

**Attachment B**

**AN ORDINANCE TO AMEND PROVISIONS OF THE UNIFIED DEVELOPMENT ORDINANCE  
(TC1200001)**

**WHEREAS**, the Durham City Council wishes to amend certain provisions in the Unified Development Ordinance by making minor technical revisions; and

**WHEREAS**, it is the objective of the Durham City Council to have the UDO 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, Off-Street Parking and Loading; Article 12, Infrastructure and Public Improvements; Article 13, Additional Requirements for Subdivisions; and Article 16, 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**

[Make miscellaneous revisions and clarifications to procedures and process regarding review authority for temporary use permits, appeals, comprehensive plan amendments, zoning map changes, certificate of appropriateness, and vested rights]

**Sec. 2.9 Durham City-County Planning Department**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 2.9.4 Powers and Duties**

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

- C.** The Planning Director or designee shall be responsible for final action regarding the following:
  - 8. Applications for limited agriculture permits;
  - 9. Applications for architectural review; and
  - 10. Applications for temporary use permits.

**Sec. 2.10 Durham City-County Inspections Department**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 2.10.4 Powers 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:

- B. Interpretations of matters related to Section 8.4, Floodplain and Flood Damage Protection Standards; and
- C. Applications for sign permits.

**Sec. 2.12 Summary of Review Authority**

The following table summarizes review authority under this Unified Development Ordinance. [Portions of the table not depicted remain unchanged]

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>Inspections Director Action</b>									
<b>Planning Director Action</b>									
Temporary Use Permit			D			<A>			Sec. 3.12
<b>Historic Preservation Commission Action</b>									
Certificate of Appropriateness			R		D	<A>			Sec. 3.18

- R = Review or Recommendation
- D = Decision
- A = Appeal
- < > = Public Hearing Required

**Sec. 3.2 Common Review Procedures**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 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 not initiated by the City or County;
  3. Zoning map changes not initiated by the City or County; and

**Sec. 3.4 Comprehensive Plan Adoption/Amendment**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 3.4.2 Coordination with Applications for Zoning Map Change**

- 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 zoning map change application. The public hearings on both the plan amendment and zoning 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. 16.3, Defined Terms.

**Paragraph 3.4.3 Pre-Application Conference**

- A. Applicants applying for a plan amendment shall schedule a pre-application conference with the Planning Director or designee in accordance with paragraph 3.2.2, Pre-Application Conference.
- B. If a plan amendment application is not submitted within six months of the date of the pre-application conference, a new pre-application conference is required.

**Paragraph 3.4.7 Criteria for Future Land Use Map Change Recommendations**

The recommendations of the staff and Planning Commission to the governing body shall show that the following criteria were considered regarding a proposed change to the Future Land Use Map of the Durham Comprehensive Plan:

- B. Whether the proposed change would be compatible with the existing land use pattern and/or designated future land uses;
- D. Whether the subject site is of adequate shape and size to accommodate the proposed change.

**Sec. 3.5 Zoning Map Change**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 3.5.2 Pre-Application Conference**

- A. Pursuant to paragraph 3.2.2, Pre-Application Conference, a pre-application conference is required prior to the submittal of a zoning map change application.
- B. If a zoning map change application is not submitted within six months of the date of the pre-application conference, a new pre-application conference is required.

**Paragraph 3.5.6 Development Plan**

**D. Requirements**

**3. Existing Information**

A development plan shall include an existing conditions survey that depicts conditions at time of plan submittal and is signed and sealed by a licensed Professional Land Surveyor, Engineer, or Landscape Architect. A separate existing conditions sheet may also be included. Such document(s) shall provide at least the following information:

- e. Existing manmade and natural conditions on the site and within 100 feet of the site on adjoining properties, including properties separated by easements or rights of way. Those existing conditions shall include but are not limited to:
  - (1) Amount and location of impervious surface;
  - (2) Topography including steep slopes;
  - (3) Special Flood Hazard Areas and Future Conditions Flood Hazard Areas;
  - (4) Streams, wetlands, and other water bodies;
  - (5) Plans with building envelopes instead of building footprints: Existing trees on the subject property shown on a generalized tree survey that describes the existing vegetation, indicating the range of species and approximate sizes (dbh) of trees;

- (6) Sites identified in the Durham County Inventory of Important Natural Areas, Plants and Wildlife (Inventory);
- (7) Historic sites or structures currently designated in, or eligible for, the National Register of Historic Places;
- (8) Sites identified in the Durham Architectural and Historic Inventory;
- (9) Sites identified in the Durham County Archaeological Inventory and other identified archaeological sites, including cemeteries and burial grounds; and
- (10) Other protected areas.

**Paragraph 3.5.12 Deviations from Approved Development Plans**

**A. Significant Deviations**

- 11. A change in the architectural design or architectural guidelines unless explicitly indicated as “conceptual” or “illustrative”;

**Sec. 3.7 Site Plan Review**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 3.7.4 Site Plan Requirements**

**C. Proposed Conditions**

- 1. *Buildings*: location, footprint, entrances, area by floor (square feet), height, finished floor elevation, setback requirements defining building envelope. When building descriptions have been included in a zoning approval, the site plan shall include building elevations or renderings as well as any other information needed to support the requirements of the site plan approval.

**Sec. 3.12 Temporary Use Permit**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 3.12.3 Action by the Planning Director**

- A. After receiving the application, the Planning Director or designee shall have up to 30 days to review the application.
- B. Upon hearing recommendations from all appropriate departments, the Planning Director or designee shall approve the issuance of a temporary use permit subject to the following:
- C. Temporary use permits may be renewed one time by the Planning Director or designee, unless other renewal standards are specified in Sec. 5.5, Temporary Uses, or in other provisions of this section.

**Paragraph 3.12.4 Revocation of a Temporary Use Permit**

A temporary use permit shall be revoked if the Planning Director or designee finds that the terms of the permit have been violated or that there is a hazard to the public health, safety and welfare.

**Sec. 3.18 Certificate of Appropriateness**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 3.18.4 Master Certificates of Appropriateness**

- B. The provisions of this section that apply to certificates of appropriateness shall also apply to master certificates of appropriateness. No master certificate of appropriateness shall be valid for a period greater than four years from the date of issuance.

**Paragraph 3.18.17 Appeal**

An appeal of a decision of the Commission in granting or denying any certificate of appropriateness is taken to the Board of Adjustment. An appeal may be taken by any aggrieved party, shall be taken within times prescribed by the Commission's Rules of Procedures, and shall be in the nature of *certiorari*. Appeal of the Board of Adjustment action may be taken by filing a petition for *certiorari* with the Durham County Superior Court.

**Sec. 3.19 Demolition by Neglect (City Only)**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 3.19.2D.3 Process**

If a claim of undue economic hardship is made, the Planning Director or designee shall receive all information from the property owners that the HPC is entitled to receive pursuant to this Ordinance, make a determination regarding whether there is undue economic hardship, and develop a plan for dealing with such hardship, if it is found to exist. The recommendation and plan shall be sent to the owner, by certified mail, return receipt requested, with notice of the owner's rights to appeal to the HPC within 30 days of receipt. If the owner disagrees with the recommendation and plan, the owner may request a hearing before the HPC. In the event of such a request, the hearing shall be a quasi-judicial hearing, in the nature of a BOA hearing and the decision shall be in writing, supported by findings and conclusions. The Planning Director's determination as to economic hardship and the plan for dealing with that hardship shall be considered a final administrative determination, and any HPC decision altering such recommendation or plan shall be passed by the standards established in paragraph 2.4.5, Decisions.

**Sec. 3.21 Statutory Vested Rights Determination**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 3.21.1 Applicability**

- C. A vested right may be established upon approval of a "site specific development plan." In order to qualify as a "site specific development plan," a plan shall be a development plan approved as a site plan or preliminary plat in accordance with Sec. 3.5, Zoning Map Changes; a preliminary plat approved in accordance with Sec. 3.6, Subdivision Review; or a site plan approved in accordance with Sec. 3.7, Site Plan Review.

