

ORDINANCE AMENDMENT OA-02-20

Article 1 General Provisions

1-15 - Exemption for Bona Fide Farms.

1-15-1 The zoning provisions of this UDO do not apply to property used for bona fide farms purposes, except that:

(A) ~~Farm property~~ Property used for ~~non-farming~~ bona fide farm purposes ~~or agriculture activities~~ is not exempt from compliance with the following provisions of this UDO ~~zoning regulation;~~ and

(1) Article 8 Subdivision Design and Improvements;

(2) Article 9-21 "State Nutrient Management Strategy Rules" of Article 9 Stormwater Management, including State stormwater management rules that implement the Neuse River Basin Nutrient Sensitive Waters Management Strategy (15A NCAC 02B .0235), State stormwater management rules for new development that implement the Falls Reservoir Water Supply Nutrient Strategy (15A NCAC 02B .0277), and State stormwater management rules for new development that implement the Jordan Water Supply Nutrient Management Strategy (15A NCAC 02B .0265);

(3) Article 10 Erosion and Sedimentation Control, except as set forth in Article 10-13-2 "Exemptions" subsection (A) "Agricultural Activities" and subsection (B) "Forestland Activities";

(4) Article 11-10 Neuse Riparian Buffers;

(5) Article 12 Water and Wastewater Systems;

(6) Article 14 Flood Hazard Areas and

(7) Any flood protection regulations required to be imposed by the National Flood Insurance Program

(B) Bona fide farms and other farm properties are not exempt from compliance with any flood protection regulations required to be imposed by the National Flood Insurance Program.

1-15-2 Existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation are exempt from the zoning provisions of this UDO. Uses exempted from the provisions of this UDO include:

~~(A) Any dwelling unit located on farm property that is the permanent residence of the farm owner; and~~

~~(B) Any dwelling unit located on farm property that is the permanent residence of a person (and that person's family) who earns at least 75 percent of their income from employment on the subject farm, as substantiated by the individual's tax records or other evidence deemed acceptable by the County Attorney. This provision is not intended to permit multiple dwellings on a single tract of land except when allowed by zoning.~~

Article 9. Stormwater Management

9-12 - Applicability.

9-12-1 **Exemptions.** The stormwater management regulations of [Part 2 "Standards for Managing Stormwater Runoff"](#) of this Article, found in Article 9-20 "Maximum Curve Numbers After Development" including the 4 subparts thereto: Article 9-20-1 "Precipitation Depth"; Article 9-20-2 "Draw-down Period"; Article 9-20-3 "Stormwater Credits"; and Article 9-20-4 "Stormwater Control Measures", ~~this Article~~ do not apply to any of the following development activities:

- (A) Agriculture, forestry, or mining.
- (B) Office, institutional, commercial, or industrial development that disturbs a land area of one-half acre or less.
- (C) Any development in which the owner has accrued a vested right. Wake County recognizes a vested right if either of the following occurred:
 - (1) A subdivision plan, site plan, or development permit was officially approved by Wake County or the State before August 13, 2006 and that plan or permit remains unexpired.
 - (2) The landowner otherwise demonstrates a vested right has accrued under North Carolina Law.

Article 19 Review and Approval Procedures

19-42-1 Permits.

(A) **Permit Required.** No excavation may be commenced, no wall, structure, premises, or land used, building or part thereof may be built, constructed or altered, nor may any building be moved, nor may any sign be erected or structurally altered (unless exempted), until application has been made and the proper permit has been obtained. This permit requirement includes prima facie businesses or activities. When the Planning Director, with the technical assistance of other County departments or upon direction by the Planning Board or Board of Adjustment, has determined that the proposed land use is permitted under the provisions of this ordinance, a permit for the proposed use will be issued.

(B) Applications.

