

**AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE REGARDING
AFFORDABLE HOUSING PARKING AND DENSITY BONUS
(TC1500003)**

WHEREAS, the Durham City Council wishes to amend certain provisions in the *Unified Development Ordinance* (UDO) regarding affordable housing; and

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

NOW, THEREFORE, be it ordained that Article 6, District Intensity Standards; Article 10, Parking and Loading; and Article 16, Definitions, of the *Unified Development Ordinance* are amended to make the following changes set forth in the strikethroughs and underlining below:

PART 1

[Revise Sec. 6.6, Affordable Housing Density Bonus, to change the title to reflect that the program includes more than bonus density, increase the density bonus, add a bonus height allowance, and update requirements]

Sec. 6.6 Affordable Housing ~~Density~~ Bonus

[Paragraphs not listed remain unchanged]

6.6.1 Applicability

- A. This program can be utilized at the time of site plan or subdivision for new projects with a minimum of 15 dwelling units, or for projects adding at least 15 dwelling units to an existing development in any zoning district where residences are permitted; ~~except projects that are 100% “affordable” by the United States Department of Housing and Urban Development (HUD) standards shall not be eligible to utilize the bonus.~~
- B. Projects must commit to providing affordable housing dwelling units in the amount of at least 15% of the maximum number of units permitted with the base density.
Example #1: If the zoning of a five-acre project allows 60 units/ acre, then 300 dwelling units are permitted. To qualify for a density bonus, at least 45 of the 300 dwelling units shall qualify as affordable housing dwelling units. At least 15% of the units shall have payments affordable to persons and families with annual incomes at or below 60% of the area median family income by family size, according to target income limits set by HUD for Durham.
- C. Projects in which 100% of the residences are affordable housing dwelling units shall not be eligible for the affordable housing density bonus unless the project is within the Compact Neighborhood Tier.

6.6.2 Bonus Program

A. Residential Density

For the purpose of calculating the bonus residential density within projects utilizing the affordable housing bonus, the “base density” is the maximum density allowed in the zoning

district prior to applying any potential bonuses, and multiplied by the gross acreage of the tract of land, including all areas typically excluded from density calculations in Article 8, Environmental Protection. The resulting number shall be rounded down to the nearest whole number.

1. Suburban and Urban Tiers

For each affordable housing dwelling unit that is constructed, a density bonus of one additional dwelling unit can be constructed beyond the base density.

Example #2: The project is in the Urban Tier, and 15% (i.e.: 45 units) of the 300 maximum units qualify as affordable housing dwelling units affordable. Thus, an additional 45 dwelling units are allowed above the maximum 300 units, totaling 345 dwelling units.

2. Compact Neighborhood Tier

For each affordable housing dwelling unit that is constructed, a density bonus of three additional dwelling units can be constructed beyond the base density.

Example #3: The five-acre project with a maximum allowed density of 60 units/acre allows for 300 units. Of the 300 units, 15% (or 45 units), qualify as affordable housing dwelling units. Thus, an additional 135 dwelling units are allowed above the 300 unit maximum, totaling 435 dwelling units.~~A density bonus of up to 15% is permitted for projects providing units affordable to persons with incomes between 50% and 60% of the median family income for the jurisdiction. This density bonus is permitted to double if the project is located with at least 500 feet of frontage on a major thoroughfare.~~

B. Height

When the affordable housing bonus is utilized, additional height is allowed as follows:

1. In all zoning districts except the Design Districts, an additional 15 feet shall be allowed.
2. Within the Compact Design District, additional height shall be allowed in accordance with paragraph 6.12.4A.2, Building Height and Massing.

