

**Attachment A**

**AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE REGARDING OUTDOOR RECREATION AND ACTIVITY IN THE DOWNTOWN DESIGN DISTRICT (TC1100014)**

**WHEREAS**, the Durham City Council wishes to amend certain provisions in the Unified Development Ordinance regarding outdoor recreation and activity in the Downtown Design District; 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 5, Use Regulations, of the Unified Development Ordinance is amended to make the following changes set forth in the strikethroughs and underlining below:

**PART 1**

[Revise standards for nightclubs and bars, and general outdoor recreation]

**Sec. 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>COMMERCIAL USES</b>																						
<b>Outdoor Recreation</b>	All outdoor recreation, except as listed below	L/m						L/m		L		L					‡L		‡	L	L	5.3.4P

**Sec. 5.3 Limited Use Standards**

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

**Paragraph 5.3.40 Nightclubs and Bars**

Nightclubs or bars shall be permitted in accordance with the use table in Sec 5.1, Use Table, subject to the following:

1. This section shall not apply to Outdoor Dining areas pursuant to City Code 54-110.
- ~~1.2.~~ With the exception of nightclubs or bars located within the DD-C District, the applicant shall demonstrate that no existing place of worship is located within 250 feet of the proposed nightclub or similar establishment.
3. Within the DD-C District, the applicant shall demonstrate that no existing place of worship is located within 50 feet of the proposed nightclub or similar establishment.
4. Measurements shall be made from the point on the place of worship, whether on the building or associated parking area, that is closest to the proposed nightclub or similar establishment to the point on the proposed nightclub or similar establishment, whether on the building, ~~or~~ associated parking area, or outdoor activity area that is closest to the place of worship.
- ~~2.5.~~ No outside storage ~~or activities~~ shall be located on the site, ~~except in the DD-C District where outdoor activities shall be allowed in accordance with Sec. 7.8.7, Noise.~~
6. Outside activities shall be allowed only in the DD-C and DD-S1 sub-districts. The following standards shall be met:
  - a. For the area between the building line and the right-of-way, excluding alleys, the outdoor activity area shall:
    - (1) Not exceed 50% of the interior seating area square footage;
    - (2) Be physically delineated and separated from the public right-of-way by a fence or wall in conformance with the requirements of Sec. 9.9, Fences and Walls;
    - (3) Be utilized for seating areas only; and
    - (4) Be prohibited from having amplified music.
  - b. For all other areas, the outdoor activity area shall:
    - (1) Not exceed 100% of the interior seating area square footage;
    - (2) Be physically delineated and separated by a fence or wall as follows:
      - (a) A minimum six foot high fence or wall at the property line along adjacent properties; and
      - (b) A minimum three foot high fence or wall at the property line along rights-of-way.

(c) When a building wall is present along adjacent properties, no fence or wall shall be required along the length of that building wall.

(d) The fence or wall shall be in conformance with maximum heights and construction standards pursuant to Sec. 9.9, Fences and Walls.

(3) Be permitted to have amplified music.

c. All outside activities shall be conducted in accordance with paragraph 7.8.7, Noise.

d. Any area established for outside activities shall be shown on an approved site plan.

**3.7.** Nightclubs or bars in the DD-S2 District shall be located 50 feet or more from any residential zoning district outside of the Downtown Tier. Measurements shall be made from the residential district boundary to the point on the proposed nightclub or bar, whether on the building or associated parking area, that is closest to the residential district boundary.

**4.8.** Nightclubs and bars shall not be permitted in the S2 sub-district of the CD District.

#### **Paragraph 5.3.4P Outdoor Recreation**

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

1. If not otherwise required, a minor special use permit shall be required if any access to the site is through or adjacent to (including directly across a public right-of-way) a residential district or use, unless such access is consistent with an approved development plan that accurately specifies the type, size, and intensity of use.
  - a. This requirement shall apply in the CD District only if access is through or adjacent to a residential district.
  - b. This requirement shall not apply in the DD District.
2. Except in the CD and DD Districts, a 50-foot setback from any property line adjacent to a residential district or use shall be maintained for any unlighted structure, food sale or dining area, playground, viewing area, court, field, or other athletic or entertainment area or facility.
  - a. In the CD District, a 15 foot setback shall be maintained instead of the build-to line in paragraphs ~~6.12.3A.1 and~~ 6.12.4A.1, Building Placement.
  - b. In the DD District, no setback or build-to line is required.
3. Except in the CD and DD Districts, a 100-foot setback from any property line adjacent to a residential district or use shall be maintained for any lighted structure, food sale or dining area, playground, viewing area, court, field, or other athletic or entertainment area or facility.
  - a. In the CD District, a 30 foot setback shall be maintained instead of the build-to line in paragraphs ~~6.12.3A.1 and~~ 6.12.4A.1, Building Placement. In addition, the site plan shall include documentation by a registered

professional with experience in lighting certifying that the lighting does not exceed 0.5 foot-candle at the property line of any adjacent residential district or use.

b. In the DD District, no setback or build-to line is required.

4. Except in the DD District, food sales shall be provided for patrons of the recreational activity only.

5. In the DD District the following standards shall apply:

a. Unless located on the roof of a structure, miniature golf courses shall have a maximum site area of 0.5 acres.

b. Outdoor recreation uses are only allowed on the roof of a structure if they are set back a minimum of 10 feet from the building face, in addition to any building setbacks.

c. Batting cages (except where associated with ballparks), golf driving ranges, and amusement parks are only allowed in the DD District if they are not visible from adjacent right-of-way. In association with ballparks, batting cages are allowed to be visible from adjacent right-of-way.

d. Design Standards

(1) Chain link fencing is prohibited except when the outdoor recreation use is on the roof of a structure and the fencing is not visible from the adjacent right-of-way.

(2) For outdoor recreation uses provided at, or within five feet of, ground level, a fence or wall shall be provided at the build-to line of the property as established by paragraph 6.12.3A.1, Building Placement.

(3) All fences and walls shall be in conformance with the standards of Sec. 9.9, Fences and Walls.

## **PART 2**

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

## **PART 3**

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