

ORDINANCE A

(Enacting the Land Use Management Ordinance Text Amendment proposal)

AN ORDINANCE AMENDING ARTICLES 1, 3, 4, 5, 6, AND 7 AND APPENDIX A OF THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE REGARDING HOUSING CHOICES FOR A COMPLETE COMMUNITY (2023-##-##/O-)

WHEREAS, the Chapel Hill Town Council wishes to amend the Land Use Management Ordinance (LUMO) in order to allow for more and varied housing opportunities that meet different price points, life stages, and preferences; and

WHEREAS, the Town of Chapel Hill acknowledges that zoning has historically contributed to perpetuating segregation and economic exclusion of multiple generations of residents; and

WHEREAS, the Town of Chapel Hill, like many communities, recognizes that zoning, land use regulations, and the development approval process have contributed to a disparity of outcomes for residents including housing shortages and housing development that does not meet the income levels and life stages of all residents; and

WHEREAS, as housing becomes less attainable due to limited supplies, high pricing, and limited housing options, there are fewer housing options for current and new residents at different income levels and life stages to live in the community; and

WHEREAS, as the shortage of housing units have led to increased housing costs, Chapel Hill's workforce must look at housing opportunities outside of the community, leading to increased traffic and parking demands; and

WHEREAS, the Town of Chapel Hill understands the need to encourage compatible infill development that balances the character and history of neighborhoods while increasing opportunities to develop attainable and affordable housing; and

WHEREAS, the neighborhood conservation districts (NCDs) have establish special regulations especially designed for and intended to help preserve the character of individual residential neighborhoods and the majority of these NCDs have prohibited duplexes or reserved duplexes for affordable housing only; and

WHEREAS, the Chapel Hill 2020 Comprehensive Plan promotes a range of housing choices for residents, including workforce, senior, and affordable housing; and

WHEREAS, the Chapel Hill 2020 Comprehensive Plan encourages future land use, form, and density that strengthen the community, social equity, economic prosperity, and the natural environment; and

WHEREAS, the Future Land Use Map (FLUM) encourages compact, well-designed, mixed-use communities where all community members have access to jobs, transit, and places to reside; and

WHEREAS, the FLUM recommends the development of duplexes, triplexes, fourplexes, and accessory dwelling units with an approval process and requirements similar to that of single-family detached dwellings and it finds that these small scale, multifamily uses can fit within the existing fabric of some existing single-family neighborhoods; and

WHEREAS, the Chapel Hill Housing Needs Analysis: 2020-2040 found that new housing for individual households is expected to increase to 500 units per year. Few owner-occupied townhouses or condominiums are built to meet this need and provide missing middle housing for the community's workforce; and

WHEREAS, on September 22, 2021, the several members of the Town Council petitioned staff to create a new application pathway to foster the creation of missing middle housing, including duplexes, triplexes, cottage courts, townhomes, and other forms of compact development, to increase the availability and affordability of housing; and

WHEREAS, in 2022, the Chapel Hill Town Council initiated a Complete Community Strategy to identify shared interests around a new approach that clarifies where and how to add to build housing in order to be an inclusive, sustainable, and an economically competitive community; and

WHEREAS, the Town of Chapel Hill supports a strategy of incremental, gentle density that will increase opportunities for smaller, more affordable single family residences and small-scale housing developments in existing residential zoning districts; and

WHEREAS, increasing density in established residential neighborhoods will utilize existing infrastructure; promote walkability, transit, and alternative forms of transportation; and encourage sustainable land use practices that reduce environmental impacts; and

WHEREAS, the Town of Chapel Hill finds that additional housing units can be integrated into existing residential neighborhoods and zoning districts through gentle density constructing small-scale houses and multifamily missing middle housing forms; and

WHEREAS, the Town of Chapel Hill recognizes the inefficiencies of single family zoning and seek to expand opportunities to incrementally increase density in existing residential zoning districts by allowing more attainable, smaller, single family and missing middle housing forms such as duplexes, triplexes, fourplexes, and cottage courts; and

WHEREAS, smaller houses and unit sizes reduce land acquisition and construction costs, driving down overall home prices. Small-scale development provides an opportunity for homeownership and an alternative to accessory apartments; and

WHEREAS, Land Use Management Ordinance Article 3 – Zoning Districts, Uses, and Dimensional Standards limits the diversity of housing types and needs to be expanded to provide greater opportunity for a range of housing types; and

WHEREAS, Land Use Management Ordinance Article 4 – Procedures provides certain exemptions only for single family development, requiring longer and more intensive review schedules for small-scale residential developments; and

WHEREAS, Land Use Management Ordinance Article 5 – Design and Development Standards apply to all multi-family development of three or more units, creating obstacles that discourage missing middle housing development; and

WHEREAS, Land Use Management Ordinance Article 6 – Special Regulations for Particular Uses does not provide standards for accessory apartments, triplexes, fourplexes, or townhouse developments, and these types of housing units could strategically increase the density of neighborhoods if sensitively designed and integrated; and

WHEREAS, Appendix A—Definitions requires revisions to match the standards proposed above; and

WHEREAS, the Housing Advisory Board reviewed the text amendments to the Land Use Management Ordinance Article 1, 3, 4, 5, 6, and 7 and Appendix A on October 11, 2022, and January 10, 2023, and recommended that the Council enact the text amendments; and

WHEREAS, the Planning Commission reviewed the text amendments to the Land Use Management Ordinance Article 1, 3, 4, 5, 6, and 7 and Appendix A on October 4, 2022, and January 17, 2023, and recommended that the Council enact the text amendments; and

WHEREAS, the Council called a Legislative Hearing to amend Articles 1, 3, 4, 5, 6, and 7, and Appendix A of the Land Use Management Ordinance as it relates to Housing Types and Design and Development Standards for the Council's January 25, 2023, meeting; and

WHEREAS, the Council of the Town of Chapel Hill has considered the proposed text amendment to the Land Use Management Ordinance (LUMO) Articles 1, 3, 4, 5, 6, and 7, and Appendix A; and

WHEREAS, upon consideration the Council finds that the amendment, if enacted, is reasonable and in the public's interest and is warranted to achieve the purposes of the Comprehensive Plan as explained by, but not limited to, the following goals of the Chapel Hill 2020 Comprehensive Plan:

- A range of housing options for current and future residents (*Place For Everyone.3*)
- Low density, green Rural Buffers that exclude urban development and minimize sprawl (*Good Places, New Spaces.1*)
- A vibrant, diverse, pedestrian-friendly, and accessible downtown with opportunities for growing office, retail, residential, and cultural development and activity (*Good Places, New Spaces.2*)
- A range of neighborhood types that addresses residential, commercial, social, and cultural needs and uses while building and evolving Chapel Hill's character for residents, visitors, and students (*Good Places, New Spaces.5*)
- Future land use, form, and density that strengthen the community, social equity, economic prosperity, and natural environment (*Good Places, New Spaces.8*)
- Reduce the carbon footprint of all Town-owned or managed services and properties; require that all new development meets standards; and support residents in minimizing their personal footprints (*Nurturing Our Community.7*)
- Housing for students that is safe, sound, affordable, and accessible and meets a demonstrated need conducive to educational and maturational needs of students, and housing for Town, University, and the Health Care System employees that encourages them to reside in the community (*Town Gown Collaboration.4*)
- Promote access for all residents to health-care centers, public services, and active lifestyle opportunities (*Town Gown Collaboration.6*)

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Town Code of Ordinances, Appendix A. Land Use Management Ordinance, Articles 1, 3, 4, 5, 6, and 7, and Appendix A shall be amended as follows:

Section 1. Article 1. General Provisions, Section 1.4 Applicability is revised to read as follows:

"1.4. Applicability.

This appendix shall be effective throughout the town's planning jurisdiction. The planning jurisdiction of the town comprises the area described by Chapter 473 of the Session Laws of 1975, as modified from time to time in accordance with Section 160D, Article 2 of the North Carolina General Statutes.

Except as otherwise specifically provided in this appendix, no land or structure shall hereafter be used or occupied, and no excavation, removal of soil, clearing of a site, or placing of fill shall take place on lands contemplated for development, and no structure, or part thereof, shall be constructed, erected, altered, renovated, or moved, except in compliance with all of the applicable provisions of this appendix.

Notwithstanding the foregoing, regulations established in this appendix as enacted on January 27, 2003, with the exception of occupancy restrictions ~~for single-family and two-family structures~~, shall not apply to valid special use permits, development plans, and preliminary plat applications approved by the Town Council, and valid site plan review applications approved by the Planning Commission, prior to the effective date of this enacted appendix. Such developments shall be subject to regulations that were applicable immediately prior to the effective date of this appendix as enacted on January 27, 2003, with the exception of occupancy restrictions for single-family and two-family structures.

The appendix shall apply to all public land(s) and private land(s), and use(s) thereon over which the Town has jurisdiction under the constitution(s) and law(s) of the State of North Carolina and of the United States, including any areas within the jurisdiction of the Town pursuant to North Carolina General Statutes Section 160D, Article 2. The Planning Department (hereinafter known as the "Department") of the Town can be contacted for further information about the use of this Chapter.

For a parcel in two jurisdictions, the owner and the jurisdictions may agree that development regulations from one jurisdiction will apply to the entire parcel as authorized in Chapter 160D-203 and in Section 4.1.5 in this appendix."

Section 2. Article 3. Zoning Districts, Uses, and Dimensional Standards, Section 3.4. Conditional Districts, Subsection 3.4.6 The Mixed-Use Village Conditional Zoning District (MU-V-CZD), Subsection (c)(2)A. is revised to read as follows:

"(2) For purposes of this section:

(a) Uses within the "Residential" land use category include the following:

Dwelling units, single family,

Dwelling units, ~~two-family~~ single family with accessory apartments,

Dwelling units, ~~two-family~~-duplex,

Dwelling units, cottage.

Dwelling units, triplex.

Dwelling units, fourplex.

Dwelling units, cottage courts.

Dwelling units, multifamily, ~~three to seven~~ five (5) to ten (10) dwelling units,

Dwelling units, multifamily, over ~~seven~~ ten (10) dwelling units,”

Section 3. Article 3. Zoning Districts, Uses, and Dimensional Standards, Section 3.7. Use regulations, Subsection 3.7.2 Use Matrix, Table 3.7-1: Use Matrix is revised to read as follows:

Table 3.7-1: Use Matrix																																		
		General Use Zoning District																				Historic Rogers Road Neighborhood District				Planned Development (PD-)								
Uses	Use Group	R-LD5	RT	R-LD1	R-1A	R-1	R-2	R-2A	R-3	R-4	R-5	R-6	R-SS-CZD	TC-1, TC-2, TC-3	CC	N.C.	OI-1	OI-2	OI-3	OI-4	I	LI-CZD	MH	HR-L	HR-M	HR-X	HR-C	H	SC(N)	SCI	OI	MU	I	DA-1
<u>Dwelling Unit, Cottage on a Compact Lot (See Also Article 6)</u>	A	=	=	=	P	P	P	P	P	P	P	P	CZ	P	P	P	P	P	P	P	=	=	=	P	P	P	=	P	=	=	=	P	=	P
<u>Dwelling Units, Cottage Court (See Also Article 6)</u>	A	=	=	=	=	=	P	P	P	P	P	P	CZ	P	P	P	P	P	P	P	=	=	=	=	=	P	=	P	=	=	=	P	=	P
<u>Dwelling Units, Duplex (See Also Article 6)</u>	A	P	P	P	P	P	P	P	P	P	P	P	CZ	P	P	P	P	P	P	P	—	—	—	P	P	P	—	P	—	—	—	P	—	P
<u>Dwelling Units, Fourplex</u>	A	=	=	=	P	P	P	P	P	P	P	P	CZ	P	P	P	P	P	P	P	=	=	=	=	=	P	=	P	=	=	=	P	=	P

[illegible]

- (1) Where a zoning lot is located in more than one zoning district, the minimum gross land area required of such zoning lot shall be the sum of the areas derived by multiplying the minimum gross land area required for each represented district by the proportion of the zoning lot located within that district.
- (2) For all dwellings, ~~except single family and single family with accessory apartment, that consist of five (5) or more dwelling units,~~ the minimum lot size is two (2) times the figure shown in Column (B).
- (3) See Article 6.29(b) Cottage on Compact Lot for exceptions.

~~(c) Maximum Density. Column (C) applies to all residential uses except single family dwellings and single family dwellings with accessory apartments. Column (C) is a maximum residential density, expressed in dwelling units per acre of gross land area.~~

~~(d)~~ (c) Minimum Frontage. Column ~~(D)~~ (C) is the minimum width of the lot measured along the street.

Notes:

- (1) Where a zoning lot fronts on two (2) or more streets, minimum street frontage width requirements shall be considered met if the frontage along any one of such streets meets the minimum street frontage width requirements.
- (2) Where a zoning lot fronts on a turning circle of a cul-de-sac or at a point of a street where the radius of the curvature of the right-of-way is less than ninety (90) feet, the minimum street frontage width requirement shall be thirty-five (35) feet.
- (3) See Article 6.29(b) Cottage on Compact Lot for exceptions.

~~(e)~~ (d) Minimum Lot Width. Column ~~(e)~~ (D) is the minimum width of the lot, expressed in feet, measured at least twenty-five (25) feet interior from the minimum street setback. No portion of a lot, created as part of a subdivision, between a street setback and the opposite interior (rear) setback, shall be less than twenty (20) feet in width.

Exception:

- (1) Authorized flag lots, created as part of a subdivision and subject to the lot layout standards in Section 5.2, may contain areas between a street setback and the opposite interior (rear) setback that are less than twenty (20) feet in width. Authorized flag lots shall reach the minimum lot width at a point not to exceed two hundred (200) feet from the street right-of-way.

Notes:

- (2) Where a zoning lot fronts on two (2) or more streets, minimum lot width requirements shall be considered met if the lot width at the street setback from any one of such streets meets the minimum lot width requirement.
- (3) Where a zoning lot fronts on a turning circle of a cul-de-sac or at a point of a street where the radius of the curvature of the right-of-way is less than ninety (90) feet, the minimum lot width shall be reached at a distance derived by the following formula: $D = 50 (W)(35) - 50$, where W = minimum required lot width, and D = maximum distance from street right-of-way to where the lot width equals the minimum required width for that district.

