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**RESOLUTION TO AMEND THE WAKE COUNTY UNIFIED  
DEVELOPMENT ORDINANCE OA-01-21**

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WHEREAS, the proposed text amendment will update references to the provisions in the new N.C. General Statute Chapter 160D; and

WHEREAS, the proposed text amendment will align terminology in the Wake County Unified Development Ordinance (UDO) with the new N.C. General Statute Chapter 160D as it relates to “conditional zoning” and “dwelling”; and

Whereas, the terms “special exception” and “conditional use district zoning” will be removed from the Wake County UDO pursuant to the new N.C. General Statute Chapter 160D; and

WHEREAS, the proposed text amendments will clarify enforcement sections in the Wake County UDO to comply with the new N.C. General Statute Chapter 160D; and

WHEREAS, the proposed text amendment will clarify permits exemptions and validity of permits; and

WHEREAS, the Planning Staff recommends approval of the proposed text amendments; and

WHEREAS, on May 5, 2021, the Wake County Planning Board voted unanimously to recommend that the Board of Commissioners approve the proposed text amendments; and

WHEREAS, the Wake County Board of Commissioners held a duly-noticed public hearing on June 21, 2021 to consider amending the Wake County (UDO).

NOW, THEREFORE, BE IT ORDAINED BY THE WAKE COUNTY BOARD OF COMMISSIONERS THAT:

The proposed text amendments are hereby adopted, and the Wake County UDO is hereby amended as shown in the attached OA-01-21 Ordinance Amendment Summary.

Adopted this 7th day of June 2021.

ATTEST:

BOARD OF COMMISSIONERS FOR  
THE COUNTY OF WAKE

\_\_\_\_\_  
Clerk to the Board

By: \_\_\_\_\_  
Matthew M. Calabria, Chair

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APPROVED AS TO FORM:

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Scott Warren, County Attorney

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## OA-01-21 Ordinance Amendment Summary

### 3-10 Districts Established.

The following zoning districts are established in this ordinance:

Map Symbol	District Name
<b>Residential Districts</b>	
R-80W	Residential-80 Watershed District
CZ -R-80W	Conditional Zoning Residential-80 Watershed District
R-40W	Residential-40 Watershed District
CZ -R-40W	Conditional Zoning Residential-40 Watershed District
R-80	Residential-80 District
CZ -R-80	Conditional Zoning Residential-80 District
R-40	Residential-40 District
CZ -R-40	Conditional Zoning Residential-40 District
R-30	Residential-30 District
CZ -R-30	Conditional Zoning Residential-30 District
R-20	Residential-20 District
CZ -R-20	Conditional Zoning Residential-20 District
R-15	Residential-15 District
CZ -R-15	Conditional Zoning Residential-15 District
R-10	Residential-10 District
CZ -R-10	Conditional Zoning Residential-10 District
R-5	Residential-5 District
CZ -R-5	Conditional Zoning Residential-5 District
HD	Highway District
RHC	Residential Highway Commercial District
CZ -RHC	Conditional Zoning Residential Highway Commercial District
RMH	Residential Mobile Home District
CZ -RMH	Conditional Zoning Residential Mobile Home District
<b>Commercial Districts</b>	
O&I	Office and Institutional District
CZ -O&I	Conditional Zoning Office and Institutional District
GB	General Business District
CZ -GB	Conditional Zoning General Business District