~~A density bonus of up to 20% is permitted for projects providing units affordable to persons with incomes below 50% of the median family income for the jurisdiction. This density bonus is permitted to double if the project is located with at least 500 feet of frontage on a major thoroughfare.~~

- C. All of the affordable housing dwelling units shall be located within the overall project boundary. Affordable units shall be incorporated throughout the project, and shall not be distinguishable from market-rate units through location, grouping, or exterior design~~or other physical characteristics.~~
- D. In single-family and duplex developments, required minimum lot sizes and yard requirements ~~in internal lots~~for lots internal to the project can be reduced up to 20% in order to incorporate the additional units; ~~however, no decrease in lot size or yard requirements in perimeter lots shall be permitted.~~
- E. Units added through this program shall not increase the amount of open space otherwise required for the project.
- F. ~~Affordability limits in rental units shall be adhered to for a minimum of 15 years.~~ An annual report shall be provided by the project developer or manager to the Housing and Community Development Director for sites within the City's jurisdiction, or to the County Manager for sites within the County's jurisdiction, which identifies the incomes of persons

residing in the ~~affordable units~~ affordable housing dwelling units, and the rents or initial sales price being charged, to verify ~~these are within the established limits~~ the units qualify as affordable housing dwelling units.

~~G. Affordability in for sale units shall be required to be adhered to only in the initial sale.~~

HG. Compliance measures can be required at the time of approval, including but not limited to contracts, restrictive covenants, deed restrictions, and stipulated penalties.

PART 2

[Revise paragraphs 6.12.3A.2.c, Maximum Building Height with Amenities, 6.12.4A.2, Building Height and Massing, and 6.12.4A.3, Residential Density, to align height and density bonuses associated with the proposed text in Sec. 6.6, Affordable Housing Bonus]

Sec. 6.12 Design Districts

[Paragraphs not listed remain unchanged]

6.12.3 Downtown Design District (DD)

A. Site Design Standards

2. Building Height and Massing

a. These standards shall apply to all Frontage and Building Types, except as specified below:

Building Height and Massing						
DD Sub-Districts	Height Articulation (Massing) ¹			Maximum Building Height without Amenities <u>Provisions</u>	Maximum Building Height with Amenities <u>Provisions</u>	Optional Corner Tower Elements: Additional Height Above Proposed Podium Height
	Minimum/Maximum Podium Height Ratios (Podium Height to Streetscape Width)		Upper Story Step-Back Ratios			
Core (-C)	1:1.5 min ²	1:1 max	x feet of step-back allows 2x feet of height	300 feet	Unlimited	30 feet
Support 1 (-S1)	1:2 min ²	1.5:2 max	x feet of step-back allows 1.5x feet of height	100 feet	150 feet	20 feet
Support 2 (-S2)	1:3 min ²	---	---	50 feet	---	12 feet

¹ Height articulation standards are described and illustrated in paragraph 6.12.2C.1 and 2.

² The Monumental Building Type shall be exempt from height articulation minimums.

c. Maximum Building Height with AmenitiesProvisions

A maximum building height with amenitiesprovisions, as indicated in paragraph 6.12.3A.2.a, above, can be achieved by providing amenities for the development site pursuant to the table below. Project amenities-provisions required elsewhere in this Ordinance or in the City Code shall not qualify as amenities-provisions to achieve the height.

Project <u>Amenities Provisions</u>	Standards ¹	Additional Height Allowance	
		Core	Support 1
Historic Preservation	Undertake or incorporate the adaptive reuse of an existing historic structure, including local landmarks, National Register properties, or pivotal or contributing buildings in a historic district. The renovation can add onto the structure but shall not demolish any exterior historically significant portion of the structure.	45 feet	30 feet
Affordable Housing	<u>At least 15% of the units in a project meet the definition of an Affordable Housing Dwelling Unit.</u> Provide affordable housing that complies with the provisions in paragraph 6.6.1, Affordable Housing Density Bonus.	45 feet	30 feet
Green Roof	Provide a green roof in accordance with City of Durham Public Works standards, equivalent to at least 50% of the building footprint area.	15 feet	15 feet
Pedestrian Mall	Provide a pedestrian mall in accordance with paragraph 6.12.2E.1, Pedestrian Mall Standards.	45 feet	30 feet
Public Art	Provide public art in accordance with the Public Art section of the Durham Design Manual.	15 feet	15 feet
Sustainability	Provide a minimum of four of the strategies listed in the Sustainable Architecture section of the Durham Design Manual.	20 feet	20 feet
Alternative Vehicle Parking	Provide dedicated off-street parking spaces for shared car program vehicles, alternative fuel/energy vehicles, motorcycles, or scooters at a minimum of 5% of the provided parking spaces.	10 feet	10 feet
Stormwater Capture and Reuse	Provide cistern(s) to collect stormwater from onsite rooftop impervious surfaces with a minimum volume to accommodate the first one inch of rainfall. To receive this credit the runoff must be captured and used on site for the purposes of flushing toilets or irrigation.	25 feet	20 feet
Street Tree Pit Stormwater Filtration System	Provide a minimum of 50% of street trees that use a Public Works approved tree pit stormwater filtration system.	15 feet	15 feet
Additional <u>Amenities Provisions</u>	The Planning Director or designee shall permit additional <u>amenities provisions</u> to meet this requirement so long as: <ul style="list-style-type: none"> • The <u>amenity provision</u> shall be provided on site; • The <u>amenity provision</u> shall be something not required elsewhere in this ordinance; and • The applicant shall demonstrate that the <u>amenity provision</u> will be of community benefit. 	15 feet	15 feet

