

## **Attachment B**

### **AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE CONCERNING THE KEEPING OF CHICKENS (TC0800006)**

**WHEREAS**, the Durham City Council wishes to amend certain requirements regarding the keeping of chickens in the Unified Development Ordinance to better promote the community's health, safety, and welfare;

**NOW, THEREFORE**, be it ordained that Article 2, Review Authority, Article 3, Applications and Permits, Article 5, Use Regulations, and Article 16, Definitions, of the Unified Development Ordinance are amended to make the following changes:

#### **SECTION 1**

Modify UDO Section 2.9, Durham City-County Planning Department, paragraph 2.9.4, Powers and Duties, as set forth below.

##### **2.9.4 Powers and Duties**

The Planning Director or designee shall have the following powers and duties.

[Paragraphs A and B are omitted.]

- C. The Planning Director or designee shall be responsible for final action regarding the following:
1. Interpretation of this Ordinance;
  2. Administrative adjustments to the specified development standards of this Ordinance;
  3. Applications for simplified site plans;
  4. Applications for common signage plans;
  5. Applications for home occupation permits;
  6. Administrative certificates of appropriateness;
  7. Demolition by Neglect; and
  8. Applications for limited agriculture permits.

#### **SECTION 2**

Modify UDO Section 2.12, Summary of Review Authority, as set forth below.

##### **Sec. 2.12 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	Development Review Board	Historic Preservation Commission	Board of Adjustment	Planning Commission	Governing Body	Section
<b>Sedimentation and Erosion Control Officer</b>									
Erosion Control Plan	D							<A>	Sec. 3.8
<b>Inspections Director Action</b>									
Sign Permit		D	R			<A>			Sec. 3.10
Temporary Use Permit		D	R			<A>			Sec. 3.12
Floodplain Development Permit		D	R						Sec. 3.22
<b>Planning Director Action</b>									
Interpretation of the Ordinance		R	D*			<A>			Sec. 3.1
Administrative Adjustment		R	D			<A>			Sec. 3.14
Common Signage Plan		R	D			<A>			Sec. 3.11
Home Occupation Permit			D						Sec. 3.13
Administrative Certificate of Appropriateness			D		<A>				Sec. 3.18
Demolition by Neglect (City Only)			D		<A>				Sec. 3.19
Limited Agriculture Permit (City Only)			D						Sec. 3.23
<b>Development Review Board Action</b>									
Site Plan Review	R	R	R/D	R/D				D	Sec. 3.7
Subdivision Review	R	R	R	D					Sec. 3.6
<b>Historic Preservation Commission Action</b>									
Certificate of Appropriateness			R		D				Sec. 3.18
<b>Board of Adjustment Action</b>									
Variance						<D>			Sec. 3.15
Appeal of Administrative Decision						<D>			Sec. 3.16
Minor Special Use Permit		R	R			<D>			Sec. 3.9
<b>Governing Body Action</b>									
Comprehensive Plan Amendment			R				<R>	<D>	Sec. 3.4
Text Amendment			R				<R>	<D>	Sec. 3.20
Zoning Map Change			R				<R>	<D>	Sec. 3.5
Historic District/Landmark Designation			R		<R>		<R>	<D>	Sec. 3.17
Major Special Use Permit		R	R					<D>	Sec. 3.9
Vested Rights Determination		R	R					<D>	Sec. 3.21

R = Review or Recommendation

D = Decision

A = Appeal

< > = Public Hearing Required

\* Except as noted in the relevant Ordinance section.

## SECTION 3

Modify UDO Section 3.2, Common Review Procedures, as set forth below.

### Sec. 3.2 Common Review Procedures

#### 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.

[Paragraphs A-P are omitted.]

Q. Limited Agriculture Permit (City Only)

## SECTION 4

Modify UDO Article 3, Applications and Permits, by adding new Sec. 3.23, Limited Agriculture Permit, as set forth below.

**Sec. 3.23 Limited Agriculture Permit (City Only)**

**3.23.1 Applicability**

Designated limited agriculture (see Sec. 5.4.12, Limited Agriculture) shall require a permit, as set forth below.