**PART 2**

[Modifications to floodplain regulations within Sections 3.22 and 8.4 to indicate all regulated special flood hazard zones and to adopt recommendations from FEMA]

**Sec. 3.22 Floodplain Development Permit**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 3.22.2 Floodplain Administrator**

**B. Duties and Responsibilities**

Duties of the Floodplain Administrator shall include, but not be limited to:

- 14. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, subject to the Privacy Act of 1974, as amended;

**Paragraph 3.22.4 Application Requirements**

**A.2.** Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area or Future Conditions Flood Hazard Area including but not limited to:

- b. elevation in relation to mean sea level to which any non-residential structure in Zone AE, A, AO, or X (Future) will be flood-proofed; and

**Paragraph 3.22.5 Floodplain Development Permit Data Requirements**

The following information shall be provided at a minimum on the floodplain development permit to ensure compliance with this code:

- G.** The flood openings requirements, if in Zone AE, A, AO, or X (Future).

**Paragraph 3.22.6 Certification Requirements**

- C.** If a manufactured home is placed within Zone AE, A, AO, or X (Future) and the elevation of the chassis is above 36 inches in height, an engineered foundation certification is required per paragraph 8.4.3, Standards.

**Sec. 8.4 Floodplain and Flood Damage Protection Standards**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 8.4.3 Standards**

**A. General**

In all Special Flood Hazard Areas and Future Conditions Flood Hazard Areas the following provisions are required:

- 11. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway or non-encroachment area, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway or non-encroachment area, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- 12. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- 13. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

**C. Floodplains without Base Flood Elevations**

Within the Special Flood Hazard Areas established in paragraph 8.4.2, Applicability, where no Base Flood Elevation (BFE) data has been provided, the following provisions shall apply:

2. The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:
  - a. If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in paragraph 3.22.2B (11&12).
  - b. All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per paragraph 8.4.2, Standards, to be utilized in implementing this ordinance. A Letter of Map Revision (LOMR) shall be required prior to the approval of construction drawings for development requiring BFE data to be provided.

**Paragraph 8.4.4      Development in Special Flood Hazard Areas and Future Conditions  
Flood Hazard Areas**

**B. Development Requiring Floodplain Administrator Approval**

1. Development of, or substantial improvements to, a single-family or duplex structure, and associated site improvements such as accessory structures, driveways, walkways, and utility crossings, on a single lot of record recorded on or before January 1, 2006, may utilize fill, pursuant to a floodplain development permit issued under Sec. 3.22, Floodplain Development Permit, in the floodway fringe, non-encroachment area fringe, or Areas of Shallow Flooding (Zone AO) if the Floodplain Administrator determines that:

**C. Development Requiring Development Review Board Approval**

3. Land in the floodway or non-encroachment area may be used for the following purposes, and may be filled in support of such uses, if the certification required under paragraph 8.4.3C, Floodplains without Base Flood Elevations, paragraph 8.4.3D, Floodplains with Base Flood Elevations but no Established Floodway or Non-Encroachment Areas, or paragraph 8.4.3E, Floodway and Non-Encroachment Areas, as appropriate, has been provided and if the DRB determines that such uses are designed and shall be constructed to minimize clearing, grading, erosion and water quality degradation.

**PART 3**

[Provide a timeframe for validity and inspection of approved Limited Agriculture Permits]

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

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 3.23.4      Expiration and Revocation**

- A. A limited agriculture permit shall expire if the use is not inspected for compliance within 180 days from the date of issuance.

- B. 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 paragraph 5.4.12, Limited Agriculture.

**PART 4**

[Stipulate specific procedures for interpretations and adjustments to watershed overlay district boundaries]

**Sec. 4.1 General**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 4.1.4 Rules for Interpretation of District Boundaries**

- A. The Planning Director, or designee, may authorize periodic changes to the boundaries of the Official Zoning Map in conformance with this section.
  - 1. Interpretations of zone boundaries, except for watershed overlay boundaries, may be appealed to the Board of Adjustment.
  - 2. Interpretations regarding watershed overlay boundaries shall be performed pursuant to paragraph 4.11.3, Rules for Interpretation of Overlay Boundaries.
- B. **Boundaries That Follow Lot Lines** [Text remains unchanged]
- C. **Boundaries That Do Not Follow Lot Lines** [Text remains unchanged]

**Sec. 4.11 Watershed Protection Overlay**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 4.11.3 Rules for Interpretation of Overlay Boundaries**

- A. When a property is divided by one or more of the arcs representing the one half-mile, the one-mile, or the five-mile distance from the reservoir, or by the ridgeline that defines the water supply reservoir, a request can be submitted for an interpretation of the Watershed Overlay boundary through the City-County Planning Department. The request can be submitted by any individual and shall include sufficient information to enable the Planning Director to make a recommendation to the governing body and NC Environmental Management Commission (EMC), as appropriate.
- B. For all requests, the Planning Director will evaluate the request and will seek approval from the appropriate governing body for submission to the NC Environmental Management Commission (EMC). Upon such approval, the Planning Director will submit the proposed Watershed Overlay boundary change to the EMC, in accordance with 15A NCAC 02B .0104(o). Upon approval by the EMC, the Planning Director will complete the interpretation and modify the Watershed Overlay boundary in accordance with the interpretation. All such changes shall be shown on the Official Zoning Map and the Watershed Overlays Parcels Map, which shall be maintained by the Planning Department.

**Commentary.** *The NC Administrative Code, in Rule 15A NCAC 02B .0104(o), states that all revisions (expansions and deletions) to the Environmental Management Commission (EMC) adopted critical and protected area boundaries or to the local government’s interpreted critical and protected area boundaries must be approved by the EMC prior to adoption by the local government.*

**PART 5**

[Modify the use table to permit family care homes in all districts that permit single-family residential; to provide consistency with uses permitted in PDR, the PDR regulations in Article 6, and development plans adopted under the old Zoning Ordinance; allow major utilities in more districts with a minor special use permit and limitations; allow government facilities in CN; allow medical facilities in additional non-residential districts; and allow transfer stations in the IL district with limitations]

**Section 5.1 Use Table**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 5.1.2 Use Table**

[Portions of the table not depicted remain unchanged]

		RESIDENTIAL						NONRESIDENTIAL						PLANNED				DESIGN				
USE CATEGORY	SPECIFIC USE	RR	RS	RS-M	RU	RU-M	RC	CI	CN	OI	CG	SRP	IL	I	PDR	UC	CC	IP	MU	DD	CD	NOTES:
<b>RESIDENTIAL USES</b>																						
Household Living	Family care home	L	L	L	L	L	L		L		L				‡				‡	L	L	6.2.1, 6.3.2, 6.4.2, 6.5.2, 6.9.1, 6.10.2, 7.1.2
<b>PUBLIC AND CIVIC USES</b>																						
Government Facilities	All government facilities, except as listed below	L/m	L/m	L/m	L/m	L/m	L/m	P	P	P	P	P	P	P	‡L/m		‡	‡	‡	‡	‡	5.3.3F
Medical Facilities	All medical facilities, except as listed below							P	P	P	P	P	P		‡		‡	‡	‡	P	P	
Utilities	Major utilities	L/m	L/m	L/m	L/m	L/m	L/m		L/m	L	L	L	L	L	‡L/m		‡L	‡L		m	M	5.3.3M
<b>COMMERCIAL USES</b>																						
Overnight Accommodations	Diet house								P	P	P				‡		‡		‡	P	P	
Restaurants	All restaurants, except as listed below							P	P		P		P		‡		‡	‡	‡	P	P	
	Drive-through facilities								L		L		L		‡		‡L	‡L	‡L			5.3.4I
Retail Sales and Service	All retail sales and service, except as listed below							P	P		L		P		‡	L	‡		‡	P	P	5.3.4B
	Antique shop	L						P	P		P		P		‡		‡		‡	P	P	5.3.4C
	Art, music, dance, photographic studio or gallery							P	P	P	P		P		‡		‡	‡	‡	P	P	
	Convenience store with gasoline sales								L		L		L		‡		‡L		‡L	L	L	5.3.4G
	Drive-through facilities								L		L		L		‡		‡L		‡L			5.3.4I
	Veterinary clinic, animal hospital, kennel	L						L	L	L	L		L	L	‡L		‡L	‡L	‡L	L	L	5.3.4V
<b>OFFICE</b>																						
Office	All offices, except those listed below							P	P	P	P	P	P		‡		‡	‡	‡	P	P	
	Conference center, retreat house	L/m						L		L	L	L			‡		‡L	‡L	‡L	L	L	5.3.5A
	Drive-through facilities								L	L	L	L	L		‡		‡L	‡L	‡L			5.3.4I

