

**ORDINANCE NO. XXX- (2016)  
TC-17-16**

**AN ORDINANCE TO AMEND SECTION 1.5.7 OF THE PART 10 RALEIGH UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE BASEMENT AND ATTIC REGULATIONS**

**WHEREAS**, the intent of the Unified Development Ordinance for the City of Raleigh was to create more predictable development;

**WHEREAS**, the existing regulations in Article 1.5 provide for an allowance for attics and basements which do not count as a story;

**WHEREAS**, building heights in the mixed use zoning districts were intended to be predictable by establishing maximum height in feet and number of stories;

**WHEREAS**, the Unified Development Ordinance does not regulate residential density in the mixed use districts in exchange for this more predictable form;

**WHEREAS**, the City of Raleigh has determined it appropriate to preserve this predictability related to building height in the mixed use districts;

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

**Section 1.** Sec. 1.5.7.A.3 of the Part 10 Raleigh Unified Development Ordinance, Building Height, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

3. For a detached or attached building type only. ~~Where~~ a lot slopes downward from the front property line, 1 story that is additional to the specified maximum number of stories may be built on the lower portion of the lot.

**Section 2.** Section 1.5.7.A.5 of the Part 10 Raleigh Unified Development Ordinance, Building Height, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

5. For a detached or attached building type only. ~~An~~ attic does not count as a story where 50% or more of the attic floor area has a clear height of less than 7.5 feet; measured from the finished floor to the finished ceiling. To be classified as an attic, the space must also meet the specifications as provided in the defined term in Article 12.2.

**Section 3.** Section 1.5.7.A.6 of the Part 10 Raleigh Unified Development Ordinance, Building Height, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

6. A basement detached or attached building type with 50% or more of its exterior perimeter wall area (measured from finished floor elevation) surrounded by finished grade is considered to have a basement. In this context, the basement is not considered a story. To be classified as a basement, the space must also meet the specifications as provided in the defined term in Article 12.2

**Section 4.** Section 12.2 of the Part 10 Raleigh Unified Development Ordinance, Definitions, is hereby amended to include the following defined terms, listed in alphabetical order:

**Attic**

An unfinished space between roof framing and the ceiling of rooms below that is accessed by ladder or permanent stairs. This area is used for storage or mechanical equipment and cannot be used as habitable space. If an attic is converted to a habitable space such conversion shall cause the area to be deemed as an additional story.

**Mezzanine**

An internal space above and open to the first floor below. When a mezzanine comprises less than 25% of the footprint area of the building, it is not considered a story. When a mezzanine comprises 25% or more of the footprint area of the building, it is considered a story.

**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 has been provided to the North Carolina Capital Commission as required by law.

**Section 10.** 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 11.** This ordinance is effective 5 days after adoption.

**ADOPTED:**

**EFFECTIVE:**

**DISTRIBUTION:**

*Prepared by the Department of City Planning*



# Certified Recommendation

Raleigh Planning Commission

CR#

## Case Information: TC-17-16 / Attics & Basements

### Comprehensive Plan Guidance

<i>Applicable Policy Statements</i>	<p><b>Policy LU 5.2 Managing Commercial Development Impacts</b> Manage new commercial development using zoning regulations and through the conditional use zoning and development review processes so that it does not result in unreasonable and unexpected traffic, parking, litter, shadow, view obstruction, odor noise and vibration impacts on surrounding residential areas.</p> <p><b>Policy LU 5.5 Transitional and Buffer Zone Districts</b> Maintain and enhance zoning districts which serve as transitional or buffer areas between residential and commercial districts and which also may contain institutional, non-profit and office type uses. Zoning regulations and conditions for these areas should ensure that development achieves appropriate height and density transitions and protects neighborhood character.</p> <p><b>Policy LU 7.4 Scale and Design of Commercial Uses</b> New uses within commercial districts should be developed at a height, mass, scale and design that is appropriate and compatible with surrounding areas.</p>
<i>Action Items</i>	<b>N/A</b>