¹These apply in addition to any other applicable Ordinance standards for ~~provision of~~ the above amenities provisions.

6.12.4 Compact Design (CD) District

A. Site Design Standards

2. Building Height and Massing

a. These standards shall apply to all Frontage Types and Building Types, except as specified below:

Building Height and Massing						
CD Sub-Districts	Height Articulation (Massing)¹		Upper Story Step-Back Ratios	Maximum Building Height without <u>Amenities Provisions</u>	Maximum Building Height with <u>Amenities Provisions</u>	Optional Corner Tower Elements: Additional Height Above Proposed Podium Height
	Minimum/Maximum Podium Height Ratios (Podium Height to Streetscape Width)					
Core (-C)	1:1.5 min ²	1:1 max	x feet of step-back allows 2x feet of height	90 feet	110 -115 feet	20 feet
Support 1 (-S1)	1:2 min ²	1.5:2 max	x feet of step-back allows 1.5x feet of height	60 feet	75 feet	15 feet
Support 2 (-S2)	1:3 min ²	1:2 max		45 feet	---	---
Pedestrian Business (-P)	1:3 min ²	1.5:2 max	2x feet of step-back allows x feet of height	40 feet/ 55 feet ³	---	---

¹ Height articulation standards are described and illustrated in paragraph 6.12.2C.1 and

² The Monumental Building Type shall be exempt from height articulation minimums.

³ Specific height restrictions are located in paragraph 6.12.4A.2.c.

d. Maximum Height with a Minor Special Use Permit Provisions

The Maximum Building Height with Provisions as allowed in the table in paragraph 6.12.4A.2.a, above, can be obtained only with a provision as indicated below.

(1) A provision cannot qualify for additional height if it is a requirement elsewhere in this Ordinance or in any other code or regulation.

(2) A provision cannot qualify for both additional height and additional density pursuant to paragraph 6.12.4A.3, Residential Density, with the exception of affordable housing which can count toward both bonuses.

(3) Eligible Provisions

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

(a) Minor special use permit

If a minor special use permit, pursuant to Sec. 3.9, Special Use Permit, is indicated as required, the following additional findings shall be made:

- i. The proposed development adequately protects surrounding properties from any adverse impacts of the additional height of the structure, considering in particular the height of structures in the immediate vicinity;
- ii. The proposed development allows for adequate light, air, and open space access, if applicable, to adjacent properties.

(b) Table of eligible project provisions for additional height.