		RESIDENTIAL					NONRESIDENTIAL					PLANNED			DESIGN							
USE CATEGORY	SPECIFIC USE	RR	RS	RS-M	RU	RU-M	RC	CI	CN	OI	CG	SRP	IL	I	PDR	UC	CC	IP	MU	DD	CD	NOTES:
<b>INDUSTRIAL USES</b>																						
<b>Waste-related Service</b>	Transfer stations												L	L								5.3.6G

**PART 6**

[Add principal uses for medical facilities, retail, utilities, and office; remove principal uses in Office due to redundancies with Medical Facilities and Government Facilities use categories]

**Sec. 5.2 Use Categories**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 5.2.4 Public and Civic Use Categories**

**E. Medical Facilities**

<b>Characteristics:</b> Uses providing medical or surgical care to patients. Some uses may offer overnight care.		
<b>Principal Uses</b>	<b>Accessory Uses</b>	<b>Uses Not included</b>
Blood plasma donation center Rehabilitation clinic Medical center Medical clinic Medical laboratory Medical office Hospital Day treatment facility	Ancillary indoor storage Helistop Associated office Cafeteria Chapel, ancillary worship space Day care Housing for staff or trainees Laboratory Limited internal support retail Maintenance facility Meeting area Out-patient clinic Pharmacy Recreational facility	Exclusive care and treatment for psychiatric, alcohol, or drug problems, where patients are residents (see Social Service Institutions) Nursing or medical school not accessory to a hospital (see Educational Facilities) Urgent care or emergency medical office (see Retail Sales and Service)

**J. Utilities**

<b>Characteristics:</b> Public or private infrastructure serving a limited area with no on-site personnel (Minor Utility) or the general community and possibly having on-site personnel (Major Utility).		
<b>Principal Uses</b>	<b>Accessory Uses</b>	<b>Uses Not included</b>
<b>Major Utilities:</b> Waste treatment plant, water tower or tank, water treatment facility, water reclamation facility, solar array power station <b>Minor Utilities:</b> AM/FM/TV/HDTV broadcast facility Electrical substation Gas meter and regulator stations Telephone exchange, water or wastewater pump station Wireless Communication Facility	Control, monitoring, data or transmission equipment Associated storage	Maintenance yard or building (see Light Industrial Service) Utility office (see Office) TV and radio studio (see Office) Reservoir or water supply (see Parks and Open Areas)

**Paragraph 5.2.5 Commercial Use Categories**

**F. Retail Sales and Service**

<b>Characteristics:</b> Companies or individuals involved in the sale, lease or rental of new or used products, or providing personal services or repair to the general public.		
<b>Principal Uses</b>	<b>Accessory Uses</b>	<b>Uses Not included</b>
<p><b>Sales-Oriented:</b>                      Convenience store (with or without gas sales)                      Drive-through facility                      Store selling, leasing or renting consumer, house, and business goods including alcoholic beverages, antiques, appliances, art supplies, baked goods, bicycles, books, cameras, carpet and floor coverings, crafts, clothing, computers, dry goods, electronic equipment, fabric, flowers, furniture, garden supplies, gasoline, gifts, groceries, hardware, house improvement, household products, jewelry, medical supplies, musical instruments, outdoor farmers market, pets, pet supplies, pharmaceuticals, photo finishing, picture frames, plants, printed materials, produce, sporting goods, stationery, tobacco and related products, vehicle parts, and videos</p> <p><b>Personal Service-Oriented:</b>                      Art, music, dance, or photographic gallery or studio                      Athletic, health club                      Bulk mailing service                      Caterer not located in a restaurant                      Dry-cleaning or laundry drop-off facility, laundromat                      Funeral home or mortuary                      Hair, nail, tanning, massage therapy and personal care service                      Photocopy, blueprint, and quick-sign service                      Psychic or medium                      Drop-in/short-term childcare centers                      Security service                      Tailor, milliner, upholsterer                      Taxi dispatch center                      Taxidermist                      Veterinary clinic, animal hospital or kennel                      Urgent care or emergency medical office</p> <p><b>Repair-Oriented:</b>                      Appliance, bicycle, canvas product, clock, computer, gun, jewelry, musical instrument, office equipment, radio, shoe, television or watch repair                      Locksmith</p>	<p>Ancillary indoor storage                      Associated offices                      Food preparation and dining area                      Manufacture or repackaging of goods for on-site sale                      Public recycling drop-off site                      Residential unit for security purposes (single unit)                      Storage of goods                      Car wash at a convenience store with gas sales</p>	<p>Adult videos (see Indoor Recreation)                      Any use that is potentially dangerous, noxious or offensive to neighboring uses in the district or those who pass on public ways by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause (see Heavy Industrial)                      Car wash, except at a convenience store with gas sales (see Vehicle Sales and Service)                      Crematorium (see Light Industrial)                      Food service contractor (see Light Industrial Service)                      Laundry or dry-cleaning plant (see Light Industrial Service)                      Repair or service of motor vehicles, motorcycles, RVs, boats, and light and medium trucks (see Vehicle Sales and Service)                      Restaurant (see Restaurants)                      Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures (see Wholesale Trade)</p>

**Paragraph 5.2.6 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 Conference center, retreat Counseling in an office setting TV or radio studio Utility office	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 Other amenity for the use of on-site employees Internal support retail Restaurants (without drive through)	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) Research, testing, and development laboratory (see Light Industrial Service) Urgent care or emergency medical office (see Retail Sales and Service)

**PART 7**

[Modify various limited use standards to clarify regulations and address deficiencies]

**Sec. 5.3 Limited Use Standards**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 5.3.3 Public and Civic Use Standards**

**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:

On-site parking shall not be permitted in the street yard or side yards.

**M. Utility Facilities**

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

Utility facilities in residential areas or adjoining residential uses shall maintain residential setbacks, be fenced (unless totally enclosed within a structure), and either be screened from view or designed to have a residential appearance.

**Paragraph 5.3.4 Commercial Use Standards**

**G. Convenience Stores with Gas Sales**

Convenience stores with gas sales shall be permitted in accordance with the use table in Sec. 5.1, Use Table, subject to the following:

- 7. One parking space per two fueling stations can be credited towards minimum parking requirements per paragraph 10.3.1, Required Motorized Vehicle and Bicycle Parking.

**S. Vehicle Sales, Leasing, and Rentals**

4. Vehicle sales, leasing, and rental facilities shall meet the following landscaping standards rather than those of Sec. 9.8, Vehicular Use Area Landscaping:
  - c. Plantings shall be located in an area adjacent to the display area and between the display area and the property line.
  - d. Shrubs shall not be required if the display area is more than 50 feet from the right-of-way.

**V. Veterinary Clinics, Animal Hospitals, and Kennels**

Veterinary clinics, animal hospitals, and kennels shall be permitted in accordance with the use table in Sec. 5.1, Use Table, subject to the following:

1. No outdoor runs, kennels, or storage shall be allowed in the PDR and Design Districts.

**PART 8**

[Modify various standards to accessory structures and dwellings, and temporary use permits to clarify regulations and address deficiencies]

**Sec. 5.4 Accessory Uses and Structures**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 5.4.1 Accessory Structures**

Accessory structures shall be subject to the following additional requirements:

**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:
  - a. Except in the RU and RC Districts, the structure shall be no closer than five feet to the rear and side property lines.
  - b. Accessory structures in the RU and RC Districts shall be no closer than three feet to the side and rear property lines.
  - c. Accessory structures in the RR District can be located in front or to the side of the primary structure provided that:
    - (1) It is not located in the street or side yard; and
    - (2) It is on a lot at least two acres in size.