**3.23.2 Application Requirements**

A limited agriculture permit application shall be submitted in accordance with Sec. 3.2.4, Application Requirements.

**3.23.3 Action by the Planning Director**

Upon review of the application, the Planning Director shall approve the limited agriculture permit provided the limited agriculture meets all requirements of this Ordinance, except that misrepresentation by an applicant shall result in permit denial.

**3.23.4 Revocation**

The limited agriculture permit shall be revoked if the limited agriculture is found to be in violation of the requirements of this Ordinance, and as otherwise stated in Sec. 5.4.12, Limited Agriculture.

**3.23.5 Appeal**

Final action on a limited agriculture permit may be appealed in accordance with Sec. 3.16, Appeal of Administrative Decision.

**SECTION 5**

Modify UDO Section 5.2, Use Categories, paragraph 5.2.2, Agricultural Use Categories, and paragraph 5.2.3, Residential Use Categories, as set forth below.

### 5.2.2 Agricultural Use Categories

<b>Characteristics:</b> Characterized by uses that create or preserve areas intended primarily for the raising of animals and crops, and the secondary industries associated with agricultural production.		
<b>Principal Uses</b>	<b>Accessory Uses</b>	<b>Uses Not included</b>
Animal raising including horses, hogs, cows, sheep, goats, and swine, poultry, rabbits, and other small animals, apiculture, fish hatchery, aquaculture, dairying, personal or commercial animal breeding and development Greenhouse or nursery not engaged in retail trade, floriculture, horticulture, pasturage, row and field crops, viticulture, tree or sod farm, silviculture Livestock auction Riding academy or boarding stable	Ancillary indoor storage Animal (including poultry) processing, packing, treating, and storage, provided that these activities are accessory and secondary to normal agricultural activity Associated offices Auction ring Barns, garages, sheds, silos, stables (noncommercial) Home occupations Sales of agricultural products grown or raised on the premises Docks, noncommercial	Animal waste processing (see Waste-Related Service) Commercial feed lots (see Heavy Industrial) Livestock slaughtering (Heavy Industrial) Processing of food and related products (see Heavy Industrial) Solid or liquid waste transfer or composting (see Waste-Related Service) Housing for ranch or farm labor (Household Living) Resource Extraction Limited Agriculture (City Only)

### 5.2.3 Residential Use Categories

#### A. Household Living

<b>Characteristics:</b> Residential occupancy of a dwelling unit by a household on a month-to-month or longer basis.		
<b>Principal Uses</b>	<b>Accessory Uses</b>	<b>Uses Not included</b>
Manufactured Home, Class A or B, manufactured home park or subdivision Multiplex, apartment, congregate care facility with individual units that meet the definition of a dwelling unit, or retirement center apartment Single-family detached, zero lot line, traditional house, patio house, semi-attached house, duplex, townhouse Upper-story residential Family care home	Accessory dwelling unit, (i.e. granny flats and mother-in-law apartments) Accessory structure Ancillary indoor storage Children's play area or equipment Greenhouse or nursery not engaged in retail trade Home occupation In-house care for six or fewer persons Private community center Private garage, barbecue pit, carport, tool or garden shed, storage unit, swimming pool Docks, noncommercial Limited Agriculture (City Only)	Bed and breakfast establishment, hotel, motel, inn, extended-stay facility (see Overnight Accommodations) Group Home (see Group Living) Nursing or convalescent house (see Group Living) Residential assisted living facility not having individual dwelling units (see Group Living)

[Paragraph B is omitted.]

## SECTION 6

Modify UDO Section 5.4, Accessory Uses and Structures, by adding new paragraph 5.4.12, Limited Agriculture, as set forth below.

#### **5.4.12 Limited Agriculture (City Only)**

Limited agriculture shall be subject to the following regulations:

##### **A. General**

##### **1. Permits Required**

- a.** A permit under Sec. 3.23, Limited Agriculture Permit (City Only), is required in order to conduct the uses designated by this section. Such uses are distinct from agricultural uses or agricultural use categories permitted under this Ordinance. The limited agriculture permit is personal to the permittee and may not be assigned.
- b.** A building permit issued by the City-County Inspections Department is required for any accessory structure associated with a limited agriculture permit.

