

# Ordinance



City Council  
City of Wilmington  
North Carolina

**Introduced By:** Sterling B. Cheatham, City Manager

**Date:** 06/03/2008

## **Ordinance Amending the Land Development Code (LDC-8-508)**

### **LEGISLATIVE INTENT/PURPOSE:**

WHEREAS, NCGS Section 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code; and

WHEREAS, the amendment set out below is intended to promote the public health, safety and welfare by amending the Land Development Code to amend the phasing requirements for residential portions of mixed use developments.

### **THEREFORE, BE IT ORDAINED:**

SECTION 1: Subsection 18-185(b)(6). MX, Mixed Use District, of the Wilmington City Code is hereby amended to read as follows:

"(6) For MX projects developed in phases (as defined in this ordinance), each phase shall be able to function as a stand alone development and the project shall contain the required common space/open space at all times during the phases of construction. All MX projects shall meet the minimum mix of uses requirements according to the following schedule:

<i>Project Size (acres zoned MX)</i>	<i>Time from first foundation inspection to provide initial 60-30-10 mix</i>
0-100	18 months
100+ to 200	36 months
200 +	48 months

If the mixture of uses is not provided in this time, no certificates of occupancy will be issued for any part of the project other than single family detached residential developments and townhouse residential developments, not exceeding four units per building until the mixture is provided. All structures with a certificate of occupancy or at least foundations and footings may be considered part of the mixture. Single family detached residential developments and townhouse residential developments not exceeding four units per building in MX projects of one hundred (100) acres or more may have up to four years from the first foundation inspection approval before certificates of

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occupancy will be withheld for failure to provide the required mix of uses. The City Council may grant a one year extension for a total of five (5) years if the property owner can provide evidence that a mix will be provided by the end of the additional year. The evidence may include but is not limited to tenant contracts, leases or other legal construction agreements with specific deadlines.

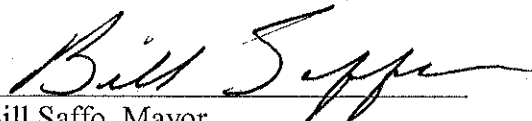
Notwithstanding the foregoing provisions regarding the initial 60-30-10 mix and the 60-20-20 mix for phased projects, in the event that the developer has provided either the city or the North Carolina Department of Transportation, whichever is applicable, with financial guarantees in a form suitable to the relevant entity to cover all offsite improvements related to uses other than residential and twenty (20) percent of the project's common space/open space has been fully constructed and is accessible, then the developer's failure to provide the nonresidential component of the initial 60-30-10 mix, or the 60-20-20 mix for phased projects, within the applicable time periods set forth in the schedules above shall not preclude the issuance of certificates of occupancy for the residential portions of the project, provided all other conditions for obtaining the certificates of occupancy have been met."

SECTION 2: That any person violating the provisions of this ordinance shall be subject to the penalties set forth in Article XIV, Section 18-52 of the Land Development Code.

SECTION 3: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 4: That if any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 5: That this ordinance shall be effective immediately upon its adoption.

  
Bill Saffo, Mayor

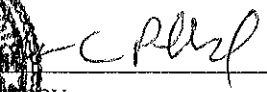
Adopted at a regular meeting  
on June 3, 2008

ATTEST:

  
City Clerk



APPROVED AS TO FORM:



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