2. Accessory structures in design districts shall be located to the rear of the rear building line of the primary structure(s) and shall be subject to the side and rear yard requirements of those districts.
  3. Accessory structures for all other development not indicated above shall be located to the side or rear of the primary structure, but not within side or rear yards. For developments with more than one primary structure, the primary structure located closest to the right-of-way shall be used to locate the accessory structure.
- C. Any accessory structures located less than five feet from the property line shall construct a wall meeting North Carolina Building Code Standards for fire obstruction on that side of the structure facing the property line.

**Paragraph 5.4.2      Accessory Dwellings**

Accessory dwellings shall be subject to the following additional requirements:

**Sec. 5.5            Temporary Uses**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 5.5.2      Specific Temporary Uses**

**H. Outdoor Sales**

2. Nonresidential

Temporary use permits shall only be issued in commercial districts for activities that occur outside of any public right-of-way, required parking and loading, and required landscaping. The following outdoor sales in commercial districts shall not require a temporary use permit:

- a. Mobile food vendors within the DD District or on construction sites that are regulated by the Durham County Health Department;
- b. Mobile vendors outside of the DD District that are occupying private property within a commercial zoning district for four hours or less;
- c. Mobile ice cream vendors;
- d. Outdoor displays in compliance with Sec. 7.5, Outdoor Display and Storage; or
- e. Sales of home grown produce.

**PART 9**

[Modify cluster subdivision lot standards to clarify certain dimensional requirements]

**Sec. 6.7            Cluster Subdivision**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 6.7.6      Perimeter Treatment**

Property on the edge of cluster developments shall either:

- B. Be platted as single-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.

**PART 10**

[Clarify building placement standards in relation to the right-of-way; clarify permitted street yard variations for uses that are vehicle dependant; and clarify open space requirements for residential use in nonresidential districts]

**Sec. 6.10 Nonresidential District Development Intensity**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 6.10.1 Nonresidential Development Standards**

**C. Urban Tier**

**2. Standards for the CN, OI, and CG Districts**

Dimensional Standard	CN		OI		CG	
	Min.	Max.	Min.	Max.	Min.	Max.
Site Area (square feet)	5,000	---	20,000	---	20,000	---
Project Floor Area (square feet)	---	20,000	---	---	---	---
Lot Width (feet)	50	---	50	---	100	---
Street Yard <sup>1</sup>						
From ROW (feet)	---	15	---	15	---	15
Side Yard (feet)	10	---	10	---	15	---
Rear Yard (feet)	25	---	25	---	25	---
Building Coverage (%) <sup>2</sup>	---	60	---	60	---	60
Height (feet)	---	35	---	90	---	50

<sup>1</sup>Street Yard may be modified using the provisions of paragraph 6.10.1E, Street Yard Variations.

<sup>2</sup>Building coverage may be further restricted by the impervious surface requirements of paragraph 8.7.2B, Impervious Surface Limits.

- a. Structure(s) shall be oriented such that at least one of the following standards is met:
  - (1) The longest building facade is parallel to the street; or
  - (2) The street-facing building facade occupies at least 60% of the total street frontage.

- b. [Text remains unchanged]
- c. [Text remains unchanged]
- d. [Text remains unchanged]

**3. Standards for the IL and I Districts**

Dimensional Standard	IL		I	
	Min.	Max.	Min.	Max.
Site Area (square feet)	5,000	---	25,000	---
Lot Width (feet)	50	---	100	---
Street Yard				
From ROW (feet)	---	20 <sup>1</sup>	40	---
Side Yard (feet)	15	---	40	---
Rear Yard (feet)	25	---	40	---
Building Coverage (%)	---	60	---	65 <sup>2</sup>
Height (feet)	---	50	---	90

<sup>1</sup> Street yard may be modified using the provisions of paragraph 6.10.1E, Street Yard Variations.

<sup>2</sup> Building coverage may be further restricted by the impervious surface requirements of paragraph 8.7.2B, Impervious Surface Limits.

- a. In the IL District, structure(s) shall be oriented such that at least one of the following standards is met:
  - (1) The longest building facade is parallel to the street; or
  - (2) The street-facing building facade occupies at least 60% of the total street frontage.
- b. [Text remains unchanged]
- c. [Text remains unchanged]

**D. Compact Neighborhood Tier**

**2. Standards for the CN and OI Districts**

Dimensional Standard	CN		OI	
	Min.	Max.	Min.	Max.
Project Floor Area (square feet)	---	20,000	---	---
Lot Width (feet)	50	---	50	---
Street Yard <sup>1</sup>				
From ROW (feet)	---	15	---	15
Side Yard (feet)	10	---	10	---
Rear Yard (feet)	15	---	15	---
Height (feet)	---	35	---	120

<sup>1</sup> Street yard may be modified using the provisions of paragraph 6.10.1E, Street Yard Variations.

- a. Structure(s) shall be oriented such that at least one of the following standards is met:
  - (1) The longest building facade is parallel to the street; or
  - (2) The street-facing building facade occupies at least 60% of the total street frontage.
- b. [Text remains unchanged]
- c. [Text remains unchanged]
- d. [Text remains unchanged]

**3. Standards for the CG and IL Districts**

Dimensional Standard	CG		IL	
	Min.	Max.	Min.	Max.
Lot Width (feet)	50	---	50	
Street Yard <sup>1</sup>				
From ROW (feet)	---	15	---	15
Side Yard (feet)	10	---	15	---
Rear Yard (feet)	15	---	15	---
Height (feet)	---	90	---	50

<sup>1</sup> Street yard may be modified using the provisions of paragraph 6.10.1E, Street Yard Variations.

- a. Structure(s) shall be oriented such that at least one of the following standards is met:
  - (1) The longest building facade is parallel to the street; or
  - (2) The street-facing building facade occupies at least 60% of the total street frontage.
- b. [Text remains unchanged]
- c. [Text remains unchanged]
- d. [Text remains unchanged]
- e. [Text remains unchanged]

**E. Street Yard Variations**

- 5. In the Urban and Compact Neighborhood Tiers, except within CD Districts, the maximum street yard shall be considered a minimum street yard for the following primary uses:
  - a. Fuel sales.
  - b. Vehicle sales.

**Paragraph 6.10.2 Residential Development in Nonresidential Districts**

**B. Residential Density**

- 1. The residential density shall be based only on that portion of the tract dedicated to the residential use and the maximum residential density (shown as units per acre) allowed shall be as shown in the table below:

District	Rural	Suburban	Urban	Compact
CI	---	---	14 <sup>1,2</sup>	14 <sup>1,2</sup>
CN	0.2	8.7 <sup>1</sup>	10.5 <sup>1,2</sup>	14 <sup>1</sup>
OI	---	10.5 <sup>1</sup>	14 <sup>1,2</sup>	17.5 <sup>1</sup>
CG	0.2	10.5 <sup>1</sup>	14 <sup>1,2</sup>	17.5 <sup>1</sup>

<sup>1</sup> Density may be increased through use of the Sec. 6.6, Affordable Housing Density Bonus.

<sup>2</sup> Density may be increased through use of the options available under paragraph 6.4.3, Residential Density.

4. The minimum lot size for residential units shall conform to the smallest lot size allowed for the units of the type proposed within the Tier pursuant to Sec. 7.1, Housing Types.

**C. Open Space**

Open space shall be provided in all residential developments within nonresidential districts pursuant to the table below.

Tier	Open Space
Rural and Suburban	18% of gross area
Urban	6% of gross area
Compact Neighborhood	Core - 2% of gross area; Support - 5% of gross area

**PART 11**

[Modify terminology regarding the initial establishment of certain zoning districts; revise building placement standards in the CC District to remove existing conflicts; remove redundancies in open space requirements in the MU District]

**Sec. 6.11 Planned Districts**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 6.11.3 Planned Development Residential (PDR)**

**B. Dimensional Requirements**

**1. Site Area**

- a. The minimum area required for the initial approval of the zoning district shall be as follows:
  - (1) Within the Urban Tier, a minimum of two contiguous acres shall be required.
  - (2) Within the Suburban Tier, a minimum of four contiguous acres shall be required.