~~(f)~~ (e) Maximum Setback Height: Column ~~(F)~~ (E) is the maximum allowable height at the perimeter setback line of a zoning lot, as defined by the minimum street, interior, and solar setbacks.

(1) Height shall be measured from mean finished grade, along the street façade of the building. Where a structure fronts more than one (1) street, height shall be measured from the lower, more restrictive mean finished grade.

(2) To determine mean finished grade, take the spot elevations from the highest and lowest points of the foundation. The average of these two (2) spot elevations is the mean finished grade and the elevation from which height measurements are made.

(3) The entire structure, and all portions thereof, is subject to the maximum setback height.

Exceptions:

A. The structure or part thereof is below the allowable core height, as described in division (g) below.

B. The structure or part thereof is explicitly exempted in section 3.8.3 Exceptions to Setback and Height Requirements, below.

C. The structure or part thereof is explicitly exempted as provided elsewhere in this Appendix.

(4) For purposes of applying setback and height regulations to development within an OI-3 or OI-4 zoning district or within a townhouse development or a planned development, all contiguous land within the district, townhouse development, or planned development shall be considered as a single zoning lot.

~~(g)~~ (f) Maximum Core Height: Column ~~(G)~~ (F) is the maximum allowable height in the interior or core area of a lot. The core height provides additional allowable height on the interior of a zoning lot based on the horizontal distance measured away from the perimeter setback line of the lot. The allowable core height increases with the distance interior to the lot, measured from the perimeter setback line at a rate described below.

(1) In all Zoning Districts, except those explicitly named in subdivision (2), the allowable core height increases at a rate of one (1) foot in height for every two (2) feet of distance interior to the lot, measured away from the perimeter setbacks. This is equivalent to a slope of ½ (rise/run) or 1:2.

(2) In the Town Center - 1 to 3, Office/Institutional 3 to 4 zoning districts the allowable core height increases at the following rates:

A. Street and interior setbacks: one (1) feet in height for every one (1) feet of distance interior to the lot, measured away from the street and interior setbacks. This is equivalent to a slope of 1/1 (rise/run) or 1:1.

B. Solar setbacks: one (1) feet in height for every one (1) foot and seven-tenths of a foot (1.7 feet) of distance interior to the lot, measured away from the street and interior setbacks. This is equivalent to a slope of 1/1.7 (rise/run) or 1:1.7.

(3) No structure, or part thereof, shall project beyond the allowable core height of a structure or part thereof.

Exceptions:

A. The structure or part thereof is explicitly exempted in section 3.8.3 Exceptions to Setback and Height Requirements, below.

B. The structure or part thereof is explicitly exempted as provided elsewhere in this Appendix.

(4) If a structure is located in the vicinity of an airport, the height limitations set forth in Federal Aviation Regulations, Part 77, or successor regulations, shall apply where such limitations are stricter than those established in this appendix.

~~(h)~~ (g) Minimum Street Setback. Column ~~(H)~~ (G) establishes a minimum setback from the street right-of-way line. Where a zoning lot fronts on a street with a right-of-way width not meeting the standards of this appendix, street setback shall be measured from a line running parallel to the centerline of the street at a distance from such centerline equal to one-half (1/2) the standard right-of-way width of the street.

Exception:

(1) The town manager or town council may exempt lots from this requirement upon making one of the following findings:

A. Where a building line has already been established by existing structures along the block which are situated on lots comprising at least twenty-five (25) percent of the street frontage, the building may be constructed at the established building line; or

B. The existing right-of-way is adequate to encompass any anticipated need for widening of the street or other improvements and widening of the right-of-way to town standards would create nonconforming street setbacks for other structures on the street.

~~(i)~~ (h) Minimum Interior Setback. Column ~~(I)~~ (H) establishes a minimum setback measured from the interior lot lines.

Exception:

(1) The interior setback requirements may be reduced to zero (0) under certain conditions (see section 5.2.8.).

Note:

(2) Side setbacks are set at zero (0) in many non-residential districts in order to encourage the formation of a street wall, as is found in traditional commercial centers such as the TC district along Franklin Street.

~~(j)~~ (i) Minimum Solar Setback. Column ~~J~~ (I) establishes a minimum setback measured from north lot lines. Where a solar setback and either a street or interior setback both apply to the same portion of a lot line, the required minimum setback shall be the greater of the two.

Exceptions:

(1) The solar setback may be reduced to zero (0) under certain conditions (see section 5.2.8).

(2) Minimum solar setback requirements shall not apply to any structure, or part thereof, when the proposed height of the structure is ninety (90) percent, or less, of the maximum allowed setback height. In such cases, the lesser interior setback may be used instead.

~~(k)~~(j) Maximum Impervious Surface Ratio. Column ~~K~~ (J) establishes the maximum ratio of impervious surface on a lot. The maximum amount of impervious surface area is divided by multiplying the gross land area of the lot by the ratio established in Column (K) and as described below:

(1) Residential development up to four units, including those developments constructed as part of a common plan of development and cottage courts: (.50)

(2) Multifamily and townhouse developments of five (5) or more units, fraternities and sororities, non-residential, or mixed-use development: (.70).

Exception:

(3) Impervious surface restrictions shall not apply to town center zoning districts.

~~(j)~~(k) Maximum Floor Area Ratio. Maximum floor area allowed shall be the number of square feet derived by multiplying gross land area by the applicable floor area ratio (FAR) as shown in Table 3.8.1. Exceptions:

~~(1) A maximum floor area ratio shall not apply to single family dwelling units (with or without an accessory apartment)~~

~~(2) (1) For two-family~~ duplex, triplex, and fourplex dwellings on a single zoning lot, the floor area shall be .40 in all zones and overlay zones, except where the overlay zone establishes a more restrictive floor area ratio for ~~duplexes~~ the use.

~~(3) (2) A maximum floor area ratio shall not apply to public facilities~~ to the following:

A. ~~Public~~ Public cultural facilities

B. Dwelling Units, Single Family

C. Dwelling Units, Single Family with Accessory Apartment

(4) For public elementary and secondary schools, the maximum floor area ratio shall be 0.174 unless a higher floor area ratio is established in Column (L).

(5) Where a lot is partially within the resource conservation district, the maximum allowable floor area of the portion of the lot outside of the resource conservation district shall be calculated as the sum of:

A. The product of, and

(i) The floor area ratio of the portion of the zoning lot outside the resource conservation district, and

(ii) The area, in square feet, of the portion of the zoning lot outside the resource conservation district

B. The product of

(i) The floor area ratio applicable to a permitted use in the resource conservation district, and

(ii) The area, in square feet, of the portion of the zoning lot within the resource conservation district."

Section 5. Article 3, Section 3.8 Dimensional standards, Table 3.8-1: Dimensional Matrix is amended to delete column (C) Density and revised to read as follows:

(A)	(B)	(C)	(D) <u>(C)</u>	(E) <u>(D)</u>	(F) <u>(E)</u>	(G) <u>(F)</u>	(H) <u>(G)</u>	(I) <u>(H)</u>	(J) <u>(I)</u>	(K) <u>(J)</u>	(L) <u>(K)</u>	(M) <u>(L)</u>
Zoning District	Lot Size (square feet min)	Density (units per acre max)	Frontage (min feet)	Lot Width (min feet)	Building Height, Set back (max feet)	Building Height, Core (max feet)	Street Set back (min feet)	Interior Set back (min feet)	Solar Set back (min feet)	Impervious Surface Ratio (max) *	Floor Area Ratio (max)	Street Set back (max feet)
R-LD5	217,800	0.2	200	250	29	35	30	16	20	.5/.7	.025	N/A
RT	100,000	0.4	160	200	29	35	30	16	20	.5/.7	.031	N/A
R-LD1	43,560	1.0	100	125	29	35	30	16	19	.5/.7	.047	N/A
R-1A	25,000	2.0	80	100	29	38	29	15	18	.5/.7	.062	N/A
R-1	17,000	3.0	64	80	29	40	28	14	17	.5/.7	.076	N/A
R-2A	14,500	3.5	56	70	29	50	27	10	12	.5/.7	.087	N/A
R-2	10,000	4.0	52	65	29	50	26	11	13	.5/.7	.093	N/A

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)
Zoning District	Lot Size (square feet min)	Density (units per acre max)	Frontage (min feet)	Lot Width (min feet)	Building Height, Set back (max feet)	Building Height, Core (max feet)	Street Set back (min feet)	Interior Set back (min feet)	Solar Set back (min feet)	Imperious Surface Ratio (max) *	Floor Area Ratio (max)	Street Set back (max feet)
R-3	5,500	7.0	40	50	29	60	24	8	11	.5/.7	.162	N/A
R-4	5,500	10.0	40	50	34	60	22	8	9	.5/.7	.230	N/A
R-5	5,500	15.0	40	50	39	60	20	6	8	.5/.7	.303	N/A
R-6	5,500	15.0	40	50	39	60	20	6	8	.5/.7	.303	N/A
R-SS-CZD	N/A	N/A	N/A	N/A	39	60	10	0	N/A	.5/.7	1.10"	N/A
TC-1	N/A	N/A	12	15	44	60	0	0	0	N/A	1.97	N/A
TC-2	N/A	N/A	12	15	44	90	0	0	0	N/A	1.97	N/A
TC-3	N/A	N/A	12	15	44	120	0	0	0	N/A	4.00	N/A

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)
Zoning District	Lot Size (square feet min)	Density (units per acre max)	Frontage (min feet)	Lot Width (min feet)	Building Height, Set back (max feet)	Building Height, Core (max feet)	Street Set back (min feet)	Interior Set back (min feet)	Solar Set back (min feet)	Imperious Surface Ratio (max) *	Floor Area Ratio (max)	Street Set back (max feet)
CC	5,500	15.0	40	50	34	60	22	8	9	.5/.7	.429	N/A
N.C.	5,500	10.0	40	40	34	60	24	8	11	.5/.7	.264	N/A
OI-1	5,500	10.0	40	50	29	60	24	8	11	.5/.7	.264	N/A
OI-2	5,500	15.0	40	40	34	60	22	8	9	.5/.7	.264	N/A
OI-3	2,000	N/A	15	15	N/A	N/A	0	0	0	.5/.7	.566	N/A
OI-4	2,000	N/A	12	15	N/A	N/A	0	0	0	N/A	N/A	N/A
I	17,000	N/A	64	80	26	50	26	11	13	.5/.7	.071	N/A
LI-CZD	17,000	0.0	64	80	N/A	90	15	10	10	N/A/.7	N/A	N/A

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)
Zoning District	Lot Size (square feet min)	Density (units per acre max)	Frontage (min feet)	Lot Width (min feet)	Building Height, Set back (max feet)	Building Height, Core (max feet)	Street Set back (min feet)	Interior Set back (min feet)	Solar Set back (min feet)	Imperious Surface Ratio (max) *	Floor Area Ratio (max)	Street Set back (max feet)
MH	100,000	N/A	160	200	29	35	30	16	20	.5/.7	.019	N/A
MU-OI-1	N/A	N/A	N/A	N/A	44	90	0	0	0	.5/.7	.264	N/A
MU-R-1	N/A	N/A	N/A	N/A	29	90	0	0	0	.5/.7	.076	N/A
MU-V, MU-V-CZD arterial	5,500	20.0	80	62	70	114	0	0	20	.5/.7	1.2	N/A
MU-V, MU-V-	5,500	15.0	40	50	44	90	0	0	20	.5/.7	.500	N/A

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)
Zoning District	Lot Size (square feet min)	Density (units per acre max)	Frontage (min feet)	Lot Width (min feet)	Building Height, Set back (max feet)	Building Height, Core (max feet)	Street Set back (min feet)	Interior Set back (min feet)	Solar Set back (min feet)	Impervious Surface Ratio (max) *	Floor Area Ratio (max)	Street Set back (max feet)
CZD collector												
MU-V, MU-V-CZD local	5,500	15.0	70	40	32	40	0	0	17	.5/.7	.500	N/A
HR-L	14,500	4 ³	64	80	29	40	10 ⁴	14	17	.5/.7	.076	28 ⁵
HR-M	9,000		52	65	29	40	10	14	17	.5/.7	.093	20
HR-X	N/A	8	40	N/A	29	40	20	40	17	.5/.7	.264	N/A

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)
Zoning District	Lot Size (square feet min)	Density (units per acre max)	Frontage (min feet)	Lot Width (min feet)	Building Height, Setback (max feet)	Building Height, Core (max feet)	Street Setback (min feet)	Interior Setback (min feet)	Solar Setback (min feet)	Impervious Surface Ratio (max) *	Floor Area Ratio (max)	Street Setback (max feet)
HR-C	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Footnotes:

(1) The notation "N/A" indicates that the requirements does not apply within the particular zoning district.

(2) Existing lots of record as of December 7, 1992, which are subsequently rezoned to R-LD5 can be subdivided to create up to three (3) lots of not less than two (2) acres gross land area in size each; provided, however the remaining land shall be developed with a minimum lot size of at least five (5) acres gross land area for each lot, and provided that no lot created under this exemption shall have a new direct access onto an arterial street.

~~(3) Because the HR subdistricts allow accessory dwelling units, duplexes, and triplexes, the maximum density (dwelling units per acre) in this table is greater than the maximum number of lots per acre. The minimum and maximum setbacks, maximum height, maximum impervious surface ratio, and maximum floor area ratio determine the potential building size and work to keep the building and lot size compatible with the surrounding neighborhood regardless of the number of dwelling units contained within the building.~~

(4 ~~3~~) Lots that front on (take their address and ingress/egress from) Rogers Road shall have a minimum street setback of 50 feet. The intent of this standard is to preserve the rural character of the historic Rogers Road corridor. Lots that existed on May 22, 2019 and are smaller than 17,424 square feet (.4 acres) are exempt from this standard.

~~(5 4)~~ Lots that front on Rogers Road shall have no maximum street setback. The intent of this standard is to preserve the rural character of the historic Rogers Road corridor.