##### **2. Permit Revocation and Removal of Items**

- a.** Compliance with the requirements of this Ordinance shall create a presumption that the permitted use does not create a nuisance or threat to public health or safety. The permit shall, however, be revoked if the Planning Director determines that the permitted use does create a nuisance or detriment to public health or safety.
- b.** Violation of ordinance standards shall result in permit revocation under Sec. 3.23.4, Revocation, and possible enforcement under Article 15, Enforcement, including civil and criminal penalties. Misrepresentation by a permittee shall result in permit revocation or voiding under Sec. 15.3.7, Permit Revocation or Voiding.
- c.** Regardless of whether an ordinance violation has occurred, the Planning Director is authorized to order immediate removal of items and structures associated with the permitted use that the Director determines create a nuisance or detriment to public health or safety.

##### **3. Non-Commercial Use Only**

Uses authorized under a Limited Agriculture Permit shall be non-commercial only. Commercial activities are prohibited. Domestic animals authorized by a Limited Agriculture Permit shall be kept as pets or for personal use only.

##### **4. Nuisance Prohibited**

Uses authorized under a Limited Agriculture Permit shall not create a nuisance. Uses shall be conducted in a manner that does not disturb the use or enjoyment of adjacent properties. Odor generated shall not be perceptible at the property boundaries, and noise generated shall not disturb people of reasonable sensitivity at the property boundaries.

Only motion-activated lighting shall be used to light any limited agriculture area.

**5. Public Health and Safety**

Uses authorized under a Limited Agriculture Permit shall not create a detriment to public health or safety.

**B. Domestic Chickens**

**1. Purpose**

The purpose of this section is to authorize and provide standards for the keeping of domesticated chickens. It is intended to enable residents to responsibly keep a small number of female chickens on a non-commercial basis while limiting the potential adverse impacts on the surrounding neighborhood.

**2. Definitions**

"Chicken", "Chicken Coop", and "Chicken Pen" are defined in Sec. 16.3, Defined Terms.

**3. Number and Type of Chickens Allowed**

The maximum number of chickens allowed is ten (10) per lot, regardless of how many dwelling units are on the lot. Only female chickens are allowed. There is no restriction on chicken breeds.

**4. Housing Types Allowed to Keep Chickens**

Residents of single-family houses and townhouses may keep chickens as authorized under this section. A limited agriculture permit shall not be issued for chickens at other housing types.

**5. Personal Use Only**

- a. Eggs, chicks, adult chickens, and slaughtered chickens shall not be sold. Chicken manure and compost using chicken manure shall not be sold or otherwise distributed. Slaughter may occur for personal use if not otherwise prohibited provided that it is conducted in a humane and sanitary manner, does not generate noise that creates a nuisance, and is not visible from adjacent properties or any public area or right-of-way.
- b. Produce on which chicken manure from the permitted chickens has been used as fertilizer, or on which compost made with such manure has been used, shall not be sold or otherwise distributed.

**6. Chickens Enclosed**

A chicken coop and chicken pen shall be provided. Chickens shall be secured in the chicken coop during non-daylight hours. During daylight hours chickens may be located in the chicken pen and may be

located outside of the pen in a securely fenced yard or chicken tractor/portable pen if supervised by an adult person.

**7. Construction and Design**

- a. The chicken coop shall comply with the requirements of Sec. 5.4, Accessory Uses and Structures. The coop shall be enclosed with solid material on all sides and have a solid roof and door(s). The coop shall be at least 18 inches high, and provide at least 3 square feet of floor area per chicken. The coop shall provide 1 square foot of window per 15 square feet of floor area, and vents as necessary to ensure adequate ventilation. The materials for each element, e.g., walls, roof, windows and doors, shall be uniform and in harmony with the surrounding area. Doors shall be constructed so that they can shut and lock. Windows shall be constructed so they can shut. Windows and vents shall be covered with wire that is 14 1/2-gauge or less with maximum spacing of 1 inch by 1 inch. The coop shall be impermeable to rodents, wild birds, and predators, including dogs and cats.
- b. The chicken pen shall be constructed of wood or metal posts and wire fencing material that is 14 1/2-gauge or less with maximum spacing, overall or along the lower portion for graduated poultry fencing, of 1 inch by 6 inches. The pen shall provide at least 10 square feet of area per chicken. The fence shall rise at least 4 feet above the ground and be buried at least 1 foot in the ground. The pen shall be covered with wire, aviary netting, or solid roofing.