**Paragraph 6.11.5 Commercial Center (CC)**

**C. Development Standards**

1. Within the Suburban Tier, residential development shall conform to the standards of the RS-M District.
2. Within the Urban and Compact Neighborhood Tiers, residential development shall conform to the standards of the RU-M District.
3. When a conflict occurs between this section and the RS-M or RU-M standards for open space, site area, or lot area, the stricter rules shall apply.

**D. Density**

1. Within the Suburban Tier, the maximum density shall be 12 units per acre.
2. Within the Urban Tier, the maximum density shall be 16 units per acre.
3. Within the Compact Neighborhood Tier, the maximum density shall be 17.5 units per acre.

**E. Height**

[Text remains unchanged]

**F. Access**

[Text remains unchanged]

**G. Yards**

1. All non-residential and upper-story residential structures shall maintain yards per the CG District within the applicable tier.
2. Apartment and multiplex structures shall maintain yards per the applicable housing type in Sec. 7.1, Housing Types.

**H. Sidewalks**

[Text remains unchanged]

**Paragraph 6.11.7 Mixed Use (MU)**

**H. Open Space**

**1. Suburban Tier**

At least 10% of the gross acreage of the entire site shall be devoted to open space, unless the project is located in a Suburban Transit Area as designated in the Comprehensive Plan. Projects in these areas may reduce the open space requirement to 2% of the gross acreage of the site.

**2. Urban Tier**

At least 5% of the gross acreage of the site shall be devoted to open space.

**3. Compact Neighborhood Tier**

At least 2% of the gross acreage shall be devoted to open space.

**N. Additional Requirements**

1. Construction of bus shelters shall be mandatory wherever the project includes or is adjacent an existing or previously identified transit line extension proposed in adopted documents by DATA, Triangle Transit, or another public transit provider.

**PART 12**

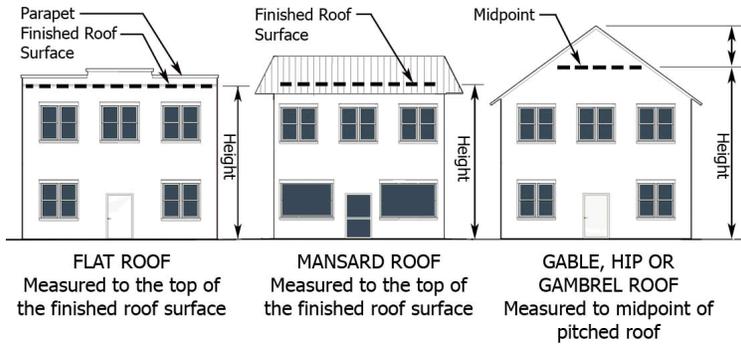
[Modify text to clarify how height, density, and fenestration requirements are calculated]

**Sec. 6.13 Measurement and Computation**

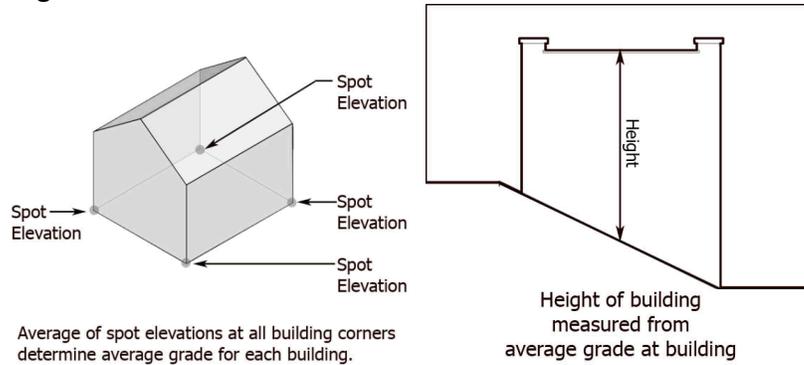
[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 6.13.1 Height**

- A.** Height shall be calculated by the vertical distance from the average of the finished ground level to the finished roof surface of a flat roof or the point at the average height of a roof having a pitch, except for mansard roofs, which shall be measured to the highest finished surface. For buildings with more than one facade along the street, each building facade shall be measured independently. Height for any building with multiple roof levels shall be determined by the highest roof level.



1. The average finished ground level shall be calculated by averaging the spot elevations for all building corners on a single structure. Multiple unattached structures on the same site shall have independently calculated average grade for the purposes of measuring the height of each individual structure.



2. [Text remains unchanged]
3. [Text and diagram remain unchanged]

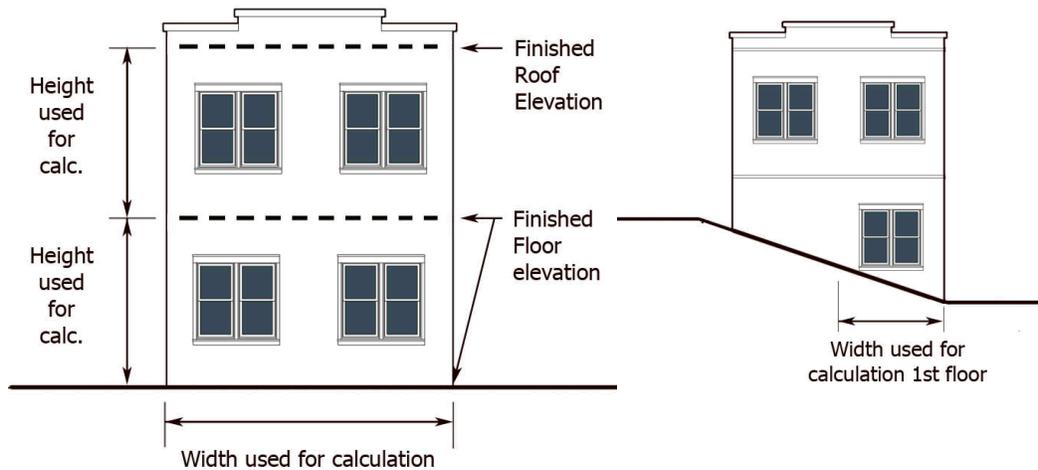
- B. The height limitations shall not apply to steeples, decorative features including parapet walls less than four feet, air conditioning units, utility poles, mechanical features, penthouses for mechanical equipment or stairways, belfries, lightning rods, antennas, water towers, clock towers, or other towers which are not used for transmitting and receiving electronic signals.

**Paragraph 6.13.4 Density**

Other than calculating the density bonus area pursuant to paragraph 6.4.3A, Major Roadway Density Bonus Area, all existing right-of-way and dedications to expand existing right-of-way shall be excluded from the calculation of the area of a project for density purposes. Right-of-way shall mean the ultimate right-of-way of a roadway as established by NCDOT or the City of Durham, as appropriate.

**Paragraph 6.13.5 Fenestration**

- A. The percentage of building facade glazing shall be calculated from the finished floor elevation to the next finished floor elevation or finished roof surface.
- B. Parapets, foundation walls, and at- or below-grade retaining walls, where there is no habitable space behind the walls, shall be excluded from glazing calculations.



## PART 13

[Modify text to clarify open space requirements; other miscellaneous text corrections in Article 7]

### Sec. 7.1 Housing Types

[Paragraphs within this section, but not listed, remain unchanged]

#### Paragraph 7.1.2 Single-Family Detached House

##### A. Description

A single-family detached house is located on an individual lot with yards on all four sides of the house. Vehicular access may take place from the front, side, or rear of the lot.

#### Paragraph 7.1.3 Zero Lot Line House

##### A. Description

A zero lot line house is a single-family detached house positioned on one lot line without any setback from that lot line, with yards on the other three sides of the building including a wider side yard on one side.

### Sec. 7.2 Open Space

[Paragraphs within this section, but not listed, remain unchanged]

#### Paragraph 7.2.3 Use of Required Open Space

- A. Where open space is required, at least one-third shall consist of useable open space per the types and percentages indicated in the following table.

**1. Table of Useable Open Space**

Types of Usable Open Space	Maximum Percent by Tier		
	Suburban	Urban	Compact
Property developed for active recreational purposes (ballfields, tennis or basketball courts, golf courses, swim clubs, etc.)	50%	50%	50%
All-weather walking paths, bicycle trails, benches, picnic tables, shelters, gazebos, prepared play areas, play equipment	50%	50%	50%
Publicly accessible plazas and courtyards	---	100%	100%

**2. Exemptions**

Useable open space is not required in the Rural Tier or for nonresidential development in residential districts.