Section 6. Article 3. Zoning Districts, Uses, and Dimensional Standards, Section 3.8.3 Exceptions to Setback and Height Regulations is revised to read as follows:

“(a) The following features shall not be subject to the required minimum setbacks provided the town manager determines that such features do not significantly impair the degree of solar access provided adjacent properties through application of the appropriate solar setback requirements:

- (1) Roof overhangs which do not exceed more than thirty-six (36) inches ~~in length~~ into the setback;
- (2) Free-standing signs and projecting signs, provided such signs comply with the sign standards established in section 5.14;
- (3) Fences and walls not exceeding six (6) feet in height may be located within interior setbacks and those not exceeding four (4) feet in height may be located within street setbacks. Arches or trellises up to eight (8) feet in height and five (5) feet in width may be constructed over a gate if integrated into the fence or gate design and not located within a sight triangle. No more than two (2) such arches or trellises shall be permitted per parcel:
- (4) Flagpoles, home satellite dishes and TV antennas, bridges, and transmission poles, towers, and cables; ~~and~~
- (5) ~~The decking of~~ Patios, decks and swimming pools not exceeding three (3) feet in height, provided they are not constructed closer than five (5) feet from the property line of the zoning lot. Protective railings, as required by building code, may be added to the decking height;
- (6) Mechanical equipment, such as HVAC condenser units, water heaters, generators, electrical panels, backflow preventers no more than two (2) feet in height, and similar structures that encroach up to five (5) feet into the setback, comply with the noise regulations set forth in Chapter 11, and are associated with residential developments of less than five (5) units;
- (7) Window wells located in interior and solar setbacks not exceeding the minimum International Residential Code (IRC) or International Building Code (IBC) requirements for egress;
- (8) Sidewalks, pathways, and accessibility ramps and other structures promoting access for people with disabilities;
- (9) Driveways that comply with the regulations set forth in [Chapter 17](#)¹;
- (10) Electric vehicle charging stations and related mechanical equipment that maintain a minimum setback of five (5) feet from the property line;
- (11) Bus shelters and rideshare shelters that are not located within sight triangles and as approved by Chapel Hill Transit; and
- (12) Wells, so long as any required well house does not exceed four (4) feet in height;

(b) The following features may project above the building envelope defined by the maximum height limitations and additional setback requirements contained in Rules for Interpretation of Table 3.8-1, Columns (F) and (G), below, provided the town manager determines that such features do not significantly impair the degree of solar access provided adjacent properties through application of the appropriate solar setback requirements:

¹ https://library.municode.com/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_CH17STSI

(1) ~~Chimneys~~, Accessory radio or television antennas, flagpoles, monuments, cupolas, parapets, dormers, clock towers or decorative towers with a footprint not exceeding twenty (20) percent of the principal building, provided the projection of such structures above the building envelope does not exceed fifteen (15) percent of the maximum height limitation that defines the portion of the building envelope penetrated by such structures;

(2) Steeples, ~~or solar collectors~~, or spires provided the projection of such structures above the building envelope does not exceed fifteen (15) percent of the maximum height limitation that defines the portion of the building envelope penetrated by such structures;

(3) ~~Spires~~, Smokestacks, water tanks, or windmills, provided such structures do not exceed in height the horizontal distance therefrom to the nearest lot line; ~~and~~

(4) Transmission poles, towers, and cables;

(5) Chimneys, flues, vents, or similar structures shall not extend more than one (1) foot above the minimum height required to comply with International Building Code (IBC) requirements; and

(6) Solar collectors that do not extend more than one (1) foot above the nearest roof peak if mounted on a pitched roof, or do not exceed ten (10) feet in height above their mounting surface if mounted on a flat roof and provided the solar collectors are not visible from the street level."

Section 7. Article 3. Zoning Districts, Uses, and Dimensional standards, Section 3.10. Inclusionary Zoning, Subsection 3.10.2 Affordable Dwelling Units or Lots Required, subsection (b) Calculation of units required is revised to read as follows:

"(b) Calculation of units required.

(1) For development of ~~multifamily~~ five (5) or more dwelling units, including those part of a common plan of development:

A. The required number of affordable dwelling units is based on the total number of dwelling units that are approved by the town.

B. To calculate the number of affordable dwelling units required in a development subject to these regulations, the total number of approved unrestricted units shall be multiplied by the percentage established in subsection 3.10.2(a), above. If the product includes a fraction, the fraction of a unit shall be provided in the form of a payment in lieu of providing dwelling units, as described in section 3.10.3.

C. If the property is redeveloped or expanded, additional affordable dwelling units shall be provided and shall be based upon the additional units approved by the town. A requirement to provide affordable dwelling units shall be triggered if the resulting number of units is five (5) or more greater than what already exists.

(2) For subdivision proposals:

A. Each lot that is large enough for only one (1) single-family dwelling unit or that is limited by restrictive covenants to development only with a single-family dwelling unit is counted as one (1) single-family dwelling unit.

~~B. In zoning districts where a two-family dwelling unit is a permitted use, each lot that is large enough for a two-family dwelling unit is counted as two (2) dwelling units.~~

~~EB. The minimum number of lots dedicated to affordable dwelling units for a subdivision is determined by multiplying the number of dwelling units permitted on lots in the approved subdivision, as calculated according to subsections 3.10.2(b)2.A. and 3.10.2(b)2.B, above, by the percentage specified in subsection 3.10.2(a). If the product includes a fraction, the fraction of a unit shall be provided in the form of a payment in lieu of providing dwelling units, as described in section 3.10.3. If the product includes a fraction, the fraction shall be multiplied by the maximum number of dwelling units permitted on the lot and be provided in the form of a payment in lieu.~~

Section 8. Article 4. Procedures, Section 4.5 Special Use Permit, Subsection 4.5.3 Procedures for Approval of Special Use Permits, Subsection (n) Issuance of development permits is hereby added to read as follows:

“(n) *Issuance of development permits.* After final plan approval, the town manager may issue zoning compliance permits, engineering construction permits, building permits, sign permits, and certificates of occupancy for development approved in a special use permit, or an approved phase thereof, in the manner prescribed in [section 4.9](#), subject to compliance with the approved final plans and following additional requirements:

(1) Prior to issuance of a building permit for any new structures, additions, and exterior renovations or alterations, detailed architectural elevations of such structures, additions, and renovations or alterations and a site lighting plan shall be submitted to and approved by the community design commission. This subdivision (n)(1) shall not apply to single-family, single-family with accessory apartment, and duplex ~~and two-family~~ structures approved by a special use permit unless voluntarily consented to by the owners of all properties included in such an application.

(2) Prior to issuance of any zoning compliance permit for development approved in a special use permit, a detailed landscape plan for such development, or an approved phase thereof, shall be submitted to and approved by the town manager.”

Section 9. Article 4 Procedures, Subsection 4.6 Subdivision, Subsection 4.6.3 Classification of Subdivision, Subsection (a) Minor Subdivision-Administrative review is hereby added to read as follows:

“(a) *Minor subdivision—Administrative review.*

(1) The minor subdivision—administrative review approval process is a one-step procedure involving town manager approval of a final plat. A "minor subdivision—administrative review" includes any subdivision pursuant to an approved zoning compliance permit for a duplex ~~two-family~~ or multifamily townhouse development,

an approved special use permit for a planned development, an approved conditional zoning, or an approved commercial subdivision.”

Section 10. Article 4. Procedures, Subsection 4.6 Subdivision, new Subsection 4.6.14 Cottage Court Subdivision is hereby added to read as follows:

"4.16.14 Cottage Court Subdivision.

It is the intent of this section that applicable subdivision review under the subdivision regulations be carried out as an integral part of the review of cottage court developments. It is the further intent of this section to permit the submittal of a subdivision application for the whole cottage court or for approved phases thereof. The form and content of applications and plans submitted for such integrated review shall be sufficient to satisfy the requirements of the subdivision regulations as well as those of this article.

The cottage court subdivision plat shall identify:

- (a) Land developed and designated for the common use and benefit of the occupants of individual lots;
- (b) Any entity designated to be legally responsible for the maintenance and control of the common land areas;
- (c) The gross land area of the commonly held land, which shall not be less than ten (10) percent of the zoning lot's total gross land area;
- (d) The maximum impervious surface and floor area for each lot; and
- (e) The housing type and associated floor area limitations."

Section 11. Article 4 Procedures, Subsection 4.6 Subdivision, new Subsection 4.6.15 Townhouse Subdivision is hereby added to read as follows:

"4.16.15 Townhouse Subdivision.

It is the intent of this section that applicable subdivision review under the subdivision regulations be carried out as an integral part of the review of townhouse developments. It is the further intent of this section to permit the submittal of a subdivision application for the whole townhouse development, or for approved phases thereof. The form and content of applications and plans submitted for such integrated review shall be sufficient to satisfy the requirements of the subdivision regulations as well as those of this article.

The townhouse subdivision plat shall identify:

- (a) Land developed and designated for the common use and benefit of the occupants of individual lots;
- (b) Any entity designated to be legally responsible for the maintenance and control of the common land areas;

- (c) The gross land area of the commonly held land, which shall not be less than ten (10) percent of the zoning lot's total gross land area; and
- (d) The maximum impervious surface and floor area for each lot."

Section 12. Article 4.6 Subdivision, new Subsection 4.16.16 Condominiums is hereby added to read as follows:

"4.6.16 Condominiums.

Development of two or more dwelling units configured as condominiums shall comply with the following standards:

- (a) Condominiums shall conform to the use and development requirements of this Ordinance for the zoning district(s) where located.
- (b) Condominiums shall conform to the requirements of the North Carolina Condominium Act in Chapter 47C of the North Carolina General Statutes.
- (c) Condominium ownership may be created by the owner or co-owners of a structure(s) by an express declaration of their intention to submit such property to the provisions of the North Carolina Condominium Act, which declaration shall be subject to approval by the Town Manager and recorded in the office of the Register of Deeds in the county where the development is located."

Section 13. Article 4. Procedures, Section 4.7. Site plan review, Subsection 4.7.1 Applicability, Subsection (a) is revised to read as follows:

"Site plan review and approval by the planning commission shall be required prior to issuance of a zoning compliance permit for any development or change in use subject to a zoning compliance permit (as described in section 4.9), with the following exceptions:

- (a) Any development of a single- family, single-family with accessory apartment, duplex, or two-family triplex, or fourplex dwelling on a zoning lot, or any uses accessory thereto;"

Section 14. Article 4. Procedures, Section 4.9 Zoning Compliance Permit, Subsection 4.9.1 Applicability is revised to read as follows:

"4.9.1. Applicability.,

- (a) Except as otherwise specifically provided in this chapter, it shall be unlawful to begin any excavation, removal of soil, clearing of a site, or placing of any fill on lands contemplated for development, or to begin any construction, moving, alteration, or renovation, except for ordinary repairs or maintenance, of any building or other structure, including accessory structures and signs, until the town manager has issued for such action a zoning compliance permit, certifying that such development complies with the applicable provisions of this chapter. The town manager may establish a process to waive the requirement for a zoning compliance permit for smaller-scale ~~single-or two-family~~ residential activities -such as landscaping and construction of decks, porches, sheds, garages, and stoops related to single family, single family with accessory apartment, duplexes, triplexes, fourplexes, and common plan developments of less than five (5) units.

- (b) It shall also be unlawful to change the type of use or type of occupancy of any land or structure, or to extend any use on any lot on which exists a nonconforming use, until the town manager has issued for such action a zoning compliance permit, certifying that such intended uses comply with the applicable provisions of this chapter.
- (c) Thresholds for exceptions to zoning compliance permit requirement: smaller-scale residential activities related to single family dwellings, single family with an accessory apartment, duplexes, triplexes, fourplexes, and common plans of development of less than five (5) units ~~Single-family development~~ meeting all conditions contained in this section 4.9.1(c) may be exempted from the requirement to obtain a zoning compliance permit after an initial review by the town manager or designee.
- (1) The project adds less than five hundred (500) square feet of impervious surface area.
 - (2) The project includes less than one thousand five hundred (1,500) square feet of land disturbance.
 - (3) The project does not include grading or filling of soil.
 - (4) The project is at least five (5) feet away from the nearest setback line and building height limitation.
 - (5) The project work limits are at least five (5) feet from the boundary of any Resource Conservation District or Jordan Watershed Riparian Buffer.
 - (6) The project is not occurring within the regulatory floodplain.
 - (7) The project does not contain steep slopes as defined in section 5.3.2 of this ordinance.
 - (8) The project does not include removal of more than 2,500 square feet of canopy or 25% of the total tree canopy coverage for the site, whichever is less."

Section 15. Article 5. Design and Development Standards, Section 5.2 Lot layout standards, Subsection 5.2.2 Applicability of Lot Layout Standards is revised to read as follows:

"5.2.2. Applicability of Lot Design Standards.

Each lot in a subdivision shall comply with the lot design standards contained in this section. Newly created or revised lots shall be designed so that any existing structures continue to meet the requirements of this appendix or so that any existing nonconformity is not increased, extended, or enlarged. The standards of this section, however, do not apply to recreation areas, lots within approved planned developments, cottage court lots, and townhouse lots created as part of a minor subdivision provided:

- (a) The town manager has approved provisions for the unified control of and responsibility for the development and for the maintenance of common areas; and
- (b) The town manager has approved provisions for ensuring access to and use of recreation areas or areas otherwise designated for the residents' common use and benefit."

Section 16. Article 5. Design and Development Standards, Section 5.2 Lot layout standards, Subsection 5.2.6 Flag Lots is revised to read as follows:

"5.2.6. Flag Lots.

The Town of Chapel Hill discourages and restricts forming flag lots in subdivisions. A flag lot shall be permitted if necessary to allow a property owner reasonable use and benefit from his/her land or to alleviate situations which would otherwise cause extreme hardship for him/her.

Flag lots are prohibited except when allowed upon findings that:

- (a) The flag lot is necessary to eliminate access onto an arterial street (See Figure 5.2.6-1);
- (b) The flag lot is necessary to reasonably utilize irregularly shaped land (See Figure 5.2.6-2);
- (c) The flag lot is necessary to reasonably utilize land with difficult topography (See Figure 5.2.6-3).
- (d)

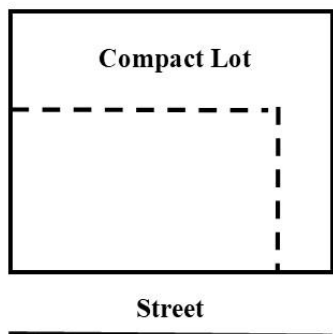


Figure 5.6.2-3

The flag lot is necessary to create a compact lot for the development of a cottage dwelling unit (See Figure 5.2.6-4).