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HC	Heavy Commercial District
CZ -HC	Conditional Zoning Heavy Commercial District
<b>Industrial Districts</b>	
I-1	Industrial-1 District
CZ -I-1	Conditional Zoning Industrial-1 District
I-2	Industrial-2 District
CZ -I-2	Conditional Zoning Industrial-2 District
<b>Special Purpose Districts</b>	
AD-1	Airport District-I
CZ -AD-1	Conditional Zoning Airport District-I
AD-2	Airport District-II
CZ -AD-2	Conditional Zoning Airport District-II
RA	Research Applications District
CZ -RA	Conditional Zoning Research Applications District
CMU	Classic Mixed-Use District
RMU	Residential Mixed-Use District
PD	Planned Development District
<b>Overlay Districts</b>	
SHOD	Special Highway Overlay District
RCOD-1	Resource Conservation Overlay District
RCOD-2	Resource Conservation Overlay District
WSO	Water Supply Watershed Overlay District
WSO-2NC	Water Supply Watershed II (Non-Critical Area) Overlay
WSO-3CA	Water Supply Watershed III (Critical Area) Overlay
WSO-3NC	Water Supply Watershed (Non-Critical Area) Overlay
WSO-4P	Water Supply Watershed IV (Protected Area) Overlay

- **3-24 - RMH, Residential Mobile Homes District.**

#### **3-24-4 Other District-Specific Regulations.**

(K) Bufferyards.

- (1) Bufferyards must be established and maintained in accordance with the standards of Sec. 16-10-2. Where width of the bufferyard required by Sec. 16-10-2 exceeds the setback depth required by Sec. 3-24-3, the bufferyard standards of Sec. 16-10-2 govern.
- (2) In order to eliminate visual distractions to passing motorists, reduce levels of noise, dust, or glare, preserve the character of existing neighborhoods, and in other ways serve the purposes of zoning as set forth in Section **160D-701** of the General Statutes, mobile home parks must be screened from adjacent highways and from existing adjoining conventional residential developments in accordance with [Sec. 16-10](#).

## 1-1

## 1-2 Part 6 Conditional Zoning Districts

### 3-60 Description.

Each conditional zoning district bears a "CZ" prefix and corresponds to a general use district. General use districts include all residential, commercial, and industrial districts without a "CZ" prefix. All zoning regulations that apply in the general use district are minimum requirements within the corresponding conditional zoning district. Conditional zoning will be considered only upon request of the applicant.

### 4-31 Caretaker Residence.

4-31-1 A one-family dwelling, as a residence for security personnel, is permitted as a special use by the Board of Adjustment, after approval of plans subject to the following requirements:

- (A) Only one such use may be permitted in association with any one establishment; and
- (B) Any structural alterations of, or any change in the location, characteristics, use, or time and type of occupancy of, the unit must cause the permit to be voidable and require review and reapproval of the alterations or changes by the Board of Adjustment.
- (C) Dwellings in business districts must be provided with yard space as necessary to satisfy the living and health requirements in the dwelling units;
- (D) Where connections to public or community water and/or wastewater disposal systems are not available, the minimum lot area must be determined by the Board of Adjustment upon the recommendation of the Department of Environmental Services. Other yard and space requirements must then be determined by the Board of Adjustment by reference to appropriate Residential district requirements as set forth in this ordinance;
- (E) Where connections to public or community water and wastewater systems are available, setback and space requirements must conform to provisions of R-12 Districts.

### 4-44-2 Special Use Permits.

- (L) Wake County must be compensated for costs incurred as a result of the location of hazardous or low-level waste facilities by a privilege license tax, in accordance with the General Statutes of North Carolina, Section **153A-151**), as amended. The hazardous or low-level radioactive waste facility operator must be assessed in accordance with a privilege license tax schedule to offset costs incurred by the county attributable to the facility.

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**4-46-1 Kennels.** Kennels must comply with the following standards:

- (A) **Purpose.** These provisions are intended to recognize that although kennels provide a service for owners of animals, the noise, odor, insects, and traffic associated with kennels are not in keeping with what is ordinarily desirable in developed areas. However, within the zoning jurisdiction of the county, kennels might be appropriate and conveniently located therein provided that sites are carefully selected and establishments are built and operated in compliance with all applicable standards. It is further intended that the Board of Adjustment must consider each proposed site with reference to the character of the immediate neighborhood, topography, natural vegetation (and other purposes of zoning as set forth in Section **160-D-701** of the General Statutes), and determine whether a kennel would be a suitable land use thereon.