3. Except for walking paths and bicycle trails, useable open space areas shall have at least one side with street frontage of at least 50 feet in length, and shall be accessible to residential development by sidewalks, pursuant to Article 12, Infrastructure and Public Improvement.
  4. In the Urban Tier, useable open space shall be located so that at least 95% of the residential units in the subdivision or development are within a 1,300-foot walking distance of useable open space.
  5. In the Suburban Tier, useable open space shall be located so that at least 95% of the residential units in the subdivision or development are within a 2,600-foot walking distance of usable open space.
  6. In the MU District, usable open space shall be located in a central commons area around which different uses are located.
    - a. If the development is greater than 100 acres, multiple common areas shall be provided.
    - b. Central commons areas are not required if the entire mixed use development is solely vertically integrated.
- B. The remaining required open space, and 100% of required open space where usable 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
<b>Natural or Vegetated</b>				
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%
<b>Useable</b>				
Property developed for active recreational purposes (ballfields, tennis or basketball courts, golf courses, swim clubs, etc.).	100%	50%	50%	50%
All-weather walking paths, bicycle trails, benches, picnic tables, shelters, gazebos, prepared play areas, play equipment	100%	50%	50%	50%
Publicly accessible plazas and courtyards	---	---	100%	100%
<b>Other</b>				
Stormwater management and community wastewater disposal systems. Easements for drainage, access and underground utilities	25%	25%	50%	50%
Land dedicated per Sec. 12.5, Recreation Land	100%	100%	100%	100%

**Paragraph 7.2.5 Ownership and Management of Open Space**

- A. Land set aside as open space in residential developments shall be held in common ownership or dedicated to the public rather than platted as part of individual private lots.
- B. [Text remains unchanged]
- C. [Text remains unchanged]
- D. [Text remains unchanged]
- E. Open space that has been dedicated to an established homeowner's association may be transferred with a permanent conservation easement to a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements pursuant to paragraph 7.2.5C.1.a above, if approved by the appropriate governing body.

**Sec. 7.6 Utility and Trash Handling**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 7.6.2 Location**

All utilities (including heating or air conditioning units and other mechanical equipment) and trash handling facilities shall be located on the same lot as the use served unless shared facilities are approved by the Development Review Board. Such facilities shall be located beyond the minimum or maximum street yard, as applicable.

**PART 14**

[Modify text to clarify tree coverage, mass grading, and other landscaping requirements in Articles 8 and 9]

**Sec. 8.3 Tree Protection and Tree Coverage**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 8.3.1 Tree Coverage Standards**

**B. Applicability**

2. Developments in the RR and RS-20 Districts, and developments of less than four acres in size in the Urban Tier, shall be exempt from tree coverage requirements if enforceable assurances are provided that no mass grading as defined in Sec. 16.3, Defined Terms, or clear-cutting as defined in paragraph 8.3.4, Clear-Cutting, will be utilized during the development process.

**C. Tree Coverage**

2. Site plans for additions to development shall provide tree coverage as a percentage of the area proposed for disturbance, unless tree coverage in an amount consistent with the required amounts of this Ordinance was provided on the original site plan for the original development.
5. For the purposes of calculating tree coverage requirements, the following shall be excluded from the total area of the development tract:
  - a. The water surface area of ponds, lakes and other water bodies (excluding stormwater control structures).
  - b. Right-of-way dedication for the widening of existing road right-of-way.

**Paragraph 8.3.3 Tree Survey**

**B. Land Disturbance Tree Survey**

[Text remain unchanged]

**Sec. 9.3 Existing Vegetation Credits for Required Landscaping**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 9.3.2 Existing Trees**

- D. Existing trees located within 30 feet of power lines or within utility easements shall not be eligible to receive credit, unless the tree is a species appropriate for underneath power lines or received approval to be located within the utility easement.

**Sec. 9.5 Mass Grading Buffers and Revegetation**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 9.5.1 Mass Grading Buffers**

**A. Applicability**

1. Mass grading, as defined in Sec. 16.3, in the Rural, Suburban and Urban Tiers where no other site improvements are proposed shall require perimeter mass grading buffers at all exterior lot lines pursuant to this section.
2. Buffers required by this section shall no longer be required upon approval of a site plan for other site improvements, although buffers may be required by other provisions of this Ordinance. If such a site plan or a final plat is approved, the required mass grading buffer shall be retained until a project boundary buffer pursuant to Sec. 9.4, Project

Boundary Buffers, is installed. A preliminary plat does not relieve the applicant of the requirements of this paragraph.

3. A site plan for buildings, not just utilities, must be approved to be relieved of the requirements of this section.

## **B. Buffer Standards**

### **1. General**

No grading shall be allowed within mass grading buffers except to provide reasonable access and for utility installation. All crossings and intrusions into the mass grading buffer shall be at an angle between 75 and 105 degrees, with minimal disturbance to the buffer.

### **2. Adjoining Other Properties**

- a. Perimeter mass grading buffers adjoining other properties (along exterior property lines), shall be a minimum of 32 feet in width, measured perpendicular to the boundary of the site, and in place prior to any mass grading, unless the adjoining property is undeveloped and has had no applications for development filed, in which case no mass grading buffers shall be required on those sides of the site proposed for disturbance.
- b. Such buffers, when required, shall consist of existing vegetation with supplemental vegetation added, when necessary, that meets or exceeds an average opacity of 60% every 100 feet as determined through use of the interactive buffer model pursuant to paragraph 9.4.7, Interactive Buffer Model, or use of the appropriate table in paragraph 9.4.5, Constructed Buffer.

### **3. Adjoining Public Rights-of-Way**

- a. Mass grading buffers along public rights-of-way shall be at least 50 feet in width measured perpendicular to the boundary of the site and shall be in place prior to any land disturbing activity.
- b. Such buffers shall consist of preserved vegetation with supplemental vegetation added, when necessary, that meets or exceeds an opacity of 80% on average every 100 feet, as determined through use of the interactive buffer model pursuant to paragraph 9.4.7, Interactive Buffer Model, exclusive of areas for reasonable access or for utility installation.

## **Paragraph 9.5.2 Exemption**

Forestry activities conducted in conformance with a Forest Management Plan that uses the current best management practices set out in “North Carolina Forestry Best Management Practices Manual To Protect Water Quality,” as amended, as adopted by the North Carolina Department of Environment and Natural Resources, shall not require a mass grading buffer; however, if required buffers are not provided consistent with the requirements of paragraph 8.3.4, Clear Cutting, development of the site shall be prohibited for a period of three or five years (in the City) or three years (in the County) from the date of forestry activities.

**Paragraph 9.5.3      Revegetation**

**A. Applicability**

2. Revegetation required by this section shall not be required upon approval of a site plan for site improvements for that portion of the development tract with such improvements proposed. The remainder of the development tract shall continue to require revegetation until a site plan showing other site improvements is approved. A preliminary plat does not relieve the applicant of the requirements of this paragraph.
3. Revegetation is required only where land disturbing activity has taken place, and no site plan for improvements has been approved within two years.

**B. Revegetation Standards**

1. So long as the required mass grading buffers pursuant to this section have been provided and maintained, revegetation of a tract with a ground cover sufficient to restrain erosion shall satisfy the requirement for revegetation.
2. If the required mass grading buffers were not provided and maintained, revegetation of a tract shall create a biological community composed of a mixed and variable assemblage of native vegetation which is appropriate for the existing site conditions with at least three different species of trees native to Durham County and a tree density of at least 200 living trees per acre, with at least 50% of those trees having the potential of attaining a two and one-half inch or greater dbh within seven years.

