in developing corrective measures.

15.5.3 Civil Penalties

C. Notice of Civil Penalty Assessment

2. File a request for remission of the assessment;

- a. A request for remission of a civil penalty imposed under this section must be filed with the Sedimentation Control Commission within ~~60~~30 days of receipt of the notice of assessment,
- b. Notification of a request for remission must also be filed with the County Engineer,
- c. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to NCGS § 150B, Art. 3, and a stipulation of the facts on which the assessment was based; or

3. Contest the assessment within 30 days by filing a petition for a contested case under NCGS § 150B, Art. 3.

PART 8

[Amendments to re-assign the role of Floodplain Administrator from the Inspections Director to the Planning Director, and due to newly adopted legislation in Session Law 2021-138, decriminalizing certain ordinances, including unified development ordinances]

Sec. 2.7 Durham City-County Planning Department

[Paragraphs not listed remain unchanged]

2.7.4 Powers and Duties

- B. The Planning Director or designee shall be responsible for reviewing and making recommendations regarding the following:
 - ~~1. Applications for floodplain development permits;~~
[Items 2-10 shall be renumbered accordingly]
- C. The Planning Director or designee shall be responsible for final action regarding the following:
 - 12. Applications for floodplain development permits.

Sec. 2.8 Durham City-County Inspections Department

[Paragraphs not listed remain unchanged]

2.8.4 Power and Duties

With regard to this Ordinance, the Inspections Director, or designee, shall enforce provisions of this Ordinance which pertain to new construction and the issuance of building permits and Certificates of Compliance, and shall be responsible for final action regarding local interpretation of matters related to the North Carolina Building Code.

~~A. Interpretations of matters related to the North Carolina Building Code; and~~

~~B. Interpretations of matters related to Sec. 8.4, Floodplain and Flood Damage Protection Standards.~~

Sec. 2.10 Summary of Review Authority

The following table summarizes review authority under this Unified Development Ordinance.

Application or Permit	Sedimentation and Erosion Control Officer	Inspections Director	Planning Director	Historic Preservation Commission	Board of Adjustment	Planning Commission	Governing Body	Section
Sedimentation and Erosion Control Officer								
Erosion Control Plan	D						<A>	Sec. 3.8
Inspections Director Action								
Floodplain Development Permit		D	R					Sec. 3.21
Planning Director Action								
Interpretation of the Ordinance		R	D*		<A>			Sec. 3.1
Common and Way-Finding Signage Plans		R	D		<A>			Sec. 3.11
Home Occupation Permit			D					Sec. 3.13
Administrative Certificate of Appropriateness			D	<A>				Sec. 3.17
Demolition by Neglect			D	<A>				Sec. 3.18
Limited Agriculture Permit (City Only)			D					Sec. 3.22
Architectural Review			D					Sec. 3.22
Administrative Site Plan Review	R	R	D					Sec. 3.7
Subdivision Review other than Major Preliminary Plat	R	R	D					Sec. 3.6
Temporary Use Permit			D		<A>			Sec. 3.12
Sign Permit			D		<A>			Sec. 3.10
Floodplain Development Permit			D					Sec. 3.21

Sec. 3.6 Subdivision Review

3.6.3 No Subdivision without Plat Approval

- B. Any person who, being the owner or the agent of the owner of any land located within the jurisdiction of this Ordinance, subdivides land in violation of this Ordinance, or transfers, or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Ordinance, and recorded in the Office of the Register of Deeds, ~~shall be punishable pursuant to state and local law shall be guilty of a misdemeanor and shall be punishable, accordingly, by fine or imprisonment.~~

Sec. 3.8 Sedimentation and Erosion Control

[Paragraphs not listed remain unchanged]

3.8.7 Disapproval of Plan

- A. An erosion control plan may be disapproved upon a finding that an applicant, or a parent, subsidiary or other affiliate of the applicant:
3. Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due; or
 - ~~4. Has been convicted of a misdemeanor pursuant to NCGS § 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act; or~~
 54. Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to the Act.

Sec. 3.21 Floodplain Development Permit

[Paragraphs not listed remain unchanged]

3.21.2 Floodplain Administrator

A. Designation

The ~~Inspections-Planning~~ Director, or designee, shall serve as the Floodplain Administrator. For this purpose, the ~~Inspections-Planning~~ Director, or designee, shall receive training and certification from the Association of Floodplain Managers.

B. Duties and Responsibilities

16. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. ~~Violation of a stop work order constitutes a misdemeanor;~~

Sec. 8.4 Floodplain and Flood Damage Protection Standards

[Paragraphs not listed remain unchanged]

8.4.3 Standards

B. Specific Standards

4. Manufactured Homes

- d. All new, substantially improved or substantially damaged manufactured home parks or subdivisions located within Special Flood Hazard Areas or Future Conditions Flood Hazard Areas shall prepare an evacuation plan for evacuation of all residents. The plan

shall be filed with ~~the Inspections Director, or designee (as the Floodplain Administrator)~~ and the Emergency Management Coordinator prior to the time of site plan approval, plat approval, or building permit, if site plans or plats are not required.