#### **4-31 Caretaker Residence.**

**4-31-1** A one-family dwelling, as a residence for security personnel, is permitted as a special use by the Board of Adjustment, after approval of plans subject to the following requirements:

- (A) Only one such use may be permitted in association with any one establishment; and
- (B) Any structural alterations of, or any change in the location, characteristics, use, or time and type of occupancy of, the unit must cause the permit to be voidable and require review and reapproval of the alterations or changes by the Board of Adjustment.
- (C) Dwellings in business districts must be provided with yard space as necessary to satisfy the living and health requirements in the dwelling units;
- (D) Where connections to public or community water and/or wastewater disposal systems are not available, the minimum lot area must be determined by the Board of Adjustment upon the recommendation of the Department of Environmental Services. Other yard and space requirements must then be determined by the Board of Adjustment by reference to appropriate Residential district requirements as set forth in this ordinance;
- (E) Where connections to public or community water and wastewater systems are available, setback and space requirements must conform to provisions of R-12 Districts.

**5-41-3 Application of Density Credits.** This density credit may be applied to increase the allowed density of any other land as provided herein.

- (A) Density credits may be applied to any tract of land located within the County's zoning jurisdiction regardless of ownership, except land located within a water supply watershed.
- (B) In order to apply density credits to the same or different tracts, the application must be approved in accordance with the special use procedures of Section 19-23.
- (C) By applying density credits to a particular parcel, the owner or developer may increase the allowable density of uses by decreasing the size of the lot below that required in the district; however, in no case may density for the entire tract exceed 12,000 square feet per dwelling unit in all planning areas to which this section applies.
- (D) The owner of the density credits must apply for a special use within five years of the date the land is dedicated. After this period, density credits become null and void.

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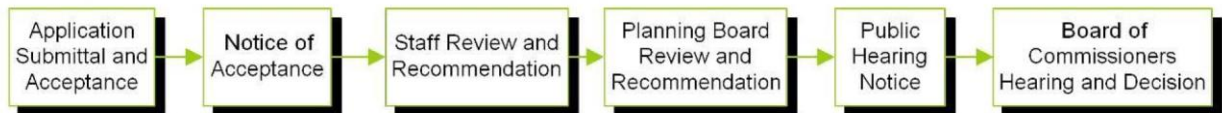
## 6-10 Review and Approval Procedure.

Projects requesting density bonuses will be reviewed as part of the subdivision plat, special use, rezoning process, as applicable.

### 19-20-6 Board of Commissioners Public Hearing and Review

- (B) **Notice of Public Hearing.** The Planning Director must provide notice of the public hearing in accordance with the provisions of Section 160D-601 of the North Carolina General Statutes. The notice must state the time and place of the public hearing, briefly summarize the nature of the proposed amendment, and invite interested persons to review the application at the Planning Department and to submit written or oral comments on the application to the Board of Commissioners at the hearing.

### 19-21 Zoning Map Amendments (Rezoning).



19-21-1 **Purpose.** The zoning map amendment (rezoning) procedures of this section set forth the required review and approval procedures for changes to the zoning map that are consistent with the Wake County Land Use Plan and otherwise advance the public health, safety, and general welfare. They are not intended to relieve particular hardships or to confer special rights or privileges.

#### 19-21-2 Authority to File.

- (A) A proposal to amend the zoning map to rezone land to a general use district may be initiated by:
- (1) The Board of Commissioners, by passing a motion directing county staff to consider the proposal;
  - (2) The Planning Board, the Board of Adjustment, any resident of Wake County, or any owner of real property in Wake County, by submitting a request for consideration of the proposal to the Board of Commissioners;
  - (3) The Planning Director, on preparing an application for the amendment; or
  - (4) Any resident of Wake County, or any owner of real property in Wake County, on submitting an application for the amendment to the Planning Director.
- (B) If a request for consideration of an amendment proposal is submitted to the Board of Commissioners, the Board may decline to consider the request or may refer the amendment proposal to the Planning Director for preparation of an application in accordance with the provisions of this section.
- (C) A request to amend the zoning map to rezone land to a Conditional Zoning district may be initiated only by the owner of the subject property, on submitting an application for the amendment to the Planning Director.