No flag lot will be allowed if it increases the number of access points onto an arterial or collector street.

That portion of a flag lot between the street onto which it has access and the point where a lot dimension parallel to the street first equals or exceeds the minimum lot width specified in section 3.8 shall not be longer than two hundred (200) feet. The lot width and street frontage of a flag lot may be reduced to thirty-five (35) feet. The town manager may approve further reductions to a minimum of twenty (20) feet where topographical conditions permit the construction of an adequate driveway within that width. The town manager may also require greater widths where necessary to ensure adequate access.

Exceptions for Compact Lots

The following shall apply for flag lots that create compact lots:

- (a) The extension or "pole" of the flag lot shall be a minimum of 12 feet in width in addition to meeting the standards for driveways set forth in Chapter 17². The square footage of the pole shall not be included in meeting the minimum lot size requirements of the compact lot.
- (b) Only one flag lot for the creation of a compact lot is permitted per parent parcel.
- (c) The plat for a flag lot creating a compact lot shall specify the house size limitations for cottage dwelling unit.
- (d) The remaining standard lot created from the parent parcel shall comply with the dimensional standards of the zoning district."

Section 17. Article 5. Design and Development Standards, Section 5.3 Critical areas and environmental performance standards, Subsection 5.3.2 Steep Slopes is revised to read as follows:

"5.3.2. Steep Slopes.

- (a) *Purpose and Intent.* The purpose of this section is to minimize the grading and site disturbance of steep slopes by restricting land disturbance on steep slopes, and by requiring special construction techniques for development on steep slopes. These provisions are intended to:
 - (1) Protect water bodies (streams and lakes) and wetlands from the effects of erosion on water quality and water body integrity,
 - (2) Protect the plant and animal habitat of steep slopes from the effects of land disturbance, and
 - (3) Preserve the natural beauty and economic value of the town's wooded hillsides.
- (b) *Definitions.* For purposes of this section, "slope" means the ratio of elevation change to horizontal distance, expressed as a percentage. Slope is computed by dividing the vertical distance ("rise") by the horizontal distance ("run"), and multiplying the ratio by one hundred (100). A "steep slope" is equal to or steeper than fifteen (15) percent.

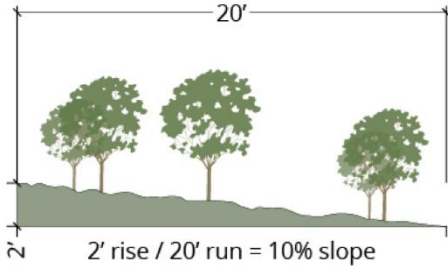
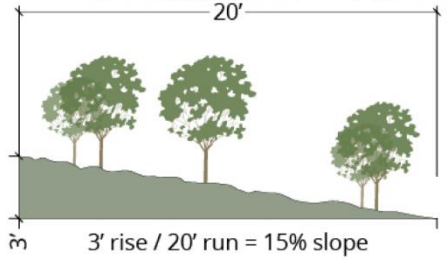
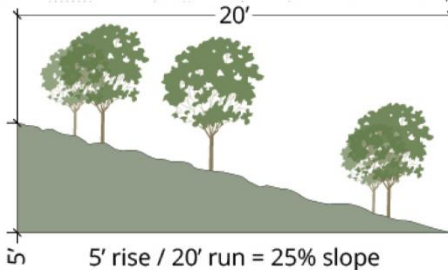
 "Cut and fill slopes" include all slopes graded by excavating part of a higher area, raising the surface of a lower area, or combining the two (2) methods of construction.
- (c) *Applicability.*
 - (1) For purposes of this section, a "steep slope" shall include only those areas of size four hundred (400) square feet or greater. Three (3) different categories of steep slopes are established in this section, as described in Table 5.3-1.
 - (2) Steep slope regulations contained in this section shall not apply to single-family dwelling units, ~~or two-family~~ single-family with accessory apartment, or duplex dwelling units on lots lawfully created prior to January 27, 2003, or lots created pursuant to a preliminary plat approved by the town manager prior to January 27, 2003.

² https://library.municode.com/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_CH17STSI_ARTVDR_S17-61DRRE

- (3) Steep slope regulations contained in this section shall not apply to existing cut and fill slopes associated with roads, parking lots or driveways.
- (d) *Contents of Application Requirements.* The following information shall be provided for any application proposing development where the project area includes an area of steep slopes:
 - (1) A slope and topographic map for both existing and proposed conditions based on a map depicting contours at an interval of two (2) feet or less. The map shall indicate, through cross-hatching or separate colors, all areas within each slope category described in Table 5.3-1, below.
 - (2) The location of any existing swales, streams, or areas of concentrated flow.
 - (3) A map showing current land use cover type or ground cover on steep slopes.
 - (4) A map showing soil types for the whole site, and providing from the county soil survey the names of the soil types and depths to bedrock for each type.
 - (5) Additional information may be required if steep slopes will be impacted by development.
 - (6) Applications for subdivisions shall include a slope and topographic map for both existing and proposed conditions based on a map depicting contours at an interval of two (2) feet or less. The map shall indicate, through cross-hatching or separate colors, all areas within each slope category described in Table 5.3-1, below. Areas containing slopes of 4:1 (25%) or steeper shall be called out on recorded subdivision plats for single ~~-family~~, single-family with accessory apartment, and duplex ~~and two-family~~ development along with a note that reads "No more than twenty-five (25) percent of the total combined area of 4:1 (25%) or steeper shall be disturbed."
- (e) *Cut and Fill Slope Requirements.* All new cut and fill slopes must not be steeper than a 3:1 slope (33%). Steeper slopes may be conditionally approved by the Town Manager.
- (f) *Disturbance limitations.* No more than twenty-five (25) percent of the total combined area of 4:1 (25%) or steeper slopes shall be disturbed unless a variance is granted by the Board of Adjustment.
- (g) *Construction Techniques.*
 - (1) All plans must show provisions for reducing and minimizing stormwater runoff during construction of steep slopes and cut and fill slopes.
 - (2) All perimeter dikes, swales, ditches, perimeter slopes; all slopes 2:1 or steeper; all slopes between 2:1 and 3:1 and greater than ten (10) feet in length; and all slopes between 3:1 and 4:1 and greater than fifty (50) feet in length and all slopes steeper than 3:1 shall be provided temporary or permanent stabilization with ground cover sufficient to restrain erosion as soon as practicable but in any event within even (7) calendar days of any phase of grading.
 - (3) All other disturbed areas shall be provided temporary or permanent stabilization with ground cover sufficient to restrain erosion as soon as practicable but in any event within fourteen (14) calendar days of termination or completion of any phase of grading.

- (4) When any given area of construction is completed, it must have a permanent, stabilizing ground cover applied within the specified time period above. If irrigation is not provided, then the exposed soil shall be planted with species which can survive without irrigation. Vegetative cover or any alternative cover (rock, masonry, etc.) shall be maintained in perpetuity.

Table 5.3-1: Slope Construction Restrictions and Requirements

Slope Category	Illustration	Development Restrictions
Less than 15% (approx. 7:1)	 <p>2' rise / 20' run = 10% slope</p>	No additional application requirements, design requirements, construction requirements, or land disturbance limitations pursuant to this Section.
15% (7:1) or greater, but less than 25% (4:1)	 <p>3' rise / 20' run = 15% slope</p>	See D. above for application requirements. See E. above for cut and fill slope requirements. See F. above for disturbance limitations. See G. above for construction techniques.
25% (4:1) or greater	 <p>5' rise / 20' run = 25% slope</p>	See D. above for application requirements. See E. above for cut and fill slope requirements. See G. above for construction techniques.

Section 18. Article 5. Design and Development Standards, Section 5.4 Stormwater Management, Subsection 5.4.2 Applicability is revised to read as follows:

"5.4.2. Applicability.

- This section shall apply to all new development and redevelopment projects for which a zoning compliance permit is required.
- To prevent the adverse impacts of stormwater runoff, the town has developed a set of performance standards that must be met at all new development and redevelopment sites. The following activities are exempt from these stormwater performance criteria:

- (1) Any logging and agricultural activity that is consistent with all federal, state and local regulations;
 - (2) Individual single-family, single-family with accessory apartment, and duplex ~~and two-family~~ development and redevelopments that do not disturb more than twenty thousand (20,000) square feet of land area, including cumulative disturbance since the adoption of the Land Use Management Ordinance on January 27, 2003, provided they are not part of a larger common plan of development.
 - (3) Repairs to any stormwater treatment facility deemed necessary by the town.
 - (4) For purposes of this section, "Larger common plan of development" shall be as defined in subsection 5.19.3(h) of this appendix and includes subdivisions that create four (4) or more residential lots.
- (c) Individual single-family, single-family with accessory apartment, and duplex ~~and two-family~~ residential construction that are exempt from stormwater performance criteria under subsection 5.4.2(b)(2) above shall discharge runoff in an non-erosive and diffuse manner using techniques approved by the town manager. Discharge system/techniques shall be in accordance with the standards established in the town's design manual."

Section 19. Article 5. Design and Development Standards, Section 5.4 Stormwater Management, Subsection 5.4.6 General Performance Criteria for Stormwater Management is revised to read as follows:

"5.4.6. General Performance Criteria for Stormwater Management.

The following are required stormwater management performance criteria:

- (a) Stormwater treatment shall be designed to achieve average annual eighty-five (85) percent total suspended solids (TSS) removal and must apply to the volume of post-development runoff resulting from the first one-inch of precipitation. Alternative treatment methods to achieve eighty-five (85) percent average annual TSS removal may be acceptable. The eighty-five (85) percent requirement applies to eighty-five (85) percent of the additional suspended solids that are the result of the new development. (Ord. No. 2004-02-23/O-2)
- (b) The stormwater runoff volume leaving the site post-development shall not exceed the stormwater runoff volume leaving the site pre-development (existing conditions) for the local 2-year frequency, 24-hour duration storm event for all development except single-family, single-family with accessory apartment, and duplex ~~and two-family~~ dwellings on lots existing as of January 27, 2003, or on lots pursuant to a preliminary plat that was approved by the town council prior to January 27, 2003. This may be achieved by hydrologic abstraction, recycling and/or reuse, or any other accepted scientific method.
- (c) The stormwater runoff rate leaving the site post-development shall not exceed the stormwater runoff rate leaving the site pre-development (existing conditions) for the local 1-year, 2-year, and 25-year 24-hour storm events.
- (d) Land disturbance within the stream channel of any ephemeral stream shall be minimized, and prohibited unless explicitly authorized by issuance of a zoning compliance permit after demonstration of the necessity for the disturbance."

Section 20. Article 5. Design and Development Standards, Section 5.5 Recreation is revised to read as follows:

"5.5.1. Applicability.

(a) This section applies to:

- (1) Any major subdivision that creates lots reasonably expected to be used for dwelling units; or
 - (2) Any multifamily, cottage court, townhouse development or common plan of development of five (5) or more units.
- (b) In all cases the Chapel Hill Parks and Recreation Commission shall review and make recommendations to the town council on the provision or dedication of parks and open space.
- (c) In all cases the Chapel Hill Greenways Commission shall review and make recommendations to the town council in the event that proposed development may be located on or have an impact on greenway areas identified in the town's comprehensive plan, greenway project conceptual plans adopted by the council, and/or greenway project master plans adopted by the council.
- (d) Provision or dedication of parks and open space is not required for a minor subdivision.
- (e) Phases of development within a subdivided tract that occur after the initial subdivision must provide the required parks and open space appropriate for the subsequent development of those tracts. For example, if multifamily dwellings or townhouse developments are built within an already subdivided tract, those dwellings must comply with recreation and outdoor space ratios required for multifamily dwellings by this section.

5.5.2. Minimum Recreation Area and Recreation Space.

"(a) Residential subdivisions.

This section applies to any application for subdivision approval in the zoning districts enumerated below. The minimum size in square feet of a recreation area space shall be derived by multiplying the gross land area of the development by the applicable ratio shown below:

Zoning district	Recreation <u>area space</u> ratio
R-LD5	.040
R-LD1	.050
R-1A	.061
R-1	.071
R-2A	.095
R-2	.120
R-3	.170
R-4, 5, 6 and all other nonresidential zoning districts	.218

(b) Suitability of land.

- (1) Land provided or dedicated as recreation area space shall be outside of the resource conservation district and of a character, shape and location suitable for use as a playground, playfield, or for other active recreation purposes including greenway pedestrian and non-motorized vehicle easements. Recreation areas spaces shall be located on land that is relatively flat and dry and is otherwise capable of

accommodating active recreation uses, except as exempted under the provisions of subsections (e)(2) and (e)(3), below.

- (2) For sites that abut or include areas designated as future greenways on the town's comprehensive plan, greenway project conceptual plans adopted by the council, and greenway project master plans adopted by the council, the town council may require that a dedicated public pedestrian and non-motorized vehicle easement along all such areas be the recreation space provided under this ordinance.
- (3) ~~Recreation areas and~~ Recreation spaces shall be conveniently accessible to all residents of the subdivision and, other than greenway pedestrian and non-motorized vehicle easements, shall have at least fifty (50) feet of frontage on at least one public street within the subdivision. Land provided or reserved for active recreation shall form a single parcel except where the town council determines that two (2) or more parcels are more suitable to the needs of a particular subdivision. The Town Council may require that such parcels be connected. In large developments it is desirable to have parks and recreation areas within walking distance of new residences.

(c) Method of provision or dedication.

Land provided or dedicated for recreation purposes shall be designated on the subdivision's final plat(s). The town council may require that such land be dedicated to the town or other appropriate public body. If the town does not require that the land be dedicated or deeded to an appropriate public body, then the town may require that a neighborhood or homeowners' association be established for the continuing maintenance and control of common recreation area and facilities.

(d) Payments in lieu of provision or dedication.