### Summary of Text Change

<i>Summary</i>	Amends the Part 10 Raleigh Unified Development Ordinance to clarify the regulations related to attics and basements. As currently written, the UDO permits a basement or an attic, or both to add to the building massing without counting as a story. The Development Services Department has received several site plan submittals for what can only be considered a four or five story building within a three story zoning district.
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### Summary of Impacts

<i>Impacts Identified</i>	<p><u>Adoption of TC-17-16:</u></p> <ol style="list-style-type: none"> <li>1. The adoption of the text change would reflect the original intent of the UDO related to basements and attics.</li> <li>2. If adopted, apartment or mixed use building types would not be permitted to claim an attic or a basement, or both, are exempt from the height regulations.</li> </ol>
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# Zoning Staff Report – TC-17-16

## Attics and Basements

### Request

<i>Section Reference</i>	<b>Part 10 Unified Development Ordinance §1.5.7 Building Height</b>
<i>Basic Information</i>	Amends the Part 10 Raleigh Unified Development Ordinance to clarify the regulations related to attics and basements. As currently written, the UDO permits a basement or an attic, or both to add to the building massing without counting as a story. The Development Services Department has received several site plan submittals for what can only be considered a four or five story building within a three story zoning district.
<i>PC Recommendation Deadline</i>	January 24, 2017

### Comprehensive Plan Guidance

<i>Applicable Policies</i>	<p><b>Policy LU 5.2 Managing Commercial Development Impacts</b> Manage new commercial development using zoning regulations and through the conditional use zoning and development review processes so that it does not result in unreasonable and unexpected traffic, parking, litter, shadow, view obstruction, odor noise and vibration impacts on surrounding residential areas.</p> <p><b>Policy LU 5.5 Transitional and Buffer Zone Districts</b> Maintain and enhance zoning districts which serve as transitional or buffer areas between residential and commercial districts and which also may contain institutional, non-profit and office type uses. Zoning regulations and conditions for these areas should ensure that development achieves appropriate height and density transitions and protects neighborhood character.</p> <p><b>Policy LU 7.4 Scale and Design of Commercial Uses</b> New uses within commercial districts should be developed at a height, mass, scale and design that is appropriate and compatible with surrounding areas.</p>
<i>Action Items</i>	<b>N/A</b>

### Contact Information

<i>Staff Coordinator</i>	Travis Crane: <a href="mailto:travis.crane@raleighnc.gov">travis.crane@raleighnc.gov</a> ; 919.996.2656
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## **History/Overview**

This text change was requested by staff in the Department of City Planning. The Unified Development Ordinance contains regulations related to building height. The UDO includes regulations for calculating height, calculating height on a sloped lot, and provisions for basement and attic space. When the language in section 1.5.7 was drafted, the initial intention was that the attic and basement provisions would be used on single family structures.

## **Purpose and Need**

This text change would alter the language related to height to reflect the original intent. Staff has received several site plan submittals that propose very large multi-story apartment or mixed use buildings that claim to have an attic, a basement, or both. The intent of the mixed use zoning districts was to remove density caps in favor of predictable building heights. Very simply, three story zoning should produce three story buildings. Recent submittals have proposed very large five story buildings in three story zoning.

## **Alternatives Considered**

There were no other alternatives considered.

## **Scoping of Impacts**

Potential adverse impacts of the proposed text change have been identified as follows:

Adoption of the text change would prevent apartment, general, and mixed use building types from constructing an attic or a basement. On sloping sites, a site developer may choose to build larger retaining walls. Staff has been authorized to create a hillside development manual that could explore and address this impact.

The adverse impacts of taking no action (retaining the existing regulations) have been identified as follows:

If this text change is not adopted, the City will continue to receive site plan applications that propose buildings that contain more stories than might otherwise be expected in the zoning district. The predictability of building height would be lost.

## **Impacts Summary**

### **Adoption of Proposed Text Change**

The adoption of the text change would prevent a basement or attic in any building type other than a detached or attached building type. It could produce additional retaining walls, although this issue will be explored in the hillside development manual.

### **No action**

The City will continue to receive site plan submittals that propose buildings that are taller than what would be expected in the zoning district.