#### 19-21-3 Contents of Application.

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(A) **All Applications.** An application to amend the zoning map must include those forms, maps, plans, and other documents prescribed by the Planning Director as necessary to identify the applicant, to describe the nature of the requested amendment, and to state justifications for the amendment. The application must also include those forms, maps, plans and other materials prescribed by the Planning Director as necessary to identify and describe the land proposed to be rezoned, to identify its owners, and to identify and notify the owners of properties adjacent to it. If required pursuant to Sec. 15-12, such applications must also include a traffic impact analysis.

(B) **Applications for Conditional Zoning District Rezoning.**

(1) **Signed by Property Owners.** An application to rezone land to a Conditional Zoning district must be signed by all owners of the land proposed to be rezoned, or by their authorized agents. Applications signed by a landowner's agent rather than the landowner must also include documentation of the agent's authorization to sign on behalf of the owner.

(2) **Proposed Rezoning Conditions.**

(a) A landowner requesting to rezone land to a Conditional Zoning district may propose conditions to be placed on the requested rezoning. The application must specify any proposed conditions, either in writing or with maps, plans, or drawings. Conditions and site-specific standards imposed in a Conditional Zoning district are limited to those that address conformance of the development to county ordinance standards and the Land Use Plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

(b) Any proposed conditions must impose requirements that are more restrictive than those generally applicable in the proposed Conditional Zoning district. Conditions might limit the amount of floor area, the location and size of structures, the location and extent of access ways and parking areas, the location and extent of buffer areas, the hours of business operation, or the timing of development.

(c) No condition, however, may restrict the race, religion, ownership status, or character of residents or occupants of the property, or contain any other exclusionary restrictions. Nor may any condition purport to abridge or affect any other applicable federal, state, or local law.

(3) **Site-Specific Development Plans.** If an application to rezone land to a Conditional Zoning district includes a plan that shows at least the information specified by the definition of "site-specific development plan" in Section 160D-102 of the North Carolina General Statutes, such plan constitutes a "site-specific development plan," the approval of which establishes a vested right pursuant to Section 160D-108.1 of the North Carolina General Statutes.

19-21-4 **Notice of Acceptance.** If the amendment application proposes amending the zoning map, the Planning Director must provide notice of the application's acceptance in accordance with the provisions of Section 160D-601 of the North Carolina General Statutes and Chapter 252 of the North Carolina Session Laws, 1989. The notice must briefly summarize the nature of the proposed amendment and invite interested persons to review the application at the Planning Department and to submit written or oral comments on the application.



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19-21-5 **Staff Review.** After accepting an application as complete, the Planning Director must review the application and analyze the proposed amendment's consistency with the Land Use Plan and the county's other development-related policies. The Planning Director must notify the applicant of all findings and, on determining that revisions to the application could constructively address the staff findings, invite the applicant to revise the application to address those findings. If a revised application is submitted, the Planning Director must review and analyze it in the same manner as the original application. The Planning Director must prepare a staff report that summarizes the analysis and recommends approval or denial of the proposed amendment.

