

Wake County Unified Development Ordinance Amendment OA-01-25

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April 7, 2025



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Unified Development Ordinance

- Implements land use policy through the regulation of buildings, structures and land (parking, landscaping, signage, setbacks, etc...).
- Applies zoning to all properties to maintain orderly and compatible land use development.
- Is a living document that can evolve through amendments over time.
- Amendments can be requested by staff or residents.
- Only the Board of Commissioners can adopt amendments, which are preceded by a recommendation from the Planning Board.

Request

The proposed amendments reflect improvements to stormwater standards and processes; and incorporating recent changes to state law.

1. Amend Section 9-32-2 *Parties Responsible for Maintenance of Improvements*
2. Amend Section 9-52 *Appeals*
3. Amend Section 21-11 *Definitions*

Purpose

- Clarify the process for turning over maintenance of stormwater improvement to the HOA or lot owner.
- Align the 'appeal' process for the stormwater section of the UDO with other parts of the UDO.
- Incorporate recent state law changes related to the definition of impervious surface.
- Designate that stormwater control measures (except those that are below grade) are pervious surface.
- Establish a definition for stormwater control measure.



UDO Section 9-32-2

Parties Responsible for Maintenance of Improvements

Background

- UDO Section 9-32 outlines the standards for developers to maintain onsite stormwater measures and devices.
- The measures and devices are to be maintained by the developer until such time the responsibility is taken over by the property owners' association or the lot owner.
- This process insures there is no gap in proper maintenance of the stormwater measures.

Analysis

- UDO Section 9-32-2 currently states that the stormwater improvements be “accepted” by a property owners’ association or lot owner.
- The property owners’ association or lot owner have no authority in determining whether the improvements are “acceptable”.
- The determination of acceptability is made by Wake County Environmental Services.

Analysis

- When the improvements are deemed acceptable, the responsibility is then “transferred” from the developer to the property owners’ association or lot owner.
- Therefore, it is proposed to amend Section 9-32-2 to say the improvements will be “transferred” rather than “accepted” by the property owners’ association or lot owner.

Proposed Amendment

Amend Section 9-32-2 to say the improvements will be “transferred” rather than “accepted” by the property owners’ association or lot owner.



UDO Section 9-52

Appeals

Background

- The UDO contains provisions and processes for applicants to appeal staff determinations or interpretations of the UDO.
- These provisions and processes are outlined in Section 19-41 *Appeals of Administrative Decisions*.
- The process includes a quasi-judicial hearing before the Wake County Board of Adjustment.
- However, Section 9-52 *Appeals*, contains a provision that requires appeals of the stormwater section go to the Wake County Human Services and Environmental Services Board.

Analysis

- The Wake County Board of Adjustment and its members are trained and experienced in conducting quasi-judicial hearings.
- It's because of this experience that staff propose amending Section 9-52 requiring appeals of Article 9 go to the Wake County Board of Adjustment rather than the Wake County Human Services and Environmental Services Board.
- This aligns Article 9 with the rest of the UDO as it pertains to appeal processes.

Proposed Amendment

Amend Section 9-52 to direct appeals to the Wake County Board of Adjustment rather than the Wake County Human Services and Environmental Services Board.



UDO Section 21-11

Definitions

Background

- Wake County UDO Section 21-11 provides a definition of “Impervious Surface”.
- The definition helps clarify what surface materials in the landscape are considered impervious (i.e. concrete, asphalt, etc.).
- Impervious surface coverage in site development is usually limited to a certain percent of the overall site.
- These limitations help reduce surface water runoff and protect water quality.

Background

- N.C. Session Law 2024 (Senate Bill 166) is mandating a new definition of “Built-Upon Area” (impervious surface) that local jurisdictions must comply with.
- The law is effective January 1, 2025.
- Furthermore, the UDO has no provision for allowing pervious pavement to help offset impervious surface.

Analysis

- The new state law definition for impervious surface provides more clarity as it relates to a variety of surface materials and whether they are pervious or impervious.
- For example, certain types of stone, landscape materials, and artificial turf are now considered pervious.

Analysis

- Staff is also proposing to add a provision to the state definition to clarify that most stormwater measures are pervious when designed in accordance with the County's Stormwater Manual.
- This creates opportunities to use pervious pavers and other similar materials to offset the impervious surface on a development site, which previously was not accepted.
- Include a definition for Stormwater Control Measure.

Proposed Amendments

- Amend Section 21-11 to amend the definition of Impervious Surface in accordance with Session Law 2024-49 (SB166).
- Include a provision in the Impervious Surface definition that clarifies that most stormwater control measures are pervious surface when designed in accordance with the Wake County Stormwater Manual.
- Add a definition in Section 21-11 for Stormwater Control Measure.

Staff Findings

1. The proposed amendments provide clarity in the development approval process as it pertains to maintenance of stormwater control measures.
2. The proposed amendments align the appeal process for the stormwater section with other parts of the UDO.
3. The proposed amendments provide flexibility and clarity to applicants when applying impervious surface materials to their development site.
4. The proposed amendments incorporate recent changes to state law as it pertains to impervious surface.
5. Community stakeholders were given the opportunity to provide feedback.

Staff Recommendation

That the Board of Commissioners adopt OA-01-25 as presented.

Planning Board Recommendation

The Planning Board recommended, by a unanimous vote at their March 5, 2025, meeting that the Wake County Board of Commissioners adopt the text amendment as presented.



Public Hearing