~~In accordance with paragraph a, above, additional building height may be granted through the issuance of a minor special use permit pursuant to Sec. 3.9, Special Use Permit, provided that the following additional findings are made:~~

- ~~(1) The proposed development adequately protects surrounding properties from any adverse effects of the additional height including adverse impacts of the height of the structure considering in particular the height of structures in the immediate vicinity;~~
- ~~(2) The proposed development allows for adequate light, air and open space access, if applicable, to adjacent properties; and~~
- ~~(3) A project amenity shall be provided to compensate for the additional height in accordance with the table below. Project amenities required elsewhere in this ordinance or in the City Code shall not be used as amenities to qualify for additional height. Only one increment of additional height is allowed. A single amenity cannot be used for both additional height and additional density in paragraph 6.12.4A.3.b.~~

Project Amenities/Provisions	Standards ¹	Requires Minor Special Use Permit Approval	Additional Height Allowance	
			Support 1	Core
Affordable Housing, Except within the CD-P(N) District	The project implements Sec. 6.6, Affordable Bonus. Provide affordable housing that complies with the provisions in paragraph 6.6.1, Affordable Housing Density Bonus.	No	15 feet	20 feet
Pedestrian Mall	Provide a pedestrian mall in accordance with paragraph 6.12.2E.1, Pedestrian Mall Standards.	Yes	15 feet	20 feet
Public Parking	Provide a minimum of 20% of the parking within the development dedicated for public use. The public parking provided shall not count towards maximum parking allowed for the project.	Yes	15 feet	20 feet
Vertical Integration of Uses	Provide commercial use on the first floor and commercial or office use on the second floor with at least 65% of the total floor area of the structure allocated to residential uses.	Yes	15 feet	20 feet

¹Additional height granted per this section is subject to the upper story step-back requirements of paragraph 6.12.2C, Height Articulation, and paragraph 6.12.4A.2.a, Building Height and Massing.

3. Residential Density

- b. ~~At the time of site plan approval, additional~~ Additional residential density may be granted through the issuance of a minor special use permit, as per Sec. 3.9, Special Use Permit, provided that the following findings are made:
- (1) The proposed development adequately protects surrounding properties from any adverse effects of the additional density.
 - (2) The proposed development allows for adequate light, air, and open space access, if applicable, to adjacent properties.
 - (3) A project ~~amenity provision~~ shall be provided to compensate for the additional density in accordance with the table below.
 - ~~(a) A provision cannot qualify for additional density if it is a requirement elsewhere in this Ordinance or in any other code or regulation. Project amenities required elsewhere in this ordinance or in the City Code shall not be used as amenities to qualify for additional density.~~
 - (b) Only one increment of additional density is allowed.
 - (c) A provision cannot qualify for both additional density and additional height pursuant to paragraph 6.12.4A.2.d, Additional Height with Provisions. The same amenity cannot be used for both additional density and additional height in paragraph 6.12.4A.2.d, Additional Height with Minor Special Use Permit.

<u>Project Amenities Provisions</u>	<u>Standards¹</u>	<u>Additional Density Allowance Increment</u>
Affordable Housing	Provide affordable housing that complies with the provisions in paragraph 6.6.1, Affordable Housing Density Bonus.	15-40%
Pedestrian Mall	Provide a pedestrian mall in accordance with paragraph 6.12.2E.1, Pedestrian Mall Standards.	15%
Public Parking	Provide a minimum of 20% of the total parking provided spaces within the development for public use. The public parking provided shall not count towards maximum parking allowed for the project.	15%
Vertical Integration of Uses	Provide commercial use on the first floor and commercial or office use on the second floor with at least 65% of the total floor area of the structure allocated to residential uses.	15%

PART 3

[Revise paragraph 10.3.1B, Required Parking, to establish a new minimum parking rate for affordable housing dwelling units in the Compact Neighborhood Tier]

Sec. 10.3 Required Parking

[Paragraphs not listed remain unchanged]

10.3.1 Required Motorized Vehicle and Bicycle Parking

B. Required Parking

- 7. In the Compact Neighborhood Tier, the minimum and maximum parking rates for household living dwelling units shall be as follows:
~~the minimum required motor vehicle parking for household living shall be one parking space per dwelling unit, and the maximum number of motor vehicle parking spaces shall be two parking spaces per dwelling unit.~~

	<u>Minimum</u>	<u>Maximum</u>
<u>Household Living, except as Listed Below</u>	<u>1 space/unit</u>	<u>2 spaces/unit</u>
<u>Affordable Housing Dwelling Units</u>	<u>None</u>	<u>2 spaces/unit</u>