- (1) All applications for Land Use Permits must be accompanied by:
 - (a) Accurate plot plans, drawn to scale, showing the actual shape and dimensions of the lot to be built upon;
 - (b) The legal description of the lot to be built upon or used or the location of the plan as recorded by the Wake County Register of Deeds;
 - (c) The exact sizes and location on the lot of all existing buildings and accessory buildings; the lines within which the proposed building or structure will be erected or altered;
 - (d) The existing and intended use of each building or part of building, the number of families or housekeeping units the building is designed to accommodate;
 - (e) The location, dimensions, and arrangements of all bufferyards required by this ordinance, including a landscape plan showing the design and specifications for any required plant materials earth berms, fences, or walls;
 - (f) Location, dimensions and use of all existing and proposed impervious surface areas on the site;
 - (g) Any other data deemed necessary by the Planning Director to determine compliance of a proposed development with the terms of this ordinance.
- (2) Non-residential plans must be prepared by a licensed design professional authorized by the North Carolina General Statutes to perform such work. The Planning Director may waive this requirement by certifying in writing that such information is unnecessary in the particular case to determine compliance with applicable regulations. Residential uses may require a professionally-prepared site plan based on the scale and scope of the project.
- (3) No certificate of occupancy or compliance may be issued by the Planning Director or Building Inspector until:
 - (a) Applicable standards of this ordinance have been met; or
 - (b) Written assurances are provided to the Building Inspector that applicable standards of this ordinance will be met within a reasonable period of time. Assurances must include posting of a surety bond or submission of a notarized letter of credit for the value of the incomplete improvements required.
- (4) The Planning Director is responsible for determining compliance with any applicable standard of this ordinance not under the purview of the Building Inspector.
- (5) In addition to the above, the following information must accompany applications for nonresidential uses:
 - (a) Location of parking areas including the layout of spaces (on paved lots only), and ingress and egress from a public right-of-way;

- (b) Driveway entrance permit from North Carolina Division of Highways, District Engineer;
 - (c) Location of signs, if any, including ownership and type (identification, commercial, or those not requiring a permit); and
 - (d) Whether excavation, clearing of ground, or moving of earth other than that actually required for the building, is expected to occur.
- (C) **Exemptions.** Unless the property at issue is located in an area of special flood hazard, the following land uses will be exempt from the permit requirements as stated in (A) and (B) above:
 - (1) Farming The use of property for a bona fide farm purpose, except that application must be made for a determination of whether the use or proposed use is a bona fide farm purpose, and a farm exempt permit shall be issued upon a determination that the property is being used for a bona fide farm purpose;
 - (2) Forestry;
 - (3) Excavation for installation of septic tank systems under the control of Department of Environmental Services or grading permits issued by Wake County Natural Resources Department or excavation and grading permits issued by North Carolina Department of Natural Resources and Community Development, or successor agency;
 - (4) Fences designed primarily to enclose the perimeter, wholly or partially, of a lot;
 - (5) An accessory building used for storage in connection with residential use authorized within the district, not exceeding 12 feet by 12 feet base and 12 feet in height, and located on the lot not nearer than 50 feet from a public right-of-way; and
 - (6) Utility structures covering a well or pump, provided structure is used only for a covering well and pump; utility poles or structures supporting utility lines; excavation for installation of underground utilities; transformer enclosures or pad-mounted transformers; sewage treatment plants under the control of the North Carolina Department of Natural Resources and Community Development.
 - (7) Governmental land uses that do not involve the construction or use of buildings by state agencies, counties, cities, or utility districts.
- (D) **Permits in Flood Hazard Areas.** See Article 14 for further requirements regarding Land Use Permits where the property at issue is located within an area of special flood hazard.
- (E) **Permit Revocation.**
 - (1) The Planning Director may revoke any permit or other authorization granted under this ordinance for failure to comply with the provisions of this ordinance or the terms and conditions of the permit or authorization, or for false statements or misrepresentations made in securing the permit or authorization, or if the permit or authorization was mistakenly granted in violation of applicable State or local law.
 - (2) Before revoking a permit or other authorization, the Planning Director must give the holder of the permit or authorization ten days written notice of intent to revoke the permit or authorization. The notice must state the reasons for the intended revocation and state that the holder may have an informal hearing on the intended revocation before the Planning Director. On revoking a permit or other authorization, the Planning Director must give the holder of the permit or authorization a written notice of the revocation and the reasons for it. The holder of a revoked permit or authorization may, within 90 days after the revocation, submit to the Planning Director a written request to reinstate the revoked permit or authorization. On determining that the conditions justifying the revocation have been eliminated and that the development fully complies with all applicable requirements of this ordinance, the Planning Director may reinstate the permit or authorization.
 - (3) No certificate of occupancy or compliance may be issued until:

- (a) Applicable standards of this ordinance have been met; or
- (b) Written assurance that applicable standards of this ordinance will be met, within a reasonable period of time, is provided to the Planning Director. Assurance must include posting of a surety bond or submission of a notarized letter of credit for the value of the incomplete improvements required.
- (c) The Planning Director will be responsible for determining compliance with any applicable standard of this ordinance not under the purview of the Building Inspector.

[Amended by OA 05-15 on 12/7/2015.]