



## **ORDINANCE NO. #OR1-2022**

### **AN ORDINANCE AMENDING THE LOWELL DEVELOPMENT ORDINANCE OF THE CITY OF LOWELL, NORTH CAROLINA**

Ordinance Number OR1-2022

WHEREAS, on May 11, 2021 the City Council's newly adopted Lowell Development Ordinance, also known as the LDO, became fully effective; and,

WHEREAS, the Governor and General Assembly of the State of North Carolina set into law Session Law 2021-138 on the 2<sup>nd</sup> day of September 2021 amending G.S. 160D to decriminalize violations except in certain instances; and,

WHEREAS, the amendment of the LDO to incorporate the requirements of SL 2021-138 affecting G.S. 160D is both consistent with the adopted *City Plan 2040* by continuing to meet the adopted goals of Section 5.II of *City Plan 2040* emphasizing management of growth and reasonable because of the City's need to achieve compliance with Session Laws 2019-111, 2020-25 and 2021-138;

THEREFORE BE IT ORDAINED by the City Council that the Lowell Development Ordinance be amended as follows:

**PART 1.      Articles 5 is hereby amended to add the following language to the end of Section 5.2:**

"The following changes to this Ordinance are authorized and may be carried out by either the *City Clerk* or the *Planning, Zoning, & Subdivision Administrator* or their designee, without processing a formal amendment:

1. Corrections to the Official Zoning Map to reflect updated information on property boundaries, street alignments, natural stream alignments, etc. shall not be considered

amendments;

2. Edits to the text of this Ordinance and/or the Official Zoning Map to update a table of amendments, add information to the legend of the Official Zoning Map, correct typographical errors, add and/or correct geographical information, and/or insert notations representing amended text in an article, section, subsection, or provision; and
3. Deletions of provisions stricken down by either a legislative action of the North Carolina legislature or a court of competent jurisdiction.”

**PART 2. Article 16 is hereby amended to delete the following language from Section 16.1-7, said language being the second sentence of the enumerated paragraph:**

“In addition to being subject to the provisions for enforcement in Article 23 of the Ordinance, any person who, being the owner or agent of the owner of any land located within the City’s jurisdiction, subdivides their land in violation of the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such ordinance and recorded in the office of the appropriate register of deeds, shall also be deemed guilty of a Class 1 misdemeanor.”

**PART 3. Article 18 is hereby amended to rewrite Section 18.3(H) to read as follows:**

“Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a violation of this Ordinance. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Lowell from taking such other lawful action as is necessary to prevent or remedy any violation.”

**PART 4. Article 18 is hereby amended to rewrite Section 18.4(C)(15) to read as follows:**

“Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a violation of this Ordinance.”

**PART 5. Article 18 is hereby amended to rewrite Section 18.4(D)(5) to read as follows:**

“Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a violation of this Ordinance.”

**PART 6. Article 23 is hereby amended to rewrite Section 23.6-5 to read as follows:**

“Stop Work Orders. Whenever a building, sign, or structure, or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the Planning, Zoning & Subdivision Administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the owner, occupant, or person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Such action shall be in accordance with G.S.160D-404(b). Violation of a stop work order regarding any building deemed unsafe shall constitute a Class 1 misdemeanor.”

**PART 7. Article 23 is hereby amended to rewrite Section 23.7-6 to read as follows:**

“Nonpayment. If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty, reasonable attorney fees and court costs. Provided, however, if the civil penalty is not paid within the time prescribed, the Planning, Zoning & Subdivision Administrator may have a lien for all cost incurred placed upon the property that is the subject of the violation.

**PART 8. This Ordinance shall be effective at 12:01 AM EST on January 12, 2022.**

**ADOPTED on this the 11<sup>th</sup> day of January 2022.**

s/ Sandy Railey  
Sandy Railey, Mayor

s/ Scott Attaway  
Scott Attaway, Deputy City Clerk