19-21-6 **Planning Board Review.**

- (A) **Submittal of Application to Board.** After completing the staff report, the Planning Director must schedule the amendment application for review by the Planning Board and send Planning Board members copies of the amendment application and the staff report. The Planning Director must also notify the applicant of the time and place of the Planning Board meeting and send the applicant a copy of the staff report.
- (B) **Board Hearing of Presentations.** At its meeting, the Planning Board must receive the amendment application and staff report, and hear presentations of additional comments, exhibits, and arguments pertaining to the application by the Planning Director and the applicant. The Planning Board may also hear presentations by any other interested party. To avoid unnecessary delay, the Planning Board's presiding officer may impose reasonable limits on the number of persons heard and on the nature and length of their presentation.
- (C) **Board Review and Action.** After hearing presentations, the Planning Board must review the amendment application, the staff report, and additional information and comments submitted or presented to the Planning Board, and must recommend approval or denial of the proposed amendment in writing and within 30 days of the public hearing. Before completing its review and making its recommendation, the Planning Board may refer the application to a committee for further consideration. In deciding whether to recommend approval or denial of an amendment application, the Planning Board must consider whether the proposed amendment is consistent with the Wake County Land Use Plan and otherwise advances the public health, safety, and general welfare. When a recommendation is not made within the time periods established in this section, the Board of County Commissioners may process the request without a Planning Board recommendation.
- (D) **Opportunity to Revise Application.** After the Planning Board has heard presentations and completed its discussion of the application, but before the Planning Board recommends action on the application, the applicant may ask the Planning Board for permission to revise the application to address concerns raised by the presentations and Planning Board discussion. If the Planning Board grants the request, the revised application must be submitted to the Planning Director, and must be reviewed in the same manner as an original application.
- (E) **Conflicts of Interest.** Planning Board members may not vote on any matter that is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member.

19-21-7 **Board of Commissioners Public Hearing and Review.**

- (A) **Public Hearing Required.** After the Planning Board has completed its review, the Board of Commissioners must hold a public hearing on the amendment application at its next available regularly scheduled public hearing. Once a public hearing on the application has been scheduled and advertised for a particular meeting, it must be held at that meeting unless some emergency or special circumstance requires cancellation or early recess of the meeting itself.
- (B) **Notice of Public Hearing.**

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- (1) The Planning Director must provide notice of the public hearing in accordance with the provisions of Section 160D-601 of the North Carolina General Statutes. The notice must state the time and place of the public hearing, briefly summarize the nature of the proposed amendment, and invite interested persons to review the application at the Planning Department and to submit written or oral comments on the application to the Board of Commissioners at the hearing.
  - (2) For zoning map amendments directly affecting more than 50 properties owned by at least 50 different property owners, the county may elect to provide mailed notice or publish notice of the hearing as allowed by state statute, provided that each advertisement must be at least one-half of a newspaper page in size. The advertisement is only effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, must be provided with mailed notice.
  - (3) Signs must be posted by the Planning Director in accordance with Section 160D-602 of the North Carolina Statutes.
- (C) **Submittal of Application to Board.** Before the public hearing, the County Manager must send members of the Board of Commissioners copies of the amendment application, the recommendations of the Planning Director and Planning Board, and any written comments submitted by the public (or an accurate summary of those comments). The Planning Director must send the applicant a copy of the Planning Director's and Planning Board's recommendations.
  - (D) **Public Hearing.** At the public hearing, the Board of Commissioners must receive the amendment application and recommendations of the Planning Director and Planning Board, and hear presentations of additional comments, exhibits, and arguments pertaining to the application by the Planning Director, applicant, representatives of the Planning Board, and any other interested party. To avoid unnecessary delay, the Board of Commissioners' presiding officer may impose reasonable limitations on the number of persons heard and on the nature and length of their presentation. The Board of Commissioners may continue the hearing to a later meeting to accommodate additional comments, information, or speakers. If the Board of Commissioners continues the hearing to a named date, no further notice of the continued hearing is required.
  - (E) **Board Review and Action.** Following the public hearing, the Board of Commissioners must review the amendment application, recommendations of the Planning Director and Planning Board, and other information and comments submitted or presented at the hearing, and must approve the proposed amendment, deny the amendment application, or approve a modified amendment that is within the scope of matters considered at the public hearing. Before completing its review and making its final decision, the Board of Commissioners may postpone its discussion and/or action to a later meeting, or refer the application to a committee or back to the Planning Director and Planning Board for further consideration. In deciding whether to approve or deny an amendment application, the Board of Commissioners must adopt a statement describing whether the proposed amendment is consistent with the Wake County Land Use Plan and otherwise advances the public health, safety, and general welfare. The Board of Commissioners may adopt the statement furnished by staff or agencies or it may formulate its own statement.
  - (F) **Opportunity to Revise Application.** After the Board of Commissioners has heard presentations and completed its discussion of the application, but before the Board of Commissioners takes action on the application, the applicant may ask the Board of