**PART 15**

[Modify or add text to clarify certain parking requirements]

**Sec. 10.2      General Requirements**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 10.2.2      Facilities Required**

- B.** Commercial and office developments which provide 400 or more parking spaces shall designate at least 5% of the required spaces as “Park and Ride” spaces; however, no more than 100 spaces shall be required. A sign or signs shall be used to designate that the spaces are reserved for park and ride use during non-holiday weekdays between 6 AM and 6 PM. Park and ride spaces, for the purpose of this paragraph, shall be defined as spaces to be occupied by vehicles left by individuals who transferred to other modes of transportation for the remainder of their trip to an off-site location (for example, a driver who transferred from a car to a bus or carpool for the remainder of the trip to work or school). Bus shelters may be required in the vicinity of the Park and Ride area if the DRB determines that DATA, Triangle Transit, or another publicly-sponsored transit provider would benefit from the improvements.

**Paragraph 10.2.3      Vehicle Parking Permitted in Residential Districts and Uses**

- D.** Domestic and recreational vehicles such as boats, camper trailers, and utility trailers shall be stored off the street and shall not be located in street and side yards. Multifamily developments may designate a specific area on a site plan for boat and trailer parking for residents of the development.

**Sec. 10.3 Required Parking**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 10.3.1 Required Motorized Vehicle and Bicycle Parking**

**A. Motor Vehicle Parking in Rural, Suburban, Urban, and Compact Neighborhood Tiers**

**1. Minimum** [Text remains unchanged]

[Portions of table not depicted remain unchanged]

Use Category	Specific Use	Rural, Suburban, and Urban, Tiers Minimum Motor Vehicle Spaces	Compact Neighborhood Tier Minimum Motor Vehicle Spaces	Minimum Bicycle Parking, except in the Downtown and Compact Neighborhood Tiers
<b>COMMERCIAL USES</b>				
Retail Sales and Service	For developments with more than one business: Storage used as general storage for the facility	1 per 1,000 SF floor area	1 per 1,200 SF floor area	No spaces required
<b>INDUSTRIAL USES</b>				
Light Industrial Service	All light industrial service, except as listed below	1 per 1,000 SF floor area	1 per 1,200 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 300 SF floor area of office space + 1 per 1,200 SF floor area of laboratory+ 1 per 6,000 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

**PART 16**

[Re-locate and modify existing text under paragraph 13.6.3 to Article 12, Section 12.2, as a new paragraph in order for standards to apply to multi-family residential development, with exceptions, in addition to subdivisions]

**Sec. 12.2 Ingress and Egress Requirements**

[Paragraphs within this section, but not listed, remain unchanged]

**Paragraph 12.2.4 External Access Required**

- A. Except in the Downtown Tier, external motor vehicle access to development shall be provided as indicated below. In determining the number of access points that shall be required, the cumulative impacts of prior developments on the roads shall be considered.
  1. For developments with 90 or fewer dwelling units, at least one point of access to the roadway network shall be provided.
  2. For developments with 91 to 179 dwelling units, at least two points of access to the roadway network shall be provided.
  3. For developments with 180 or more dwelling units, excluding apartments, upper-story residential, and developments within the Compact Design Districts, at least three points of access to the roadway network shall be provided.
- B. A divided entrance shall count as one point of access.
- C. Where a stream crossing that is required to meet the standards is rejected by the North Carolina Department of Environment and Natural Resources (DENR) and such information is provided to the Development Review Board (DRB), an exception shall be made by allowing fewer external access points into the subdivision.

- D. The DRB may approve variations in the requirements of this section when additional access points are precluded in the following circumstances:
1. If the only additional access points available would require crossing floodplains, steep slopes, or other similar natural features; or
  2. When the existing development pattern precludes additional access points and fewer units than would otherwise be allowed would be out of character with the surrounding development.

## **PART 17**

[Modify text to clarify requirements]

### **Sec. 12.4 Pedestrian and Bicycle Mobility**

[Paragraphs within this section, but not listed, remain unchanged]

#### **Paragraph 12.4.4 Standards for Pedestrian and Bicycle Facilities**

- D. The minimum width of internal walkways shall be pursuant to all applicable accessibility requirements.

### **Sec. 12.11 Performance Guarantees**

[Paragraphs within this section, but not listed, remain unchanged]

#### **Paragraph 12.11.1 Filing of Performance Guarantees**

Performance guarantees, as described below, in an amount determined at the reasonable discretion of the director or designee of the City or County department(s) responsible for supervision and/or acceptance of the constructed infrastructure, shall be required for delays in completion of necessary infrastructure improvements, landscaping, and committed elements. 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.

## **PART 18**

[Update text to recognize the City Transportation Department's authority for certain requirements]

[Paragraphs not listed remain unchanged]

### **Paragraph 3.1.1B.3**

Paragraph 12.3.1, Street Layout, the Public Works Director or City Transportation Director or designee, as applicable, shall be authorized to make all interpretations concerning the provisions of this section.

### **Paragraph 3.2.2C**

A mandatory pre-application conference with the City Transportation Director, or designee shall be required for the following development reviews:

1. Traffic impact analysis; and
2. Traffic impact analysis major special use permit.

**Paragraph 3.3.3B Determination**

The City Transportation Director, or designee shall determine whether a development application meets the criteria in paragraph A, above, and shall determine whether one TIA shall be required for all of the aggregated development, or whether multiple TIAs may be employed for separate phases of the development.

**Paragraph 3.3.4 Pre-Application Conference**

The applicant shall schedule a pre-application meeting with the City Transportation Director or designee to discuss procedures, standards, and regulations required for TIA submittal and approval.

**Paragraph 3.3.5A Content**

The City Transportation Director or designee shall set forth specific guidelines for preparation of TIAs. A TIA shall, at a minimum, provide the following information: [Text remains unchanged]

**Paragraph 3.3.5C Sources of Data**

Estimates of vehicle trips shall be calculated based on trip generation rates from the most recent edition of the Trip Generation Manual published by the Institute of Transportation Engineers, unless an alternative source of information is approved by the City Transportation Director or the NCDOT.

**Paragraph 3.3.7 Coordination with Zoning Map Changes, Site Plans, and Preliminary Plats**

Transportation mitigation measures may be required to address issues raised by a TIA, or as part of the approval of a Transportation Special Use Permit (TSUP.) Such measures may include, but not be limited to, onsite and offsite improvements related to reduction of traffic impact on the surrounding road system, bicycle facilities, pedestrian movement, and the environment. These measures shall be conditions of development approval. Deletion or modification of these conditions shall require the same approval process that was required for the original project, unless the approved mitigation measure is deemed to conflict with NCDOT or City Transportation Department requirements, in which case they may be deleted or modified by the Development Review Board.

**Paragraph 6.11.3A.3.d**

Nonresidential uses shall be located with street access deemed adequate by the City Transportation Department.

**Paragraph 6.11.7M.2**

The City Transportation Department or NCDOT, as appropriate, shall review the Development Plan as well as the projected on-site and off-site traffic impacts, and determine that the mixed use project is designed to adequately provide for transportation needs.

**Paragraph 6.11.7M.3**

The City Transportation Department or NCDOT, as appropriate, may recommend that the governing body require the developer to limit access points, provide additional lanes, install traffic islands, provide transit facilities, install traffic signals, or make other improvements to assure traffic safety.

**Paragraph 9.6.2A**

In all developments outside the CI or DD District except residential development exempted pursuant to paragraph 9.6.1, Applicability, the developer shall either retain or plant trees such that there is an average of at least one street tree for every 40 feet of street frontage along the sides of all existing and proposed rights-of-way (except alleys), and private street easements. Street trees shall be located within 30 feet of the right-of-way or street easement and in a street yard unless the City Public Works Director in consultation with the City Transportation Director or City Urban Forestry Division, as applicable, or the NCDOT, or designees, as appropriate, authorize their location in a right-of-way and, if the trees are existing trees, the root protection zone outside of the right-of-way is protected, except where the location of the street trees in the right-of-way will conflict with public utilities. If a conflict exists with public utilities, street trees shall be located in the required street yard.

**Paragraph 9.6.2D.2**

Street trees shall be located in the right-of-way or street easement unless the Public Works Director in consultation with the City Transportation Director or City Urban Forestry Division, as applicable, or NCDOT, as appropriate, requires an alternate location or requires the use of a Street Tree Alternative pursuant to paragraph 9.6.2D.3, below.

**Paragraph 9.6.4C**

In the Suburban and Rural Tiers street trees shall not be located in, or within four feet of, any street right-of-way without prior approval from the City Public Works Director in consultation with the City Transportation Director or City Urban Forestry Division, as applicable, or the NCDOT, or designees, as appropriate.