PART 4

[Update remaining references to the Affordable Housing Density Bonus or to Sec. 6.6, Affordable Housing Density Bonus]

Section 3.5 Zoning Map Change

[Paragraphs not listed remain unchanged]

3.5.12 Deviations from Approved Development Plans

A. Significant Deviations

- 1. Increase by any amount in the number of residential units or approved density of residential projects in the overall project, except through use of the ~~Affordable Housing Density Bonus~~ pursuant to Sec. 6.6, Affordable Housing ~~Density Bonus~~;
- 2. Decrease by more than 20% in total density in residential projects, except in the Downtown Tier or Compact Neighborhood Tier, ~~unless that decrease results from an inability to utilize the Affordable Housing Density Bonus pursuant to Sec. 6.6, Affordable Housing Density Bonus;~~
- 3. Decrease by more than 5% in total density in residential projects located within the Downtown Tier or Compact Neighborhood Tier, unless that decrease results from ~~an inability to utilize the Affordable Housing Density Bonus pursuant to Sec. 6.6, Affordable Housing Density Bonus or from~~ the application of UDO requirements relating to size or design;

Section 6.1 District Intensity in General

[Paragraphs and portions of tables not listed remain unchanged]

6.1.2 Flexible Development Tools by Plan Tier

The district intensity standards set forth in this Article provide for flexible development tools in each planning tier, as shown below:

Development Tool	Rural	Suburban	Urban	Compact Neighborhood	Downtown
Affordable Housing Density Bonus		✓	✓	✓	

Section 6.3 Residential Suburban (RS) Development Intensity

[Paragraphs not listed remain unchanged]

6.3.1 Development Standards

- 2. The maximum residential density does not apply to actions listed under paragraph 3.6.2, Actions Exempt from Subdivision Requirements. Where this maximum does apply, density can be increased in accordance with paragraph 6.3.3B, RS-M District Major Roadway Density Bonus, or Sec. 6.6, Affordable Housing ~~Density~~-Bonus. Other than these options, the maximum density shown cannot be exceeded even though the use of an alternative housing type may impose smaller lot size requirements.

Section 6.4 Residential Urban (RU) Development Intensity

[Paragraphs not listed remain unchanged]

6.4.1 Development Standards

A. Dimensional Standards

- 2. Maximum density can increase in accordance with paragraph 6.4.3, Residential Density, and/or Sec. 6.6, Affordable Housing ~~Density~~-Bonus. Other than these options, the maximum density shall not be exceeded even though the use of an alternative housing type may impose smaller lot size requirements.

Sec. 6.5 Residential Compact (RC) Development Intensity

[Paragraphs omitted remain unchanged]

6.5.1 Development Standards

A. Dimensional Standards

- 2. Maximum density can be increased in accordance with paragraph 6.5.3, Residential Density, and/or Sec. 6.6, Affordable Housing ~~Density~~-Bonus.

6.10.2 Residential Development in Nonresidential Districts

[Paragraphs omitted remain unchanged]

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 ^{1,2}	14 ^{1,2}
CN	0.2	8 ^{1,3}	11 ^{1,2}	14 ^{1,2}
OI	---	11 ^{1,3}	14 ^{1,2}	18 ^{1,2}
CG	0.2	11 ^{1,3}	14 ^{1,2}	18 ^{1,2}

¹ Density can be increased through use of the Sec 6.6, Affordable Housing Density Bonus.

² Density can be increased through use of the options available under paragraph 6.4.3, Residential Density.

³ For multifamily development, density can be increased through use of paragraph 6.3.3B, RS-M District Major Roadway Density Bonus.

PART 5

[Add a definition for “Affordable Housing Dwelling Unit”]

Section 16.3 Defined Terms

[Definitions not listed remain unchanged]

Affordable Housing Dwelling Unit: A dwelling unit committed for a minimum 15-year term as affordable, through covenants or restrictions, to households with incomes at 60% or less of the area median income for a family, as defined by the United States Department of Housing and Urban Development, for the jurisdiction.

PART 6

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

PART 7

That this amendment of the *Unified Development Ordinance* shall become effective on September 1, 2015.