**8. Maintenance**

The chicken coop, chicken pen, and surrounding area shall be kept clean, dry, odor-free, and in a neat and sanitary condition at all times. All manure, uneaten feed, and other trash shall be removed in a timely manner and disposed of in a sanitary manner. The permittee is subject to, and shall comply with, the requirements of Chapter 70, Utilities, Article V, Stormwater Management and Pollution Control. The permittee shall take all necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. If a chicken dies from causes other than slaughter, it shall promptly be placed into plastic bag, which shall be closed securely and disposed of with household waste.

**9. Living Conditions**

The chicken coop shall provide adequate security, ventilation, and shelter from moisture and extremes of temperature. The chicken pen shall provide adequate security and sun and shade. Chickens shall 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 shall be provided adequate bedding in the chicken coop and perches are encouraged.

**10. Waste Storage and Use**

- a. No more than 2 cubic feet of chicken manure shall be stored, for use as unprocessed fertilizer. All other manure shall be disposed of or composted. All stored manure shall be completely contained in a waterproof container.
- b. Any compost using chicken manure shall be produced in an enclosed backyard composter. Only one composter per permit is allowed.

*Comment: Be aware that unprocessed chicken manure may contain pathogens that can be transmitted to produce on which it is used as fertilizer. A proper mix of materials and maintaining a temperature of at least 131 degrees Fahrenheit for at least 3 consecutive days is necessary to destroy pathogens in compost.*

**11. Location**

Notwithstanding the location requirements of Sec. 5.4, Accessory Uses and Structures, chicken coops shall be located at least 15 feet from any property line or public right of way, and chicken pens shall be located at least 5 feet from any property line or right of way.

**SECTION 7**

Modify UDO Section 16.3, Defined Terms, "Agricultural Uses", and add new "Chicken", "Chicken Coop", and "Chicken Pen" as set forth below.

**Sec. 16.3 Defined Terms**

**Agricultural Uses:** Land used as pasture or in the commercial production of crops, horticultural products, fish hatcheries or aquaculture. Also for the purposes of this Ordinance, the keeping of livestock for commercial or noncommercial purposes is defined as an agricultural use. Livestock includes but is not limited to poultry and hooved animals such as cattle, horses, goats, sheep and swine; however, swine commonly referred to as Miniature, Vietnamese or Oriental Pot-Bellied pigs (*sus scroda vittatus*) shall not be considered livestock if the animals are no more than 18 inches in height and the owner has proof of registry with the International Potbellied Pig Registry (IPPR). No more than two such Potbellied Pigs may be kept at any household to qualify for this definition. Also included in this definition of agricultural uses are agricultural accessory buildings, and sales of agricultural products grown or raised on the premises. Not included in this definition are any use conducted pursuant to a valid permit issued under Sec. 3.23, Limited Agriculture Permit (City Only), the commercial slaughtering of animals for marketing, and farm tenant dwellings.

**Chicken:** Poultry or fowl of the species *Gallus gallus/G. gallus domesticus*. The species includes many different breeds of chicken.

**Chicken Coop:** A structure for the sheltering of chickens. An existing shed or garage can be used for this purpose under Sec. 5.4.12B, Domestic Chickens, if it meets the standards contained in paragraph 5.4.12B.7, Construction and Design. A chicken coop is an accessory structure under Sec. 5.4, Accessory Uses and Structures, and requires a building permit from the City-County Inspections Department.

**Chicken Pen:** An enclosure that is connected to and/or surrounding a chicken coop for the purpose of allowing chickens to leave the coop while remaining in an enclosed predator-safe environment.

## **SECTION 8**

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

## **SECTION 9**

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