

**ORDINANCE NO. (2020) 170 TC 441
TC-4-20**

**AN ORDINANCE TO AMEND THE PART 10
RALEIGH UNIFIED DEVELOPMENT ORDINANCE TO MODIFY THE
METHOD FOR MEASUREMENT OF HEIGHT AND TO MODIFY THE
RESIDENTIAL INFILL STANDARDS FOR STREET SETBACK**

WHEREAS, the City of Raleigh Unified Development Ordinance establishes regulations that are intended to be simple to apply and understand;

WHEREAS, the measurement of building height is a critical component of site design and review;

WHEREAS, recent amendments to the UDO have made the measurement of height more complex;

WHEREAS, residential infill construction has been regulated by the Unified Development Ordinance since 2013;

WHEREAS, recent amendments to the UDO intended to address issues with residential infill construction, have created much complexity and confusion;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. Section 1.5.7.A. of the Part 10 Raleigh Unified Development Ordinance, Building Height, is hereby amended by adding language shown in underline and deleting language shown in strikethrough:

2. ~~Average grade is determined by calculating the average of the highest and lowest elevation along pre-development grade or improved grade (whichever is more restrictive) along each building elevation and averaging all elevations. Where land disturbance has been approved by the City through the mass grading process, average grade shall be considered the improved grade following the completion of such mass grading.~~ shall be considered to be average post-development grade above sea level along the building elevation most parallel and closest to the primary street setback, however, for any building subject to the standards of Sec. 2.2.7., average grade shall be determined by averaging the four points consisting of the highest and lowest elevations of both pre-development and post-development grade. When the average post- development grade is lower than the average pre-development grade, then height shall be measured from the average post development grade. In all cases, where a site or lot is determined to have more than one primary street, average grade shall be determined along each elevation most parallel and closest to each primary street. Maximum building height must be met from the average grade of each primary street independently.

[Image to be updated accordingly]

4. Where the property slope increases to the rear, building height is measured from the average ~~point at~~ post-development grade above sea level of the front and rear wall plane. However,

buildings subject to the standards of Sec. 2.2.7. shall utilize the same averaging approaches in Sec. 1.5.7.A 2. above, in order to calculate the average grade between the pre-development average grade and the post-development average grade. When the average post-development grade utilizing both the front and rear wall planes is lower than the average pre-development grade, then height shall be measured from the average post-development grade of the front and rear wall planes.

[Image to be updated accordingly]

Section 2. Section 2.2.7.B. of the Part 10 Raleigh Unified Development Ordinance, Residential Infill Compatibility, is hereby amended by adding language shown in underline and deleting language shown in strikethrough:

B. Applicability

1. The standards contained within this section apply to any building in an R-4, R-6 or R-10 district where all of the following are present:
 - a. The total site area is 5-acres or less;
 - b. The subject lot's primary street frontage is on a street section that was platted for at least 20 years including subsequent right-of-way dedications;
 - c. If a comparative sample can be defined ~~as outlined in Sec. 2.2.7.C.~~ and at least ~~three~~ four of the principal buildings, or three for a corner lot, contained in the comparative sample have primary street frontage on a street section that has been platted for at least 20 years including subsequent right-of-way dedications. The comparative sample is derived by the four closest principal buildings, or three for a corner lot, along the same block face of the street within 300 feet of and oriented toward the same street as the subject lot. The sample need not be equally distributed on either side of the subject lot. When a comparative sample of four principal buildings, or three for a corner lot, cannot be derived, then the minimum setback of the underlying zoning district applies.
 - i. These rules do not apply to lots where more than 50% of the primary street property line abuts a cul-de-sac bulb and these lots shall not count as part of a comparative sample for other lots.
 - ii. Where an addition is proposed to a detached or attached house, the existing principal building on the lot shall be considered an addition to the comparative sample.
 - iii. Where an official survey demonstrates the location of a detached or attached house, and that structure has been in that location within the last 365 days, the proposed principal building may be located within 10% of the same primary street setback as the existing detached or attached dwelling or as prescribed by the rules in Sec. 2.2.7.C., below, whichever the applicant chooses.
 - iv. Where a demolition permit for a principal building has been obtained on a lot, that lot shall be considered vacant for the purposes of determining a comparative sample. Where a

building permit has been obtained for a principal building on a lot, the building shall be considered for the purposes of determining a comparative sample.

