Town of Carrboro

Meeting Agenda

Town Council

Town Hall
301 W. Main St.
Carrboro, NC 27510

Tuesday, February 16, 2021 **7:00 PM** **Remote Meeting - View Livestream or Cable TV 18**

7:00-7:05

A. ROLL CALL

7:05-7:35

B. POETRY READING, RESOLUTIONS, PROCLAMATIONS, AND ACKNOWLEDGEMENTS

1. 21-48 Recognition of Black Lives Matter Town Murals

PURPOSE: The purpose of this item is for the Town Council to acknowledge the recent Black Lives Matter Town Murals.

2. 21-57 Proclamation - Invasive Species Awareness Week

7:35-7:40

C. ANNOUNCEMENT OF UPCOMING MEETINGS

7:40-7:50

D. REQUESTS FROM VISITORS AND SPEAKERS FROM THE FLOOR

Comments are limited to three minutes per speaker.

7:50-8:00

E. CONSENT AGENDA

1. 21-56 Approval of Minutes from the February 2, 2021 Meeting

2. 21-32 Police Department Monthly Report

PURPOSE: The Purpose of this agenda item is to provide the Town Council a brief overview of the monthly calls for service.

Attachments: January 2021 Monthly Report

3. 21-49 Stormwater Utility Monthly Report

PURPOSE: The purpose of this item is to provide the monthly update regarding Stormwater Utility projects and initiatives.

Attachments: January 2021 Stormwater Report

4. 21-50 Economic Development Monthly Report

PURPOSE: Regular Monthly Activities and Status Report

Attachments: Attachment A - January Economic Development Report

5. 21-4 Fire Department Monthly Report

PURPOSE: To provide the Town Council a monthly overview of calls for service.

Attachments: Attachment A - January 2021 FD Incident Data

7:40-8:10

F. PUBLIC HEARING

1. 21-51 Public Hearing on Text Amendments to the Land Use Ordinance Relating to Dimensional Requirements in B-1(C) and B-1(G) Districts, Permit Requirements for Town-Owned and Operated Facilities, and Tree Canopy Coverage Standards

PURPOSE: The purpose of this agenda item is for the Town Council to consider an ordinance to amend the text of the Land Use Ordinance relating to the dimensional standards in the B-1(C) and B-1(G) zoning districts, permitting requirements for town-owned and operated facilities and tree canopy coverage standards. The amendments have been identified in relation to the 203 Project. The consideration of amendments to the Land Use Ordinance is a legislative decision; the Council must receive public input before reaching a decision on the draft ordinance.

Attachments: Attachment A - Consistency Resolution (203)_02-16-2021
Attachment B - Draft Ordinance 1-16-2021
Attachment C - Comments

G. OTHER MATTERS

8:10-8:55

1. 21-53 Check-in on the Comprehensive Plan Process

PURPOSE: The purpose of this agenda item is to provide the Town Council with an update on the current process and progress of this effort.

Attachments: A - Presentation

8:55-9:25

2. 21-52 Information on Text Amendments Required as part of G.S. Chapter 160D, Part 2

PURPOSE: The purpose of this item is provide the Town Council with the second installment of draft text amendments to the Land Use Ordinance required by the adoption of G.S. Chapter 160D.

Attachments: Attachment A -Draft ordinance 2-12-2021 working
Attachment B - Table_working
Attachment C - ART-VI working 2-12-2021
Attachment D - ART-VII_working_2-12-2021
Attachment E - ART-VIII working 2-12-2021
Attachment F - ART-IX_working_2-12-2021
Attachment G - ART-X working 2-12-2021
Attachment H - ART-XI_working_2-12-2021
Attachment I - ART-XII_working_2-12-2021

H. MATTERS BY COUNCIL MEMBERS

I. CLOSED SESSION 143-318.11 (A)(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations, or to discuss matters relating to military installation closure or realignment. Any action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.

Town of Carrboro

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301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:21-48

Agenda Date: 2/16/2021

File Type: Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Recognition of Black Lives Matter Town Murals

PURPOSE: The purpose of this item is for the Town Council to acknowledge the recent Black Lives Matter Town Murals.

DEPARTMENT:

CONTACT INFORMATION:

INFORMATION:

FISCAL & STAFF IMPACT:

RECOMMENDATION:

Town of Carrboro

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Proclamation - Invasive Species Awareness Week

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Approval of Minutes from the February 2, 2021 Meeting

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Agenda Item Abstract

File Number:21-32

Agenda Date: 2/16/2021

File Type: Agendas

In Control: Board of Aldermen

Version: 1

TITLE:
Police Department Monthly Report

PURPOSE: The Purpose of this agenda item is to provide the Town Council a brief overview of the monthly calls for service.

DEPARTMENT: Police Department

CONTACT INFORMATION: Captain Tony Frye, 919-918-7397

INFORMATION: This report will provide information on calls for service, arrest, citations, use of force, and accidents.