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Commissioners for permission to revise the application to address concerns raised by the presentations and Board discussion. If the Board of Commissioners grants the request, the revised application must be submitted to the Planning Director, and must be reviewed in the same manner as an original application.

- (G) **Site-Specific Development Plans.** If the Board of Commissioners approves an application for rezoning to a Conditional Zoning district that includes a plan qualifying as a site specific development plan, the Board of Commissioners must identify the approved plan as a site specific development plan that triggers a vested right pursuant to Section 160D-108 of the North Carolina General Statutes.

19-21-8 **Revised Applications.** To revise an amendment proposal at any time other than expressly allowed under this section, the applicant must first withdraw the original amendment application in accordance with Sec. 19-13 then resubmit a new amendment application in accordance with Sec. 19-21-10.

19-21-9 **Actions Following Final Decision.** The Planning Director must send the applicant written notice of the Board of Commissioners' final decision on the amendment application, and must file a copy of the decision in the Planning Department. If the Board of Commissioners approved the application, the Planning Director must record the changes onto official copies of the zoning map.

19-21-10 **Waiting Period for Resubmittal of Application.**

- (A) If the Board of Commissioners denies an amendment application or if the applicant withdraws the application after the hearing notice required in Sec. 19-21-7(B), the Planning Director may not accept another application for the same or similar amendment for at least one year after the denial or withdrawal, unless the Board of Commissioners first approves the applicant's request for an exception to this provision.
- (B) An application for a rehearing may be considered by the Board of Commissioners within 12 months after the date of denial or withdrawal. The application for rehearing must be accompanied by an affidavit setting forth evidence that significant physical, economic or land use changes have taken place on the subject tract or within the immediate vicinity, or newly discovered evidence that was not available at the initial hearing, or a significant ordinance amendment has been adopted.

19-21-11 **Changes to Conditional Zoning Zoning Conditions.** Any proposed change to the conditions approved as part of an amendment rezoning land to a Conditional Zoning district must be considered a proposed amendment to the zoning map and must be processed as a new amendment application.

19-21-12 **Amendments of Provisions and District Boundaries Related to Water Supply Watershed Protection.**

- (A) **Compliance with State Watershed Rules.** Those provisions of this ordinance relating to the protection of water supply watersheds, as well as those zoning district boundaries reflecting the boundaries of any water supply watershed or its critical or protected area, may not be amended except in compliance with the watershed rules adopted by the State Environmental Management Commission (Title 15A, Subchapter 2B, of the North Carolina Administrative Code).
- (B) **Filing of Amendments with State.** The Planning Director must submit copies of any amendment relating to the protection of water supply watersheds to the State Division of Water Quality, or its successor agency.

## 19-23 - Special Use.

### 19-23-7 Review and Decision.

- (D) If the Board of Adjustment approves an application that includes one or more plans qualifying as a site-specific development plan under Section 160D-102 of the North Carolina General Statutes, it

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must identify the approved plan as a site specific development plan that triggers a vested right pursuant to Section **160D-108** of the North Carolina General Statutes.

**19-24-3 Development Plan and Regulatory Standards.**

- (A) **General.** The development plan and regulatory standards proposed for a PD District must be designed to accomplish the purposes of zoning, as more particularly set out in Section **160D-604** of the General Statutes of North Carolina, and in keeping with the purposes and intent of the Board of Commissioners as set out in this section, and particularly in 3-52-1.