- (1) In lieu of providing or dedicating recreation ~~area~~ space required pursuant to this section, a developer of a subdivision may, with the approval of the town council, make a payment to the town whereby the town may acquire or develop recreation land to serve the subdivision. A developer may make a partial payment in combination with the partial provision of recreation ~~area~~ space if the town council determines that the combination is in the best interests of the citizens of the area to be served.
- (2) The town council may require a payment to the town in lieu of providing or dedicating recreation ~~area~~ space required pursuant to this section where the minimum recreation ~~area~~ space required by this section equals four (4) acres or less.
- (3) The town shall use such payment only for the acquisition or development of recreation, park, greenways, or open space sites, as allowed by law.
- (4) Payments in lieu of recreation ~~area~~ space shall be determined by the following formula:

A per square foot value of the property shall be determined, as established by Orange County and/or Durham County for real estate tax purposes. The value established by Orange County and/or Durham County shall include only the value of the land and shall not include the value of existing structures and improvements. The square foot value shall be multiplied by the number of square feet of recreation ~~area~~ space required for the development to arrive at a base

value. The base value shall be multiplied by a recreation ~~area~~ space payment in lieu multiplier to determine the required amount of payment in lieu of recreation.

The payment in lieu multiplier for recreation ~~area~~ space shall be established by the town council annually as part of the budget process.

- (5) The developer shall make the payment before approval of a final plat for the subdivision, provided, however, that the town manager may allow phasing of payments consistent with the approved phasing of the subdivision.
- (6) In the event that a property owner successfully appeals the county valuation of the property after the payment in lieu for recreation ~~area~~ space is made to the town, and the resulting change in valuation would have reduced the amount of the payment in lieu for recreation ~~area~~ space, the town shall reimburse the developer the difference between what was paid and what would have been paid had the revised valuation been used.

(e) Exemptions.

- (1) The town council may exempt an application from the recreation ~~area~~ space requirements in this section if the required recreation area is less than three thousand (3,000) square feet.
- (2) If the town council determines that assembling a piece of land to meet the requirements of subsection (b) either would create undue hardships or is not necessary because the active recreational needs of the subdivision are already being met by dedicated land or by existing recreation ~~areas~~ spaces, it may waive any requirements of that subsection. In such cases, the required recreational ~~area~~ space may be used for preserving woods, steep slopes, ponds, streams, glens, rock outcrops, native plant life, and wildlife cover. These ~~areas~~ spaces would provide for the community's need for passive recreational areas and/or greenways.
- (3) If the site abuts or includes areas designated as future greenways on the town's comprehensive plan, greenway project conceptual plans adopted by the council, and greenway project master plans adopted by the council, land area dedicated as a public pedestrian non-motorized vehicle easement or deeded to the town along the greenway may be applied to requirements for dedication of recreation ~~area~~ space and exempted from the land suitability requirements of subsection (b).

(f) Substitution of off-site land for dedicated recreation ~~area~~ space.

- (1) Any subdivider required to provide or dedicate recreation ~~area~~ space pursuant to this section may, with the approval of the town council, dedicate recreation ~~area~~ space outside the boundaries of the land being subdivided but in a nearby area of town.
- (2) The substitute dedicated recreation ~~area~~ space shall be in a location acceptable to the town council, shall be comparably valued, and shall meet all suitability requirements as set forth under the provisions of subsection (b), above.

(g) Multifamily dwelling units, cottage court, townhouse, and common plan of developments of five (5) or more units

Active Improved active recreation space,—improved ~~space~~—areas (either indoors or outside) shall be provided for the common active recreational use of residents of multifamily developments. For sites that abut or include areas designated as future greenways in the town's comprehensive plan, greenway project conceptual plans adopted by the council, and greenway project master plans adopted by the council; land dedicated for a public pedestrian and non-motorized vehicle easement or deeded to the town along the greenway may be substituted for required improved active

recreation space. The minimum size of such active recreation space shall be the number of square feet derived by multiplying gross land area of the development by the applicable ratio shown below.

Zoning districts	Active Recreation space ratio
TC-1, TC-2, TC-3	.120
CC, MU-V, MU-V-CZD	.046
N.C.	.039
OI-2	.046
OI-1	.046
I	.032
R-SS-CZD, R-6, R-5	.050
R-4	.039
R-3	.032
R-2, R-2A, R-1	.025
R-1A	.022
R-LD1	.020
All Others	.015

(h) Payments in lieu of improved recreation space.

In lieu of providing recreation space required pursuant to this section, a developer of a multifamily dwelling, cottage court, townhouse, or planned development may, with the approval of the town council (or planning commission if final approval is by the planning commission), make a payment to the town whereby the town may acquire or develop recreation land or greenways to serve the development. A developer may make a partial payment in combination with the partial provision of recreation space if the town council determines that the combination is in the best interests of the citizens of the area to be served.

The town council (or planning commission if final approval is by the planning commission), may require a payment to the town in lieu of providing or dedicating recreation space required pursuant to this section.

The town shall use such payment only for the acquisition or development of recreation, park, or open space sites to serve residents of the development or residents of more than one (1) subdivision or development within the immediate area. The amount of the payment shall be the product of the amount of active recreational space required, multiplied by a dollar amount established by the town council annually as part of the budget process.

The developer shall make the payment before issuance of a zoning compliance permit for the development, provided, however, that the town manager may allow phasing of payments consistent with the approved phasing of the development.

(i) Connectivity.

Purpose statement: The town hereby finds and determines that an interconnected system of parks, trails, greenways, and bikeways provides a greater public benefit than isolated parks with access exclusively by automobiles. Such areas can provide form to neighborhoods, a common public gathering space, and an opportunity to protect natural areas.

~~Recreation area~~ Active recreation space provided pursuant to this section shall be aligned with and shall adjoin any area designated as a park or open space area on adjoining property, including any public greenway, linear park, or similar facility.

Sidewalks, trails, or similar facilities shall align with such facilities in an adjoining tract or, where adjoining tracts are unimproved, with any area designated for parks or open space in the comprehensive plan or any parks master plan adopted by the town."

Section 21. Article 5. Design and Development Standards, Section 5.6 Landscaping, screening, and buffers, Table 5.6.6-1 Schedule of required buffers is revised to read as follows:

	Proposed Principal Use				
Adjacent* Existing Principal Use	Major Subdivision creating lots for single or two-family , <u>single family with accessory apartment, duplex, triplex, and fourplex dwellings</u> , or Class A mobile home	Any other principal use in Use Group A, except essential services	Any principal use in Use Group B	Automotive repair, maintenance and/or storage facility, self-storage facility, conditioned, light manufacturing, supply yard	Any principal use in Use Group C other than the above
Dwellings, single-family or two-family , <u>single family with accessory apartment, duplex, triplex, and fourplex dwellings</u> , or Class A mobile home		B	C	D	C
Any other principal use in Use Group A, except Essential Services	B	B	C	D	C
Interstate Highway	E	E	E	E	E
Railroad, non-Interstate, Arterial Street	D	D	D	D	D
Collector Street	C	C	C	C	C
Any use in Use Group B	C	C	B	C	B

	Proposed Principal Use				
Automotive Repair, Maintenance and/or Storage Facility, Light Manufacturing, Supply Yard	D	D	C	B	B
Any other use in Use Group C	C	C	B	B	B
Adjacent* Vacant Land Zoning: R-LD5, RT, R-LD1, R-1, R-2, R-3	—	B	C	D	C
R-4, R-5, R-6	B	B	C	D	C
OI-1, OI-2	C	C	B	C	B
I, LI-CZD	D	D	C	B	B
N.C., CC, OI-3, TC-1, TC-2, TC-3	C	C	B	B	B

Section 22. Article 5. Design and Development Standards, Section 5.7 Tree Protection, Subsection 5.7.1 General Provisions is revised to read as follows:

“(a) *Short title.* This section shall be known and may be cited as the Chapel Hill Tree Protection Ordinance.

(b) *Purpose.* The intent of this section is to preserve, maintain, and increase tree canopy to protect the public health, safety, and welfare and enhance the quality of life in Chapel Hill.

(c) *Applicability and permits.* The provisions of this article apply to all land in the town's zoning jurisdiction. For tree canopy coverage standards, see section 5.7.2.

(1) *Activities that require a zoning compliance permit:*

- i. All work impacting trees on lots designated for non-residential, multifamily residential, cottage court, or townhouse development of five (5) or more units, and mixed use, and
- ii. All work impacting trees on lots designated for single-family, single-family with accessory apartment, duplex, and two-family, triplex, and fourplex residential uses where total land disturbance exceeds five thousand (5,000) square feet and that are not encumbered by a Special Use Permit or Conditional Zoning District.

(2) *Activities that require review and approval by the town's urban forester:*

- i. Private work on public land, and

ii. The practice of forestry as defined by North Carolina General Statute 105-277.2-.7 which is permitted only after an applicant submits a plan for harvesting and replanting consistent with the most current Forest Practices Guidelines Related to Water Quality published by the N.C. Department of Natural Resources and Community Development, or its successor agency.

(d) *Exceptions not subject to the provisions of this article are:*

- (1) Land in the town's Town Center and Office/Institutional-4 zoning districts, provided, however, that subsection 5.7.4 of this article shall apply;
- (2) Routine maintenance of existing trees outside the public right-of-way, including pruning done in a manner consistent with established arboricultural standards;
- (3) The removal of dead, severely damaged or diseased trees that have been diagnosed and, if applicable, determined by a certified arborist to be beyond treatment or recovery, the burden of proof being placed on the remover;
- (4) Land surveying provided no trees greater than six (6) inches diameter at breast height (dbh) are damaged or removed; and
- (5) Eradication of exotic, non-native, and invasive or otherwise undesirable species listed in subsection 5.7.6(d).

(e) *Emergency waiver.* The provisions of this section are waived if compliance would impede the rescue of life or property from immediate danger or the repair of utilities in the event of emergencies such as wind storms, ice storms, or other disasters. Any emergency work shall follow as closely as possible the standards outlined in the town's landscape standards and specifications."

Section 23. Article 5. Design and Development Standards, Section 5.7 Tree Protection, Subsection 5.7.2 Tree Canopy Coverage Standards, Subsection (a) Minimum canopy coverage standards is revised to read as follows:

"(a) *Minimum canopy coverage standards.* The town desires to maintain the maximum practical tree canopy cover across all land uses within the town's jurisdiction.

Tree canopy coverage standards are required for applications proposing triplex, fourplex, and cottage courts.

Tree canopy coverage standards are required for applications proposing tree removal that require council approval, including special use permits, ~~and~~ major special use permit modifications, conditional zoning district rezonings, and major conditional zoning district modifications.

For residential Neighborhood Conservation Districts, the district may request from the town council that tree protection regulations apply as per section 5.7 using a canopy coverage standard consistent with the existing neighborhood character.

When tree canopy is subject to the provisions of this section, the following minimum tree canopy coverage percentages are required within the zoning lot boundaries exclusive of public right-of-way:

Land Use	Minimum Canopy Coverage
<u>Triplexes and Fourplexes</u>	<u>20%</u>
Multifamily Residential <u>and Townhouse Developments of five (5) or more units</u>	30%
<u>Cottage Courts</u>	<u>30%</u>
Commercial (Use Group C and: Business, Office; Clinic; Funeral Home, and Hotel/Motel)	30%
Institutional (Use Group B)	40%
Mixed Use, Other	40%
All Uses in Innovative, Light Industrial Conditional Zoning District (LI-CZD)	20%

Section 24. Article 5. Design and Development Standards, Section 5.9 Parking and Loading, Subsection 5.9.5 Parking Design Standards is revised to read as follows:

"All parking areas shall meet the following minimum design requirement:

(a) Ingress to and egress from parking areas shall conform to the design manual for such features as curbs, driveway cuts, etc.

(b) In the town center, TND or TOD districts, if a setback is provided between a principal structure and a street, such setback shall not be used for off-street parking.

(c) All parking spaces and maneuvering space shall be surfaced with an all-weather material or gravel, which shall be maintained in a safe and sanitary condition. This division (c) does not apply to parking areas that are not within the front yard area of a single-family, single-family dwelling with accessory apartment, or duplex zoning lot.

(d) No parking area or maneuvering space shall be located within a public street right-of-way. Parked vehicles in off-street parking spaces shall be prevented from intruding on travel lanes, walkways, public streets, or adjacent properties by means of walls, curbs, wheel stops, or other appropriate means.

(e) The size of parking spaces shall be adequate for the safe parking of vehicles and maneuvering space shall be provided so that parking movements can be accomplished in one continuous maneuver. Parking facilities designed to accommodate five (5) or more vehicles shall be designed in accord with the standards for stalls and aisles as set forth in the standard details and specifications.

(f) Curbed islands shall be required at the ends of or between parking aisles where necessary for traffic control or drainage control.

(g) Except for single-family dwellings, single-family dwellings with accessory apartments or ~~two-family duplex~~ dwellings, parking spaces shall be provided with adequate aisles or turnaround areas so that all vehicles may enter adjacent streets in a forward manner.

(h) Parking facilities shall be designed to connect with parking facilities on adjacent zoning lots where appropriate to eliminate the need to use the abutting street(s) for cross movements.

(i) All off-street parking facilities shall be provided with a drainage system meeting the design standards contained in section 5.4.

(j) All lighting of and within parking facilities shall conform to the lighting design standards contained in [section 5.11](#).

(k) Adequate provision shall be made for the ventilation, dispersion, and removal of smoke and gases from above-ground and below-ground parking structures.

~~(l) Parking facilities designed to accommodate five (5) or more vehicles shall provide areas as necessary for the parking of motorcycles, mopeds, and bicycles. Such areas shall be clearly defined and reserved for the exclusive use by motorcycles, mopeds, and bicycles.~~

(~~m~~ l) Parking facilities designed with the appropriate number, size and type of handicapped parking spaces, ramps, crosswalks and associated infrastructure to comply the Americans With Disabilities Act standards, North Carolina Accessibility Code, and town standard. Such spaces shall be clearly defined and reserved for the exclusive use by handicapped persons.

(~~n~~ m) Parking facilities shall be designed with walkways and lighting to facilitate safe walking movements to and from parked vehicles."