Sec. 15.3 Remedies- Enforcement Action

[Paragraphs not listed remain unchanged]

15.3.4 Criminal Penalties Reserved

~~A violation shall constitute a misdemeanor or infraction, as provided by NCGS § 14-4, subject to a maximum fine of \$500 and imprisonment of up to 30 days for each violation.~~

Sec. 15.4 Penalties

[Paragraphs not listed remain unchanged]

15.4.3 Notice

Notice of the citation and civil penalty shall be given in the same manner as provided in paragraph 15.2.1, Notice of Violation, above. The notice shall include a copy of the notice of violation, the amount of the civil penalty, information about where to pay the civil penalty, the deadline for payment (which shall be 15 days from the date of receipt of the notice), and the possibility of civil ~~and/or criminal~~ enforcement.

15.4.5 Settlement of Penalties

B. If the violation has not been remedied, payment of penalties shall not release a violator from ~~a potential criminal prosecution or a~~ claim for injunctive relief and/or an order of abatement.

Sec. 15.5 Sedimentation and Erosion Control Enforcement and Penalties

[Paragraphs not listed remain unchanged]

15.5.4 Criminal Penalties Reserved

~~Any person who knowingly or willfully violates any provision 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 who knowingly or willfully initiates or continues a land-disturbing activity for which an approved sedimentation and erosion control plan and/or land-disturbing permit is required except in accordance with such plan or permit shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5,000, as provided in NCGS § 113A-64.~~

15.5.5 Enforcement Alternatives

B. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil ~~or criminal~~ penalties assessed under this section.

Sec. 15.6 Floodplain and Flood Damage Protection Enforcements and Penalties

[Paragraphs not listed remain unchanged]

15.6.1 Corrective Procedure

E. Failure to Comply with Order

If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, ~~he the owner shall be punishable pursuant to state and local law shall be guilty of a misdemeanor and shall be punished in the discretion of the court.~~

15.6.2 Penalties for Violations

In addition to the penalties specified on paragraph 15.3.4, Criminal Penalties, the The following penalties may also be imposed:

A. Stop Work Order

In coordination with the Inspections Director, The the Inspections Director Floodplain Administrator, or designee, (~~acting as the Floodplain Administrator~~) may order work on any site within a Special Flood Hazard Area to be immediately stopped whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance. The stop work order shall be in writing and directed to the person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop work order shall constitute a misdemeanor.

B. Revocation of Permits

In coordination with the Inspections Director, The the Floodplain Administrator Inspections Director, or designee (~~acting as the Floodplain Administrator~~), may revoke and require the return of a permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked.

C. Correction of Violations

The owner or occupant of any building or property notified of a violation by the Floodplain Administrator Inspections Director, or designee, shall immediately remedy each of the violations.

D. Actions in the Event of Failure to Take Corrective Action

1. If the owner or occupant of any building or property notified of a violation fails to take corrective action, the Floodplain Administrator Inspections Director, or designee, (~~acting as the Floodplain Administrator~~) shall provide written notice consistent with the requirements of paragraph 15.2.1, Notice of Violation, that the building or property is in violation of the provisions of Sec. 8.4, Floodplain and Flood Damage Protection Standards.
2. The Inspections Director (acting as the Floodplain Administrator) shall schedule a hearing at a designated place and time, not later than ten days after the date of notice, at which time the owner or occupant of the building or property shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the violation.
3. If, following the hearing, the Floodplain Administrator Inspections Director finds that the building or property is in violation of the provisions of Sec. 8.4, Floodplain and Flood Damage Protection Standards, he/she shall issue an order in writing to the owner or occupant of the building or property to correct the violation by altering, vacating, or demolishing the building or removing any fill, whichever is appropriate, within a period deemed reasonable by the Floodplain Administrator Inspections Director. Such period shall not be less than 60 days unless the Inspections Director finds that the violation results in imminent danger to life or other property, in which case a shorter period to correct the violation may be imposed.

Sec. 15.8 Riparian Buffer Protection Enforcement

[Paragraphs not listed remain unchanged]

~~15.8.9 Criminal Penalties~~

~~Pursuant to NCGS 143-215.6B, any person who violates any riparian buffer requirement of this Ordinance shall be guilty of a crime as follows:~~

~~A. Negligent violation~~

~~Class 2 misdemeanor with a maximum fine of fifteen thousand dollars (\$15,000) per day of violation, and a maximum cumulative total of two hundred thousand dollars (\$200,000) for each 30-day period of a continuing violation;~~

~~B. Knowing or willful violation~~

~~Class 1 felony with a maximum fine of one hundred thousand dollars (\$100,000) per day of violation, and a maximum cumulative total of five hundred thousand dollars (\$500,000) for each 30-day period of a continuing violation; or~~

~~C. Knowing violation~~

~~Class C felony with a maximum fine of two hundred fifty thousand dollars (\$250,000) per day of violation, and a maximum cumulative total of one million dollars (\$1,000,000) for each 30-day period of a continuing violation.~~

~~**Commentary:** The terms “knowing or willful” as in paragraph B and “knowing” as in paragraph C are explained in NCGS 143-215.6B.~~

PART 9

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

PART 10

That this amendment of the Unified Development Ordinance shall become effective upon *July 1, 2022*.



Monica W. Wallace
Clerk to the Board
Durham County