**19-24-4 Planning Board Recommendation.** The Planning Board must examine the application for establishment of a PD District and must certify its findings and recommendations regarding it to the Board of Commissioners as prescribed in 19-24-4(D)(6) and this subsection.

- (A) **Areas of Consideration.** In the course of such examination, the Planning Board must, as a minimum, consider the following matters regarding the application for the proposed PD District, and must certify its findings regarding each of them to the Board of Commissioners as to whether or not the development plan and regulatory standards proposed adequately treat the matter when measured against the purposes of zoning as set out in Section **160D-604** of the General Statutes of North Carolina.

- **19-25 - Mobile Home Parks.**

**19-25-1 Zoning, Plans, Building Permits.**

(J) **Vested Rights with Final Site Development Plan.**

- (1) A final site development plan for a mobile home park constitutes a "site specific development plan," the approval of which establishes a vested right pursuant to Section **160D-108** of the North Carolina General Statutes if:
  - (a) The submitted final site development plan shows at least the information specified by the definition of "site specific development plan" in Section **160D-102** of the North Carolina General Statutes; and
  - (b) The application includes the applicant's written request that the Planning Board hold a public hearing as part of its review of the application.
- (2) On receiving a final site development plan qualifying as a site specific development plan, the Planning Board must hold a public hearing on the application.
- (3) If the Planning Board approves a final site development plan qualifying as a site specific development plan, the Board must identify the approved plan as a site specific development plan that triggers a vested right pursuant to Section **160D-108** of the North Carolina General Statutes.

**19-31-7 Plat Certification.**

- (A) **Approval.** Upon approval of the application, the Planning Director must enter the following certification on the approved record plat;

I, \_\_\_\_\_, Planning Director and Review Officer of Wake County, certify that this plat constitutes a minor-limited subdivision and has been reviewed only to determine compliance with GS **160-802** and that it meets all statutory requirements for recording.

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Because of its "minor limited" status, the county has not reviewed this plat for compliance with all applicable development standards and other subdivision regulations (including, but not limited to road standards). Prospective purchasers should be aware that plans and/or permits for building and development shall be denied for lots that do not meet all applicable county standards. This approval expires if not recorded before \_\_\_\_\_.

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Date

Planning Director/Review Officer

## **19-42 Permits.**

### **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:

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- (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) 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) 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.
  - (6) 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.

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- (E) **Validity of Permit.** Development approval issued pursuant to this section shall expire one year after the date of issuance if the work authorized by the permit has not been substantially commenced. If work or activity is discontinued for a period of 12 months after commencement, the development approval shall immediately expire.

(F) **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 shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. . The revocation of a development or permit approval by the Planning Director may be appealed pursuant to Section 19-41 of this Ordinance. 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 12/7/2015 by OA-05-15; Amended on 9/8/2020 by OA-02-20 .]

## **20-12 Responsibility for Violations.**

The following persons may be jointly and severally responsible for violations of this ordinance and subject to enforcement:

20-12-1 Any owner of property on which a violation of this ordinance occurs;

20-12-2 Any architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this ordinance; and

20-12-3 Any tenant or occupant who has control over, or responsibility for, its use or development.

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## 20-14 Penalties, Remedies and Enforcement Powers.

Wake County may utilize the following remedies and penalties to prevent, correct, or abate a violation of this ordinance. These remedies and penalties are not mutually exclusive.

**20-14-1 Permit Denial.** If a violation of this ordinance remains uncorrected, the Planning Director may deny or withhold approval of any permit provided for in this ordinance that is sought for the property on which the violation exists.

### 20-14-2 Permit Revocation.

(A) In addition to initiation of enforcement actions under G.S. 160D-404 and in accordance with the provisions of 19-42-1(E) and the provisions of Article 20 of this Ordinance, the Planning Director may revoke any permit issued under this ordinance for failure to comply with the provisions of this ordinance or the terms and conditions of a permit or authorization granted under this ordinance.