Section 25. Article 5. Design and Development Standards, Section 5.9 Parking and Loading, Subsection 5.9.7 Minimum and Maximum Off-Street Parking Space Requirements is amended to add two rows below single family with accessory apartment, to add a new row above the existing row Fraternity or sorority house, and revise the footnotes to read as follows:

Use	Vehicular Parking				Bicycle Parking
	Town Center Zoning Districts		Non Town Center Zoning Districts*		
	Minimum Number of Parking Spaces	Maximum Number of Parking Spaces	Minimum Number of Parking Spaces	Maximum Number of Parking Spaces	Minimum Bicycle Parking Requirements***
Dwelling, single-family with accessory apartment	1 per Accessory Apartment bedroom constructed after	N/A	1 per Accessory Apartment bedroom constructed after	N/A	N/A

Use		Vehicular Parking				Bicycle Parking
		Town Center Zoning Districts		Non Town Center Zoning Districts*		
		Minimum Number of Parking Spaces	Maximum Number of Parking Spaces	Minimum Number of Parking Spaces	Maximum Number of Parking Spaces	Minimum Bicycle Parking Requirements***
		{effective date} <u>November 23, 2015</u>		{effective date} <u>November 23, 2015</u>		
Dwelling, <u>Duplex</u> , <u>Triplex</u> , <u>Fourplex</u> , or multifamily	Efficiency	N/A	1 per dwelling unit	1 per dwelling unit	1.25 per dwelling unit	1 per 4 dwelling units
	1 bedroom	N/A	1 per dwelling unit	1 per dwelling unit	1.25 per dwelling unit	
	2 bedrooms	N/A	1.25 per dwelling unit	1.4 per dwelling unit	1.75 per dwelling unit	
	3 bedrooms	N/A	1.5 per dwelling unit	1.75 per dwelling unit	2.25 per dwelling unit	
	4 or more bedrooms	N/A	1.67 per dwelling unit	2 per dwelling unit	2.5 per dwelling unit	
<u>Dwelling, Cottage Court</u>		<u>N/A</u>	<u>1 per dwelling unit</u>	<u>1 per dwelling unit</u>	<u>2 per dwelling unit</u>	<u>1 per 3 dwelling units</u>
<u>Dwelling, Townhouse</u>		<u>N/A</u>	<u>1 per dwelling unit</u>	<u>1 per dwelling unit</u>	<u>2 per dwelling unit</u>	<u>1 per 4 dwelling units</u>

Use	Vehicular Parking				Bicycle Parking
	Town Center Zoning Districts		Non Town Center Zoning Districts*		
	Minimum Number of Parking Spaces	Maximum Number of Parking Spaces	Minimum Number of Parking Spaces	Maximum Number of Parking Spaces	Minimum Bicycle Parking Requirements***
Fraternity or sorority house	N/A	1 per 1.25 residents	1 per 3 residents	1 per 2 residents	Min 4; 1 per 3 residents

* Minimum vehicular and bicycle parking requirements shall not apply for uses located within the Office/Institutional-3 or Office/Institutional-4 Districts.

** For a duplex, no minimum vehicular parking requirement shall apply and for the purposes of calculating the maximum number of vehicular parking spaces, garage spaces and the driveway are not to be counted.

*** See section 4.11 Bicycle Parking in the Town of Chapel Hill 2005 Design Manual.

Note: The minimum number of parking spaces required for elderly or handicapped dwellings may be reduced to one (1) per two (2) dwelling units upon findings made by the town council that (1) reasonable assurances exist that the dwelling units served by the parking spaces will be maintained for occupancy by the elderly or handicapped and/or (2) that sufficient space exists on the property to ensure that should the units be converted to another form of occupancy or use, that sufficient parking can be provided on the site to satisfy the parking requirements of the new use, without violating the land use intensities of Table 3.8-1.

In the case of a use not listed above, the minimum and maximum bicycle and vehicular parking space requirements shall be determined by the town manager. In making such determinations, the town manager shall be guided by the requirements for similar uses, the number and kind of bicycles and vehicles likely to be attracted to the use, and studies of minimum parking space requirements for such use in other jurisdictions.

Minimum vehicular parking requirements for an individual site may be reduced by the town council in the context of a special use permit approval, or the planning commission in the context of a site plan review approval, if evidence is submitted to demonstrate and the town council, or planning commission, finds that:

(a) Sidewalks, bicycle facilities, transit service and transit amenities are in place such that, together with the number of vehicular parking spaces that are proposed, transportation needs are adequately served; or

(b) The particular use that would be specified in the special use permit is of a nature that generates lower-than-average trips, and that the special use permit would limit use of the property to what is specified; or

(c) Arrangements for shared parking with nearby facilities is ensured."

Section 26. Article 5. Design and Development Standards, Section 5.9 Parking and Loading, Subsection 5.9.9 Parking in Front Yards is revised to read as follows:

"5.9.9. Parking in Front Yards.

(a) *Applicability.* The restrictions of this section shall apply to single-family, single-family with accessory apartment, duplex, two-family, and triplex, and fourplex dwellings in all zoning districts.

(b) *Generally.* Parking and drive areas located in front yards (between the street and a line drawn parallel to the street from the point of the house that is closest to the street) shall be maintained in a safe and sanitary condition, shall not contribute to soil erosion or to tree damage, and shall be clearly designated and covered with an all weather surface or gravel.

(c) *Coverage.* Parking and drive areas shall be limited to forty (40) percent of the front yard area of any ~~zoning~~ lot. Access to front yard parking shall be limited to properly approved curb cuts or other approved access points.

Residential driveway areas can be further reduced by:

(1) Constructing shared driveways with a recorded shared access agreement between any pair of lots

(2) Designing driveways as a ribbon driveway:

- A. Each strip shall be two feet (2') to three feet (3') wide with a separation between the strips measuring three feet (3')
- B. Strips can terminate at the sidewalk or driveway apron, to a parking pad at the side or rear of the structure to accommodate side-by-side parking, or garage entry.
- C. Separation strips may be planted with grass or another ground cover, filled with landscaping rocks, or gravel.

(d) *Exceptions.* The town manager may grant an exception to subsection (c) where he/she finds all of the following conditions to exist on the property and all other parking options, including parking in the back and side yard, have been eliminated;

- (1) The parking area is clearly defined and/or marked with appropriate materials such as rocks, timbers and hedges; and
- (2) The parking area is maintained in a safe and sanitary condition; and
- (3) The parking area does not contribute to soil erosion or tree damage; and
- (4) Access to front yard parking shall be limited to properly approved curb cuts or other approved access points; and
- (5) The location and dimension of such parking area is traditionally and customarily associated with the subject structure; and
- (6) The parking area shall be screened by means of an effective screening device between the parking area and the street which is at least four (4) feet in height

above the grade of the edge of the parking area. Appropriate screening devices may include decorative brick walls, fences, evergreen hedges which shall reach the required height within two (2) years of planting, or any combination of the above.

- (7) If the parking lot is located in the historic district, the historic district commission grants a certificate of appropriateness for the parking area."

Section 27. Article 5-Design and Development Standards, Section 5.10 Disability Access is revised to read as follows:

"5.10. Disability Access.

Except for single-family, ~~single-family with accessory apartment, and duplex and two-family~~ dwellings, all buildings and facilities shall be accessible to and usable by the physically handicapped in accordance with the building code provisions contained in chapter 5 of the Town Code of Ordinances."

Section 28. Article 5-Design and Development Standards, Section 5.11 Lighting Standards, Subsection 5.11.5 Buildings, Streets, Driveways and other Passageways and Subsection 5.11.6 Submittals are revised to read as follows:

"5.11.5. Buildings, Streets, Driveways and other Passageways.

Except for single-family, ~~single-family with accessory apartment, duplex, triplex, and fourplex and two-family~~ dwellings, all streets, driveways, bikeways, sidewalks, pedestrian paths, parking areas, and other common areas and facilities shall be lighted where necessary to ensure the security of property and the safety of persons using such streets, driveways, bikeways, sidewalks, pedestrian paths, parking areas, and other common areas and facilities. Specific standards for and restrictions on lighting are included in the town's design manual.

All principal entrances and exits to principal buildings used for nonresidential purposes or containing more than five (5) dwelling or lodging units shall be sufficiently lighted to ensure the safety of residents and the security of the building.

5.11.6. Submittals.

Each application for a zoning compliance permit for development other than a single-family, single family with accessory apartment, or duplex ~~or two-family~~ dwelling shall include a lighting plan that shows existing and proposed lighting fixture types and locations. The plan shall indicate, by isolux contour diagram and grid points, the measured and calculated pre-development and post-development foot-candles at grade both on the development site and on adjacent property where lighting impacts are expected. The lighting plan must be sealed by a professional engineer with demonstrable expertise in lighting design and mitigation strategies, or a lighting specialist who is lighting certified (LC) by NCQLP (National Town Council on Qualifications for the Lighting Professions)."

Section 29. Article 5-Design and Development Standards, Section 5.12 Utilities, Subsection 5.12.1 Water and Sewage, Subsection 5.12.1(A)(1) Service by public systems is revised to read as follows:

"(a) Service by public systems.

- (1) All development within the boundaries of Chapel Hill's Urban Services Area, as defined in the comprehensive plan, shall be served by a public water supply and a

public sanitary sewer system. No zoning compliance permit or building permit shall be issued for any structure within the town's urban services area (as defined in the comprehensive plan), absent evidence that the structure can be served by public water and sewer facilities. Existing development not served by public water and sewer shall not be considered as nonconforming within the meaning of article 7 of this chapter. Provided however that permits may be issued to authorize the reconstruction, rehabilitation, renovation, or expansion of a development existing on or before January 27, 2003, whether or not such development is served by a public water supply and a public sanitary sewer system, subject to applicable regulations, including demonstration of compliance with county health department regulations. (Ord. No. 2003-09-22/O-2, § 1)

Exception: The town manager, or designee, may exempt individual single-family, single-family with accessory apartment, and duplex ~~and two-family~~ development from the requirement for public water and sewer facilities, based on the presentation of substantial evidence by the applicant that such public facilities are not immediately adjacent to the lot and are not accessible by private lateral utility service lines. A letter from the Orange Water and Sewer Authority or successor agency stating that an extension of public water or sewer main would be required to serve the subject property shall constitute substantial evidence as described above. New development that is granted this exception, to allow private water or sewer facilities, shall connect to public water and sewer facilities, by private lateral utility service lines, at such time that public facilities become accessible by private lateral utility service lines."

Section 30. Article 5-Design and Development Standards, Section 5.13 Solid waste collection and recycling is revised to read as follows:

"5.13. Solid waste collection and recycling.

- (a) All developments shall provide a detailed solid waste management plan, including a recycling plan and a plan for managing and minimizing construction debris, subject to approval by the town manager.
- (b) All developments shall provide secure, safe, and sanitary facilities for the storage and pickup of solid waste and recyclables. Such facilities shall be convenient to collection and shall be appropriate to the type and size of the development being served.
- (c) Except for single-family, single-family with accessory apartment, and duplex ~~and two-family~~ dwellings, all solid waste and recyclables storage facilities shall be screened by a solid wall, fence, tight evergreen hedge, or combination of the above. Such screening shall be of sufficient height and design to effectively screen the facility from the view from adjacent residential uses and streets, and from adjacent properties."

Section 31. Article 5-Design and Development Standards, Section 5.19 Jordan watershed stormwater management for new development, Subsection 5.19.7 Design and Performance Standards for Stormwater Management, Subsection (c) is revised to read as follows:

- "(c) Partial offset of nutrient control requirements. Before using offsite offset options, a development subject to this section shall attain a maximum nitrogen loading rate onsite of six (6) pounds per acre per year for single-family, single-family with accessory apartment, and duplex residential development and ten (10) pounds per acre per year for other development, including triplex, fourplex, multi-family residential, commercial

and industrial and shall meet all requirements for structural best management practices otherwise imposed by this section. A person subject to this section may achieve the additional reductions in nitrogen and phosphorus loadings by making offset payments to the North Carolina Ecosystem Enhancement Program (program) contingent upon acceptance of payments by that program. An applicant may propose other offset measures, including providing his or her own offsite offset or utilizing a private seller. All offset measures permitted by this section shall meet the requirements of 15A NCAC 02B.0273(2) through (4) and 15A NCAC 02B.0240."

Section 32. Article 6-Special Regulations for Particular Uses, Section 6.19 Dwelling Units-Duplex, Subsection (d) is revised to read as follows:

"(d) No more than four (4) vehicular parking spaces, as defined by landscaping and hardscape materials, shall be permitted.

~~a. For special use permit, special use permit modification site plan review, and site plan review applications which authorize construction of dwelling units, two family duplex use, the community design commission shall approve duplex building elevations and site plans to determine if the elevations are in accordance with the adopted design guidelines and if all property owners included in such an application voluntarily consent to such regulation.~~

~~Every application for community design commission review of duplex structure(s) that are approved by a special use permit, site plan review, or said modifications, shall include a list of owners of properties located within one thousand (1,000) feet of the subject property boundaries with the full name and address of each property owner, with stamped, pre-addressed mailing envelopes for each owner on the mailing list. The stamped, pre-addressed envelopes shall be used to notify the property owners of the meeting date and time during which the community design commission will consider the application."~~

Section 33. Article 6-Special Regulations for Particular Uses, Section 6.26 Triplex dwelling unit is revised to read as follows:

"6.26 Triplex and Fourplex dwelling units.

(a) Special Requirements in the HR-L and HR-M Subdistricts

(1) 1-Triplex projects in the HR-L and HR-M Subdistricts shall only be permitted from nonprofit tax exempt organizations involving permanent residential development in which annual documentation is provided that 100% of the dwelling units will be occupied by low-moderate income households (less than 80% of area median income by households size as defined by the Department of Housing and Urban Development) in perpetuity.

(2) 2- The separation between units of a triplex dwelling shall meet Fire Code requirements."

(b) Neighborhood Compatibility. These standards are intended to encourage reinvestment in existing neighborhoods that complements the neighborhood's established character.