**Paragraph 9.6.4D**

In the Suburban and Rural Tiers, at least 250 square feet of contiguous growing area without encroachments shall be provided for each tree. The Public Works Director, or designee, in consultation with City Urban Forestry Division, shall have the authority to approve a street tree growing area of smaller size where special features are utilized in the site design to provide for adequate growth of street trees.

**Paragraph 10.4.2A.5**

Parking spaces using geometric standards other than those specified in this Ordinance may be approved if developed and sealed by a registered engineer with expertise in parking facility design subject to a determination by the City Transportation Director, or designee, that the proposed facility will satisfy off-street parking requirements as adequately as would a facility using standard Ordinance dimensions.

**Paragraph 10.6.1 Vehicle Stacking Areas**

The vehicle stacking standards of this subsection shall apply unless otherwise expressly approved by the City Transportation Director or NCDOT, or appropriate designees. Additional stacking spaces may be required where trip generation rates suggest that additional spaces will be needed.

**Paragraph 10.6.3C Design**

Stacking spaces shall be separated from other internal driveways by raised medians if deemed necessary by the City Transportation Director or NCDOT, or appropriate designees, for traffic movement and safety.

**Paragraph 12.3.1 Street Layout**

Within any proposed development, the proposed street layout shall be coordinated with the existing and planned street system of the surrounding area, with respect to location, alignment, and cross-section. Street design shall satisfy the minimum requirements of the City Public Works Director, City Transportation, NCDOT, or applicable designees. The following street standards may be modified or varied by the approving authority in order to accommodate unique conditions.

**Paragraph 12.3.1C Intersections**

[Paragraph 3 remains unchanged]

1. Street intersections shall be as nearly at right angles as possible with no intersection angle less than the minimum established by the City Transportation Department or NCDOT, as applicable.
2. Offset intersections shall be avoided. Intersections on streets which cannot be aligned shall be separated by a minimum distance determined by the City Transportation Department or NCDOT, as applicable, considering possible signalization, necessary storage, and sight distance, as well as other design constraints.
4. Property lines at corners of all intersecting streets shall, as a minimum, be established as the hypotenuse of a triangle with each leg having a length of at least 20 feet or as required by the City Transportation Department or NCDOT along both street rights-of-way.

**Paragraph 12.3.1D.4.b**

Approval of alternative standards shall be subject to a determination by the City Transportation Director or designee that the proposed standards will function as adequately or better than standard Ordinance dimensions.

**Paragraph 12.3.1E Cul-de-sac Streets**

Cul-de-sac streets shall not be longer than 800 feet and shall be terminated by a circular right-of-way having a minimum diameter of 92 feet or an approved alternative turnaround as determined by the City Transportation Director or NCDOT, or appropriate designees. The length

of cul-de-sac streets shall be measured from the centerline of the bulb to the edge of pavement at the nearest intersection.

**Paragraph 12.3.3A**

Standard street name signs shall be installed at one corner of all street intersections, including private streets and named driveways allowed for access within townhouse developments under paragraph 12.2.2B.2.b above. The size, design, materials, location, fabrication, installation, and maintenance of the signs and poles within the public right-of-way and elsewhere shall be in accordance with City Transportation Department or NCDOT standards, as applicable. The developer or owner of a private street or a common area in which a named driveway is located shall be responsible for permanent maintenance as well as fabrication and installation.

**Paragraph 12.3.4 Street Lights**

Street lighting, as required for traffic safety and property security, shall be installed in conformance with City Transportation Department or NCDOT policies, as applicable. The design, materials, location, and installation shall conform to all applicable City Transportation Department or NCDOT standards, and applicable public utility standards, including appropriate separation from street trees.

**Paragraph 12.4.5B Bicycle Facilities**

Either wide outside travel lanes or bicycle lanes, as determined by the City Transportation Director or NCDOT, or appropriate designees, shall be a part of any road improvement made on roadways which are indicated as bicycle routes on the Durham Trails and Greenways Master Plan, the Metropolitan Planning Organization's Transportation Plan, or other adopted bicycle plan.

**Paragraph 12.4.5D Standards**

Pedestrians and bicycles shall be accommodated as shown in the table below. All street design standards shall be established by the City Transportation Director or NCDOT, or appropriate designees.

**Paragraph 13.4.2B**

Each block shall be a minimum of one acre and a maximum of 3.5 acres in size, except that a block that is greater than 3.5 acres but less than five acres in size shall be allowed if a pedestrian mall under paragraph 6.12.3E.1, Pedestrian Mall Standards, or a public alley approved by the City Transportation Director or designee is provided in lieu of right-of-way to create de facto blocks that meet the size requirements of this section;

**Paragraph 13.6.1B.2**

Rights-of-way shall intersect at right angles, unless otherwise allowed by the City Transportation Director or designee where the site design demonstrates that the intersections do not have a negative effect on public safety or services, including but not limited to pedestrian mobility, emergency response, or trash collection.

## **PART 19**

[Update text to clarify and add defined terms]

### **Sec. 16.3 Defined Terms**

[Definitions within this section, but not listed, remain unchanged]

**Day Care Facility:** A place that provides for the care of children or adults. Those receiving care are not all related to each other by blood or marriage and are not legal wards or foster children of the attendant adults, and for which care a payment, fee, or grant is made. A daycare home, preschools integrated into the curriculum of a public or private school or not regulated by the State as a daycare facility, and retail drop-in/short-term childcare centers shall not be considered daycare facilities.

**Day Treatment Facility:** A facility licensed through the NC Department of Health and Human Services, Division of Medical Assistance, which provides supplemental therapeutic or clinical services coordinated with academic and/or vocational services for children and adolescents with mental health or substance abuse treatment needs, and their families. No overnight accommodations are provided.

**Drop-In/ Short-Term Childcare Centers:** Retail businesses that provide care for individuals on an hourly basis, do not offer enrollment, and do not require daycare licensing by the State.

**Initial Zoning Map Change:** A zoning map change that establishes the City's zoning authority over newly annexed territory, per NC General Statute 160A-360(f), or establishes the County's zoning authority over newly relinquished territory, per NC General Statute 160A-360(f1).

**Lot of Record:** A parcel of land described by metes and bounds on a plat recorded in the office of the Register of Deeds of Durham County.

**Mass Grading:** The grading of four acres or more at one time to prepare one or more lot(s) for construction.

**Night Club:** An establishment that stays open after 10:00 p.m. on weekends or on more than an occasional basis that offers food and beverages or entertainment or amusements. This definition includes but is not limited to establishments that serve beverages to persons aged 21 and older, dance halls, discotheques, and similar establishments. Excluded from this definition are restaurants that meet both the requirements established by definition in this Ordinance and in NCGS §18B-1000(6), adult establishments, retail stores, convenience stores, clubs used by nonprofit organizations, lodges used by nonprofit organizations, theaters, health athletic facilities, and other indoor recreation uses where the serving of food or alcohol is accessory to the primary use.

**Root Protection Zone:** The permeable land area around the base of a tree in which disturbances are prohibited in order to protect the roots of a tree and aid the trees survival. Root protection zones are measured as the greater of:

- A. Six-foot radius around the tree; or
- B. One-foot radius for every inch of dbh.

**School, Public or Private:** A public or private institution offering a curriculum of education authorized by the State of North Carolina giving regular instruction at the primary, secondary level, or a school for the mentally or physically handicapped. Included in this definition are preschool programs integrated into the curriculum of a public or private school or that does not require daycare licensing by the State. However, this definition does not include day care facilities, preschools operating independent of a public or private school, individual instruction, or classes in a specialized subject.

**Single-Family:** A residential use that permits a maximum of one dwelling unit per lot of record. As described in Sec. 7.1, Housing Types: single-family detached house; zero lot-line house; traditional house; patio house; or semi-attached house. Not to include manufactured housing.

#### **PART 20**

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

#### **PART 21**

That this amendment of the Unified Development Ordinance shall become effective upon adoption. Any site plan submitted prior to the adoption date of this ordinance may be reviewed and approved under the regulations in place at the time of submittal.