(B) The Planning Director shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval.

(C) Development or permit approvals shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of any applicable standards of this Ordinance or any State Law delegated to Wake County Government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the permit.

(D) Any permit approval mistakenly issued in violation of this Ordinance may also be revoked.

(E) The revocation of a development or permit approval by the Planning Director may be appealed pursuant to Section 19-41 of this Ordinance.

### 20-14-3 Civil Penalty.

(A) Violation of this ordinance subjects the violator to a civil penalty in the amount of \$100.00 per day. The Planning Director imposes a civil penalty by giving the violator a written citation, either in person; by certified mail, return receipt requested; or by first class mail if the certified mail is refused or unclaimed. The citation must describe the violation, specify the amount of the civil penalty being imposed, and direct the violator to pay the civil penalty to the county within ten days of the date the citation is received or presumed to have been received. If the violator fails to either pay the civil penalty or correct the violation within this time limit, Wake County may institute a civil action in the nature of a debt in a court of competent jurisdiction to recover the civil penalty.

(B) Each day's continuing violation is a separate and distinct offense.

**20-14-4 Criminal Penalty.** Violation of this ordinance is punishable as set forth in NCGS 14-4.

**20-14-5 Injunction and Abatement Order.** Wake County may institute a civil action for mandatory and prohibitory injunctions and order of abatement commanding the violator to correct or cease a violation of this ordinance. Pursuant to NCGS Section 153A-123 if the violator fails to comply with a court order and the county has to abate the violation, then the county shall have a lien on the property on which the violation occurred to cover the county's costs of abatement.

**20-14-6 Forfeiture and Confiscation of Signs.** Any illegal sign installed or placed on public property will be subject to forfeiture to the public and confiscation. In addition to other remedies and penalties of this section, the county has the right to recover from the sign owner, or person who placed the sign, the full costs of sign removal and disposal.



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20-14-7 **Other Equitable Relief.** In addition to the above remedies and penalties, Wake County may institute any other appropriate equitable action or proceeding in a court of competent jurisdiction to prevent, correct, or abate a violation of this ordinance.

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## **20-15 Enforcement Procedures.**

**20-15-1 Investigation.** Upon receipt of a written complaint, the Planning Director must investigate the complaint and determine whether a violation exists.

**20-15-2 Notice of Violation.** When a violation of the Wake County Unified Development Ordinance is verified, the Planning Director must notify the responsible parties as defined in Section 20-12 of this Section by personal delivery, electronic delivery, first class mail or by certified mail, return receipt requested. If the certified notice is returned, refused or unclaimed, then first-class mail to the same address will be deemed proper notice. The notice must describe the nature of the violation and state the actions necessary to correct the violation.

**20-15-3 Appeal to Board of Adjustment.**

- (A) Any person aggrieved by the Notice of Violation may appeal it to the Board of Adjustment in accordance with the provisions of Sec. 19-41.
- (B) If the appeal is not filed with the County within the time limit specified in Sec. 19-41, then it is waived.

**20-15-4 Extension of Time Limit to Correct Violation.** The recipient of a Notice of Violation, or the owner of the property on which the violation occurs, may submit to the Planning Director a written request for a time extension to come into compliance. On determining that the request has merit the Planning Director may extend the time limit as reasonably necessary to allow timely correction of the violation.

**20-15-5 Enforcement Action After Time Limit to Correct Violation.** If the violation has not been abated as directed by the County, the County may proceed to legal enforcement.

**20-15-6 Emergency Enforcement Without Notice.** If delay in abating a violation would pose a danger to the public health, safety, or welfare, Wake County may seek immediate enforcement without prior written notice.

## **Article 21 Definition**

*Planning Board* means the Wake County Planning Board, the planning agency created by the Board of Commissioners pursuant to statutory authority now appearing as Section **160D-301** of the General Statutes of North Carolina or other applicable statutory authority.