(1) Applicability. The standards contained within this section apply to any building in a R-1, R-2, R-3, R-4, R-5, or R-6 zoning district where the following conditions are met:

a. The subject lot is part of a subdivision that was platted for at least 20 years; or

- 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; and
 - c. The subject lot is located on a street where at least 50% of the lots on the same block face (same side of the street) and the opposite block face (other side of the street) contain existing single-family dwellings.
- (2) When the neighborhood compatibility standards are in conflict with the dimensional standards of the zoning district, the more restrictive shall apply.
- (3) When a lot is located within a Neighborhood Conservation District or Historic District, the Neighborhood Conservation District or Historic District Overlay regulations shall apply.
- (4) Determining Neighborhood Context for Infill Development. To ensuring neighborhood compatibility, the neighborhood context shall be determined. The context for the following Development and Design Standards shall be defined by:
 - a. Existing dwellings located on lots within 150 feet of the property line. A minimum of four dwelling units shall be identified adjacent to the property.
 - i. In the case of a corner lot, existing dwellings located within 150 feet of the property line along both street frontages shall be considered.
 - ii. In the case of a cul-de-sac or similar street section, both sides of the street shall be used to consider block face.
 - b. Identifying dwellings within the neighborhood context.
 - i. Where a demolition permit has been obtained on a lot, that lot shall be considered vacant for the purpose of neighborhood context.
 - ii. Where the existing building will remain on the subject lot, that building shall be considered for the purpose of determining neighborhood context.
- (5) Development & Design Standards
 - a. Minimum Lot Size. The minimum lot size requirements of the underlying zoning and any overlay districts shall apply.
 - b. Minimum Frontage. The minimum frontage requirements of the underlying zoning and any overlay districts shall apply.
 - c. Minimum Lot Width. The minimum lot size requirements of the underlying zoning and any overlay districts shall apply.
 - d. Maximum Setback and Core Height. The maximum setback and core height of the building shall not exceed the height of the lesser of:
 - i. The maximum heights established by the zoning districts.
 - ii. More than 10 feet taller than the height of the shortest dwelling unit on adjacent lots along the block face.
 - iii. If there is not a dwelling on the abutting lot, the next lot along the block face shall be used.
 - iv. If that next lot also does not have a dwelling unit, then the underlying zoning height shall be used.

- e. Roof Forms, pitches, breaks, and massing shall be similar to those found in the neighborhood.
- f. Minimum and Maximum Street Setbacks. The proposed new dwelling shall be no closer to the street than the shortest street setback and no further than the longest street setback.
- g. Minimum Interior Setback
 - i. The minimum interior setback shall be equal to the setback that exists on the abutting lot, provided that no setback be less than 8 feet.
 - ii. If there is not a dwelling on the abutting lot, the underlying zoning interior setback shall be used.
- h. Minimum Solar Setback. The minimum solar setback requirements of the underlying zoning and any overlay districts shall apply.
- i. Building Width:
 - i. The width of the building shall not exceed the average building width of existing residential structures by more than 25%.
 - ii. No façade wall may extend for more than 50 feet without a projection or recession of at least 4 feet in depth and 10 feet in length.
 - iii. Articulation is required on side walls that are 22 feet or taller and located within 15 feet of the adjoining building.
 - iv. The modulation of facades and elevations should be similar to that of adjacent lots.
- j. Building Orientation & Entrances
 - i. A single-entry providing access to multiple units; or
 - ii. Separate distinct covered entries.
 - a. Entries shall face the street from which the dwelling derives its street address.
 - b. On corner lots, entries shall be provided on different sides of the structure so that entries are visible from both streets.
- k. Fenestration Pattern
 - i. Window and door placement, design, proportions, and solid-to-void ratios shall be similar to that of adjoining lots.
 - ii. Consider the placement of windows and door entrances to maintain the privacy of adjoining residents.
- l. Building Materials. Use of similar exterior materials found within the neighborhood context area shall be employed.
- m. Unit Size: Size: Triplex and Fourplex units shall have a minimum unit size of 500 square feet and a maximum unit size of 1,600 square feet each.
- n. Driveways and Parking Standards. Driveways and parking spaces shall be located at least 2.5 feet from the side and rear lot lines, unless a shared driveway is provided between two adjoining properties.
- o. Existing Buildings. Property owners are encouraged to utilize existing structures over demolishing existing structures.

- p. Connectivity. New triplex and fourplex development shall enhance existing transportation networks by:
 - i. Constructing sidewalks that connect to the adjacent sidewalk system
 - ii. Continuation of bike lanes, greenways, and other multi-modal paths along the frontage of the property.
- q. Utilities. Cottage Courts shall meet the requirements of [5.12 Utilities](#).

Section 34. Article 6-Special Regulations for Particular Uses is hereby amended by adding a new Section 6.28 Dwelling Units-Accessory Apartments to read as follows:

"6.28 – Accessory Apartments

The following standards shall apply to the development of accessory apartments:

- (a) An accessory apartment shall be located on the same lot as the single-family dwelling to which it is an accessory use.
- (b) Size: An accessory apartment shall have a floor area limit of:
 - (1) No more than seven hundred fifty (750) square feet or seventy-five (75) percent of the floor area of the principal dwelling unit (whichever is smaller); or
 - (2) No more than 750 square feet when the primary structure is 1,200 square feet or less; or
 - (3) No more than one thousand (1,000) square feet of floor area only if the accessory apartment ~~does not increase the existing footprint of the structure (principal dwelling unit, garage or other existing, standalone structure on the property) to which it would be attached~~ is attached to either the principal dwelling unit, garage, or another existing standalone structure on the property; and
- (c) Detached accessory apartments are allowed on a lot only in conjunction with single-family dwelling unit and may not exist on a lot prior to the construction of the single-family dwelling unit.
- (d) Height: The maximum height of a detached accessory structure in R- zoning districts shall be twenty-nine (29) feet or the height of the primary structure, whichever is less.
- (e) Only one accessory apartment per single family lot is permitted.
- (f) Together, the principal dwelling unit and the accessory apartment shall be classified as a rooming house (a different use type and group) if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership."

Section 35. Article 6-Special Regulations for Particular Uses is hereby amended by adding a new Section 6.29 Cottages to read as follows:

"6.29 – Cottages

- (a) Cottages on Compact Lots

The following standards shall apply to the development of cottages on compact lots:

- (1) Dimensional Standards

<u>Compact lot Dimensions</u>	
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<u>Minimum Lot Size</u>	<u>2,700 square feet</u>
<u>Minimum Lot Width</u>	<u>30 feet</u>
<u>Minimum Street Setback</u>	<u>Follows underlying zoning</u>
<u>Minimum Interior Setback</u>	<u>5 feet</u>
<u>Minimum Solar Setback</u>	<u>8 feet</u>
<u>Building Dimensions</u>	
<u>Maximum Footprint</u>	<u>1,000 square feet</u>
<u>Maximum Floor Area of Primary Structure</u>	<u>1,600 square feet</u>
<u>Maximum Height</u>	<u>29 feet</u>
<u>Building Separation</u>	<u>Separation between a cottage and existing development shall comply with Fire Code</u>

(2) Additional Requirements

- A. Driveway Design. Where feasible, driveways shall be shared with a recorded shared access agreement for any pair of lots.
- B. Designation on Plat. Utilization of the compact lot option shall be recorded on a plat at the time of approval, specifying the housing type and associated limitations.

(b) Cottage Courts

The following standards shall apply to the development of cottage courts:

- (1) Lot Size. A zoning lot containing a cottage court shall be a minimum of 10,000 square feet and maximum of 24,000 square feet.
- (2) Intensity Regulations. A cottage court shall contain a minimum of three (3) dwelling units and a maximum of twelve (12) dwelling units.
- (3) Accessory apartments are not a permitted accessory use for cottages within a cottage court.
- (4) Minimum Lot Width
 - A. Front loaded cottage courts, those accessed by automobile traffic from the street, shall have a minimum lot width of 115 feet and maximum lot width of 160 feet.
 - B. Alley-loaded cottage courts, those access by automobile traffic from a alley or driveway, shall have a minimum lot width of 110 feet and maximum lot width of 150 feet.
- (5) Setbacks. The setbacks of the underlying zoning district apply only to the perimeter of the cottage court lot. Individual lots within the cottage court development shall meet the following standards:

	<u>Minimum Dimension:</u>
<u>Front:</u>	<u>5 feet</u>

<u>Rear:</u>	<u>10 feet</u>
<u>Side:</u>	<u>5 feet</u>

(6) Building Dimensions. Each cottage dwelling shall meet the following standards:

	<u>Minimum Dimension:</u>	<u>Maximum Dimension:</u>
<u>Building width¹</u>	<u>18 feet</u>	<u>24 feet</u>
<u>Building depth</u>	<u>24 feet</u>	<u>36 feet</u>
<u>Building height</u>	<u>12 feet</u>	<u>25 feet</u>
<u>Floor Area (including garages)</u>	<u>500 square feet</u>	<u>1,500 square feet</u>
<u>Separation Between Detached Dwellings³</u>	<u>10 feet</u>	<u>No max</u>

(1) Building width is the distance of the building, measured from the exterior face of the building measured from side to side, exclusive of any bay windows, porches, or decks.

(2) Building depth is the distance of the building, measured from the exterior face of the façade to the rear elevation, exclusive of any bay windows, porches, or decks.

(3) Dwellings shall have a minimum separation from one another of ten feet (10') measured from exterior wall to exterior wall and not counting eaves or other architectural projections.

(7) Utilities. Cottage Courts shall meet the requirements of [5.12 Utilities](#).

(8) Design Standards

- A. Orientation of Dwelling Units. A minimum of 75% of the cottage dwelling units shall abut the courtyard and shall have a primary entrance oriented toward the courtyard space. For those dwelling units that face both a public street and the courtyard, the dwelling unit may have a secondary entrance oriented toward the courtyard so long as the primary entrance faces the right-of-way.
- B. Driveways and Parking
 - i. Off-street parking shall be provided in compliance with LUMO 5.9.
 - ii. Parking shall not be located in front yards.
 - iii. In no instance shall off-street parking areas extend into the courtyard.
 - iv. Parking may be located in a shared parking lot or parking structure.
 - v. Shared parking structures shall be designed similar and compatible to the design, materials, and roof pitches used for the cottages.
 - vi. Driveways and parking areas shall be screened from adjoining properties.
- C. Community Buildings. Indoor or covered common areas less than 2,000 square feet are permitted by right in cottage courts developments. These structures shall be architecturally integrated with the architectural style of the cottage court development.
- D. Courtyard Requirements:

- i. Courtyards shall measure a minimum of 400 square feet per dwelling unit.
 - ii. All cottages shall be located within 60 feet walking distance to the courtyard.
 - iii. Courtyards shall not include resource conservation district, stormwater control measures, steep slopes, and landscape buffers shall not count towards courtyard requirements.
 - iv. Courtyards shall be landscaped and may include amenities such as gazebos, benches, and playground equipment.
 - v. Enclosures for trash and recycling are prohibited in courtyards.
- E. Existing Dwelling Units. An existing single-family dwelling that is incorporated into a cottage housing development as a residence and is nonconforming with respect to the standards of this chapter shall be permitted to remain on a site used for a cottage court development and shall count as one of the allowed units.

The extent of the noncompliance may not be increased unless the proposed change is determined by the Director to be consistent in character, scale, and design with the cottage housing development.

Section 36. Article 6-Special Regulations for Particular Uses is hereby amended by adding a new Section 6.30 - Townhouse Developments to read as follows:

"6.30 – Townhouse Developments

6.30.1 Minimum Land Area

The minimum gross land area required for a zoning lot containing a townhouse development shall be as established in section 3.8 for the zoning district in which the townhouse development is located.

6.30.2 Intensity Regulations

Except as otherwise provided in this appendix, the intensity regulations applicable within a townhouse development shall be as established in section 3.8 for the zoning district in which such townhouse development is located. For any lot developed with a townhouse, one accessory dwelling unit is permitted per townhouse lot.

The setbacks of the underlying zoning district apply only to the perimeter of the townhouse development.

6.30.3 Minimum Lot Size and Width

No individual townhouse lot shall be less than 1,600 square feet and a minimum lot width of sixteen feet.

6.30.4 Design Standards

Except as otherwise provided in this appendix, the design standards applicable to a townhouse development consisting of five (5) or more units shall be as established in article 5, with the following additions:

- (a) Types of Townhouses:

- (1) Rear-Loaded: These townhouses have a garage that is placed entirely to the rear of the townhouse and is rear-accessed. The garage can be attached or detached.

The garage must be located either:

- i. A minimum of four (4) feet from the alley right-of-way, easement, or rear access drive; or
 - ii. A minimum of twenty (20) feet from the alley right-of-way, easement, or rear access drive if the drive also serves as parking
- (2) Front-Loaded: These townhouses have attached garages that are placed entirely on the façade of the townhouse and is accessed from the front.
- i. Garages shall be located behind the front wall plane of the house, except when the front door entrance is emphasized by a porch, stoop, or other architectural feature that creates a transitional space between outside and inside the dwelling unit. In such cases, the garage wall may be located behind the lane of the entry feature.
 - ii. Garage doors may constitute no more than 50% of the width of the individual townhouse unit.
 - iii. Garage doors shall be a minimum of twenty (20) feet from the right-of-way or sidewalk, whichever is closest, if the driveway also serves as parking.
 - iv. Garage doors shall be recessed from the wall plane.
 - v. Access to front yard parking shall be limited to properly approved curb cuts or other approved access points.
- (3) Stacked townhouses: Please see requirements for multi-family dwelling units.

(b) Garages & Parking:

- (1) Tandem parking designs, which necessitate parking one vehicle behind another and not perpendicular to each other, are permitted.
- (2) One (1) Shared Driveway is allowed along a shared interior or rear lot line to provide access to a garage, or parking area in a rear-loaded townhouse.
- (3) Single car garages must have a minimum interior dimension of eleven feet (11') by twenty feet (20') deep.
- (4) Two car garages must have a minimum interior dimension of twenty feet (20') wide by twenty feet (20') deep.

(c) Pedestrian Entrances. Individual entrances to townhouses shall be prioritized over private garages by:

- (1) Emphasizing entrances with trellis, small porch, stoop, or other architectural feature that creates a transitional space between outside and inside the dwelling; or
- (2) Landscaping may be used to emphasize the pedestrian entrance; or
- (3) For townhouse units on street corners, buildings shall incorporate architectural elements that wrap the two exposed sides of the unit.