2. When a lot is subject to the residential infill compatibility standards and the lot is located within a Neighborhood Conservation Overlay District that regulates any component herein, the Neighborhood Conservation Overlay District regulation shall apply for that specific component.
3. These infill compatibility rules do not apply in Historic Districts, Street Side Historic Overlay Districts, or to Historic landmarks.

Section 3. Section 2.2.7.C. of the Part 10 Raleigh Unified Development Ordinance, Street Setback, is hereby repealed and replaced with the following language:

C. Street Setback (Minimum and Maximum)

The primary street setback for principal buildings shall be determined by the comparative sample context of the block face as outlined in the following subsections:

1. The proposed building must be located within either of the following ranges:
 - a. No closer than the smallest primary street setback, and no further than the largest primary street setback in the comparative sample as set forth in *Sec. 2.2.7.B.1.c.* above; or
 - b. As determined by the table below based on the subject lot's width and the median of setbacks within the comparative sample as set forth in *Sec. 2.2.7.B.1.c.* above.

Subject Lot Width	Modification to Median
50 feet or less	Within 10% of median
More than 50 feet up to 65 feet	Within 15% of median
More than 65 feet up to 80	Within 20% of median
More than 80 feet	Within 25% of median

2. Comparative sample setbacks are measured from the outer wall of pre-existing principal buildings within the comparative sample and do not include the building feature encroachments authorized by *Sec. 1.5.4.D.*
3. When differences in right-of-way widths exist between the subject property and comparative sample properties, the comparative primary street setbacks shall be measured and applied from the centerline of the primary street rather than the property line along the primary street.
4. Riparian Buffers, Floodways, areas of steep slope (defined as slopes in excess of 25%), pre-established Tree Conservation Areas, City of Raleigh easements, drainage easements, slope easements, voluntary tree conservation in compliance with *Art. 9.1* for trees with a DBH of 10 inches or greater and protective yards (and associated setbacks) are considered impediments

to compliance with the primary street setback range Where an applicant can demonstrate that an impediment located within the primary street setback prevents compliance with the primary street setback, the comparative setback sample shall be considered the edge of the impediment.

Section 4. Section 2.2.7.D. of the Part 10 Raleigh Unified Development Ordinance, Height, is hereby amended by adding language shown in underline and deleting language shown in strikethrough:

1. Side Wall Plane Height and Setback Plane

The maximum allowed wall plane height adjacent to the side property line is 225 feet or the average height of the 2 abutting neighboring wall planes, whichever is greater. The wall plane height may be increased 1 foot for each foot of horizontal distance the wall is moved from the side setback line, not to exceed the maximum height allowed within the district. When a side wall incorporates a recession or projection of 2 feet or more, multiple side wall plane heights shall apply. Each side wall plane's height is determined by averaging the four points consisting of the highest and lowest elevations of each of pre-development and post-development grades along that side wall of the building. In the event the average post-development grade along the side wall of the building is lower than the average pre-development grade along that wall, then side wall plane height shall be measured from the average post development grade.

Section 5. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

Section 6. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 7. This text change has been reviewed by the Raleigh City Planning Commission.

Section 8. This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

Section 9. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty-dollar limit in N.C.G.S. §14-4(a) or similar limitations.

Section 10. This ordinance is effective 30 days after adoption.

ADOPTED: December 1, 2020

EFFECTIVE: December 31, 2020

DISTRIBUTION: Planning and Development – Young, Bowers, Crane, Waddell, Rametta, Holland, Bailey-Taylor
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