(d) Variation in Setbacks

- (1) In order to provide visual diversity, no more than three (3) contiguous townhouse units shall be allowed with the same setback.
- (2) Variations in setback shall be at least three (3) feet.
- (e) The required distance between any two (2) rows of townhouses shall be a minimum of ten (10) feet.
- (f) Design
 - (1) In order to provide visual diversity, no more than two (2) contiguous townhouse units shall be allowed to have the same façade design.
 - (2) For Front-Loaded Townhouses, at least fifty percent (50%) of the units shall incorporate single-width parking configurations.
 - (3) Corner units shall incorporate architectural features that address both streets with a side elevation that includes windows, materials, and details consistent with the front elevation. Wraparound porches, corner bays, gables, turrets, bay windows, and other architectural features are encouraged. "

Section 37. Article 7-Nonconformities, Section 7.2-Nonconforming lots,
Subsection 7.2.3 Use of Nonconforming Lots is hereby amended to read as follows:

"7.2.3. Use of Nonconforming Lots.

Where a nonconforming lot cannot be combined or recombined with other lots to form a conforming lot or lots, such nonconforming lot may be used subject to the compliance of the intended use and structure(s) with applicable use regulations and with applicable LUI ratios and setback and height regulations. However, any use (e.g. ~~two-family~~ or multifamily dwelling) that requires a greater gross land area than the minimum gross land area listed in section 3.8 for the appropriate zoning district shall not be permitted on a lot which does not conform to such minimum gross land area requirement.

If compliance of the structure(s) intended on the nonconforming lot with applicable setback regulations is not reasonably possible, the nonconforming lot may be used as a building site subject to the granting of variance from such setback regulations by the board of adjustment in accord with the provisions of section 4.12 of this appendix."

Section 38. Article 7-Nonconformities, Section 7.3-Nonconforming uses,
Subsection 7.3.2 Regulations is hereby amended to read as follows:

"7.3. Nonconforming uses.

7.3.1. Definition.

A nonconforming use is a use of land, buildings, or structures that was lawfully established (or for which a vested right had been established) on a property prior to the effective date of current use regulations, but does not conform to the use regulations of article 3 for the zoning district in which it is located.

7.3.2. Regulations.

A. Duplexes

Duplex dwelling units existing or for which a vested right has been established as of October 21, 2002, may be expanded subject to duplex regulations pursuant to section 6.19 of the [Land Use Management] Ordinance or applicable neighborhood conservation

district regulations and shall not be considered as a nonconforming use as defined herein.

B. Triplexes and Fourplexes

Triplex and Fourplex units existing or for which a vested right has been established as of [Effective Date of Ordinance], may be expanded subject to triplex and fourplex regulations pursuant to section 6.26 of the [Land Use Management] Ordinance or applicable neighborhood conservation district regulations and shall not be considered as a nonconforming use as defined herein.

C. All Other Nonconforming Uses~~Two-family duplex dwelling units existing or for which a vested right has been established as of October 21, 2002, may be expanded subject to duplex regulations pursuant to section 6.19 of the [Land Use Management] Ordinance or applicable neighborhood conservation district regulations and shall not be considered as a nonconforming use as defined herein.~~ Nonconforming uses, other than those identified above~~two-family duplex dwelling units~~ may be continued subject to the following limitations:

- (1) (a) No nonconforming use shall be extended, expanded, enlarged, or moved to occupy a different or greater area of land, buildings or structures than was occupied by such use at the time it became nonconforming, provided that a nonconforming use may be extended throughout any parts of a building which were specifically designed and arranged for such use at the time it became nonconforming.
- (2) (b) No building structure devoted to a nonconforming use shall be enlarged, extended, or moved unless such building or structure is thereafter devoted to a conforming use.
- (3) (c) If a nonconforming uses ceases for more than ninety (90) consecutive days or a total of one hundred and eighty (180) days in any twelve-month period, subsequent use of the land, or structures previously devoted to such use shall thereafter be devoted to conforming uses."

Section 39. Article 7-Nonconformities, Section 7.7-Development in watershed protection district is hereby amended to read as follows:

"7.7. Development in watershed protection district.

- (a) This provision of the watershed protection district shall not apply to the continued use, operation or maintenance of any development existing, or for which construction had substantially begun, or for which preliminary plat approval, site plan approval, or special use permit approval has been received on or before the effective date of the applicable district. With respect to the requirements of this article, such development shall not be considered as non-conforming within the meaning of article 7.
- (b) This provision of the watershed protection district shall not apply to single family ~~or two-family~~ single family with accessory apartment, or duplex developments constructed or to be constructed on existing lots created prior to July 1, 1993.
- (c) This watershed protection district shall not apply to the continued use, operation or maintenance of any development existing, or for which construction had substantially begun, on or before July 1, 1993. In addition, the watershed protection district shall not apply to existing development which has established a vested right under North Carolina zoning law as of July 1, 1993, based on the following criteria:

- (1) Substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid approval to proceed with the project;
 - (2) Having an outstanding valid building permit; or
 - (3) Having expended substantial resources (time, labor, money) and having an approved Site Specific Development Plan pursuant to this appendix.
- (d) Multiple lots under single ownership as of July 1, 1993, are not subject to the provisions of the watershed protection district if vested rights have been established in accordance with North Carolina law. If no vested rights are established, then owners must comply with the provisions of this appendix. Compliance may include requiring the recombination of lots.
- (e) The watershed protection district shall not apply to single family and two-family development constructed or to be constructed on existing single-family lots created prior to July 1, 1993. This exemption is not applicable to multiple lots under single ownership. For purposes of constructing a single-family or two-family dwelling, lots of record as of July 1, 1993, which are established through a duly approved and properly recorded final plat shall be exempt from the provisions of this appendix."

Section 40. Appendix A Definitions is hereby revised amending, inserting, and deleting the following definitions in the appropriate alphabetical order:

"Compact lot: A lot measuring a minimum of 2,700 square feet that contains a cottage dwelling unit."

"Condominium: A dwelling or group of dwellings containing two (2) or more individually-owned dwelling units and jointly owned and shared areas and facilities on a single lot that are subject to the North Carolina Unit Ownership Act (G.S. Ch. 47A) and/or the North Carolina Condominium Act (G.S. Ch. 47C)."

"Common Plan of Development: Any area where multiple separate and distinct construction or land-disturbing activities will occur under one (1) plan. This includes, but is not limited to, development occurring on contiguous parcels of land. A plan is any announcement or piece of documentation including, but not limited to, a sign, public notice or hearing, advertisement, loan application, drawing, permit application, zoning request, or computer design; or physical demarcation including, but not limited to, boundary signs, lot stakes, or surveyor markings indicating that construction activities may occur on a specific plot."

"Cottage Court: A combination of three or more detached cottage dwellings arranged around a landscaped central courtyard with parking located to the side or rear of the development. A cottage court may be developed as a cottage court subdivision."

"Dwelling, Cottage: A type of single-family or duplex dwelling containing no more than two (2) attached dwelling units in which each dwelling unit has a floor area of 500 to 1,600 square feet. Floor area includes attached garages for this use. Any dwelling unit that is part of a cottage dwelling shall be classified as a rooming house if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership."

"Dwelling units, ~~two-family~~—Duplex: A single, detached dwelling consisting of two (2) dwelling units (other than a "two-family dwelling - including accessory apartment") on a single lot, provided the two (2) dwelling units are connected by or share a common floor-to-ceiling vertical wall, or, if the two (2) units are arranged vertically, that they share a

~~common floor/ceiling or horizontal floors/ceilings~~ and not simply by an unenclosed passageway (e.g., covered walkway). Any dwelling unit that is part of a two-family duplex dwelling shall be classified as a rooming house if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership."

"Dwelling units, fourplex: A single detached dwelling comprised of four (4) dwelling units that share common vertical walls or horizontal floors/ceilings located on a single lot. Any dwelling unit that is part of a fourplex dwelling shall be classified as a rooming house if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership."

"Dwelling units, multifamily: A dwelling or combination ~~or~~ of dwellings on a single lot consisting of ~~three (3)~~ five (5) or more dwelling units.

Dwelling units, single-family: A detached dwelling consisting of a single dwelling unit only. A single-family dwelling shall be classified as a rooming house if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership.

Dwelling units, single-family with accessory apartment: A dwelling or combination of dwellings on a single ~~zoning~~ lot consisting of two (2) dwelling units, for which the accessory apartment meets the standards of Article 6.

~~(1) Accessory (attached or not attached) apartments have a floor area limit of no more than seven hundred fifty (750) square feet or seventy five (75) percent of the floor area of the principal dwelling unit (whichever is smaller), except as provided in the next sentence.~~

~~(2) The floor area of an attached accessory apartment may exceed the aforementioned floor area limit of seven hundred fifty (750) square feet and be up to one thousand (1,000) square feet of floor area only if both of the following conditions are met: a) an attached accessory apartment does not increase the existing footprint of the structure (principal dwelling unit, garage or other existing, standalone structure on the property) to which it would be attached; and b) the attached accessory apartment does not exceed seventy five (75) percent of the floor area of the principal dwelling unit.~~

~~(3) Together, the principal dwelling unit and the accessory apartment that are part of a two-family dwelling shall be classified as a rooming house (a different use type and group) if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership."~~

~~"Dwelling units, two-family: A dwelling or combination of dwellings on a single lot consisting of two (2) dwelling units. Any dwelling unit that is part of a two-family dwelling shall be classified as a rooming house if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership."~~

"Dwelling units, Triplex dwelling unit: A single structure dwelling comprised of three (3) dwelling units that share common vertical walls or horizontal floors/ceilings located on a single lot. Any dwelling unit that is part of a triplex dwelling shall be classified as a rooming house if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership."

"*Dwelling units, Townhouse:* A dwelling unit on a single lot which shares at least one (1) common vertical wall with another such dwelling unit on a separate lot. A townhouse dwelling unit shall be classified as a rooming house if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership."

"*Recreation area-space:*" Any land required to be dedicated under the subdivision provisions of article 5.5. These areas may be improved with recreation amenities at the time of development, however in most cases recreation areas are generally left unimproved during the initial development of the subdivision.

Land dedicated as recreation area-space shall generally be suitable for future recreation improvements such as playgrounds, playfields, or other active recreation purposes. Recreation areas-space, in most cases, shall be centrally located within the subdivision, consist of land that is relatively flat and dry, and is otherwise capable of accommodating active recreation.

The town council may waive suitability requirements in order to preserve greenway corridors or other important natural areas."

"*Recreation space (active):*" Any interior or exterior space or facility, improved for active recreation purposes, required to be dedicated under the ~~multifamily development~~ provisions of article 5.5. These areas are improved with recreation amenities at the time of development.

All recreation space amenities must adhere to requirements of the Americans with Disabilities Act.

Recreation space shall be improved with recreation facilities designed for active play. All recreation space improvements must be built or installed using standards generally accepted for each type of amenity. Examples of active play facilities include:

- Playgrounds utilizing commercial grade play equipment and adhering to national safety standards for play equipment and fall surfaces.
- Ballfields and athletic fields designed and built for active recreation. Such fields must be properly graded and have appropriate turf, goals, sub-drainage, benches, and other amenities commonly required for the intended sport. Unimproved open grass areas are not considered to be athletic fields.
- Basketball courts installed with regulation goals and in hard surface court areas large enough to sustain regulation play. Half courts are acceptable. Basketball goals installed in a street or parking lot are not acceptable.
- Swimming pools and bathhouses
- Tennis courts
- Community gardens appropriately designed and constructed with at least five (5) percent of the garden area consisting of raised beds for handicap users, a source of water throughout the garden area, storage area for tools, handicap accessibility, and access for maintenance.
- Clubhouses intended to be owned by a homeowners' association and operated for the recreation needs of the community.
- Exercise rooms within an apartment, condominium, or other such building intended to be used by the residents for recreation purposes.
- Ponds improved to support fish, stocked with fish, and improved to allow fishing access by persons with disabilities.

- Roof top running tracks
- Paved Greenway Trails
- Unpaved Greenway Trails of a length that provides a meaningful recreation experience. Generally, three thousand (3,000) linear feet or longer."

"Recreation space (passive): Any exterior space or facility, improved for passive recreation purposes. These areas may be improved with recreation amenities at the time of development or may be undeveloped areas.

Examples of facilities which are ~~not~~ considered ~~active~~ passive in nature include:

- Open lawn areas
- Large expanses of unimproved space between or around active recreation elements
- Picnic tables and picnic facilities
- Seating areas
- Areas dedicated to lawn games such as badminton, croquet, lawn darts, horseshoes, etc.
- Areas dedicated to table top board games
- Gardens not improved for active gardening by the community
- Orchards

The town council may allow up to thirty (30) percent of the recreation space to consist of passive recreation elements if they are located adjacent to and support the more active recreation elements. For example, some picnic facilities, seating, and lawn games could be counted if they are adjacent to a children's play area and support the mission of the play area.

The town council may waive suitability requirements in order to preserve greenway corridors or other important natural areas."

"Structure, accessory: A subordinate structure detached from, but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure. Examples of accessory structures are fencing, decks, gazebos, arbors, retaining walls, barbecue pits, detached chimneys, playground equipment, yard art, docks, piers, etc."

"Subdivision, Cottage Court: A division of a zoning lot that consists of two (2) or more cottage dwelling units, each of which is located on its own individual lot, wherein dwelling units are located on a separate lot of ownership, plus land developed and designated for the common use and benefit of the occupants of the cottage lots, provided an entity is designated to be legally responsible for maintenance and control of the common land areas."

"Townhouse Subdivision, Townhouse: A development division of a zoning lot that consists of two (2) or more attached dwelling units or buildings, each of which is located on its own individual lot, wherein dwelling units are located on a separate lot of ownership, plus land developed and designated for the common use and benefit of the occupants of the townhouse lots, provided an entity is designated to be legally responsible for maintenance and control of the common land areas. The gross land area of the commonly held land shall be not less than ten (10) percent of the zoning lot's total gross land area. The individual lots within a townhouse development shall not be required to meet the lot design standards of [article 3](#) or the intensity regulations of [section 3.5](#), provided the zoning lot containing the townhouse development meets such standards."

"Townhouse development: A series of two (2) or more attached single-family dwellings, separated by vertical walls, in which each dwelling has its own front and rear yards, and has appropriated it to the entire building between shared walls. Each dwelling unit is located on a separate single lot."

~~"Two-family lot: A lot that is located in a subdivision within a zoning district that allows two-family dwelling units, and that does not include covenants, restrictions, or conditions of approval that prohibit the construction of a two-family dwelling unit on the lot."~~

Section 41. This ordinance is effective upon enactment.

This the ____th day of _____, 2023.