FISCAL & STAFF IMPACT: N/A

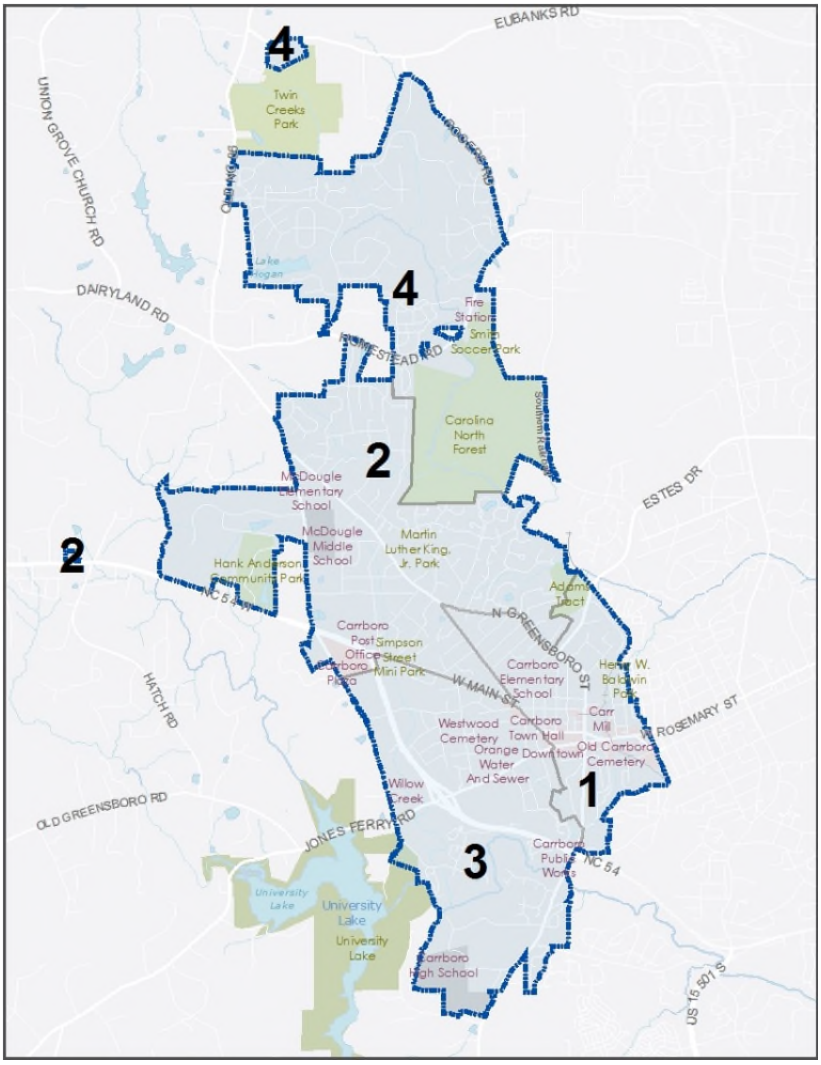
RECOMMENDATION: Staff recommends the Town Council receive and accept this report.

CARRBORO POLICE DEPARTMENT

Community • Accountability • Respect • Ethics

Monthly Report
January 2021

Patrol Areas



Calls for Service

	December	January	% Change
Area 1	**433**	**350**	**-19.17%**
Area 2	**284**	**256**	**-9.86%**
Area 3	**765**	**743**	**-2.88%**
Area 4	**131**	**97**	**-25.95%**
Total	**1613**	**1446**	**-10.35%**
Traffic Stops	**203**	**261**	**28.57%**
Citations	**92**	**160**	**73.91%**
Arrest	**22**	**17**	**-22.73%**
Use of Force	**0**	**0**	**0.00%**

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Agenda Item Abstract

File Number:21-49

Agenda Date: 2/16/2021

File Type: Agendas

In Control: Board of Aldermen

Version: 1

TITLE:
Stormwater Utility Monthly Report

PURPOSE: The purpose of this item is to provide the monthly update regarding Stormwater Utility projects and initiatives.

DEPARTMENT: Public Works

CONTACT INFORMATION: Randy Dodd, Stormwater Utility Manager, 919 918-7341

INFORMATION: The report identifies 13 separate projects and initiatives that Stormwater staff are currently or will be involved in in FY 20/21. These are specific efforts, some time-limited and others part of ongoing stormwater program development, that are above and beyond the baseline workload that includes but is not limited to: program administration; responding to requests for support and community outreach; stormwater system inspection and maintenance; reviewing development plans; stream determinations/buffer reviews; and illicit discharge response and pollution prevention.

An emphasis of Stormwater staff work (beyond core workload) since the last report has been: continued follow up from the August NPDES permit audit; outreach and implementation for increased Stormwater Control Measure maintenance oversight efforts; and closeout for the stream restoration project.

FISCAL & STAFF IMPACT: There is no fiscal impact associated with this update. There are/will be nearer and longer term fiscal and staff impacts, as presented in the report.

RECOMMENDATION: It is recommended that the Council receive the staff report.

STORMWATER UTILITY MONTHLY REPORT

Contents

PART 1: WATER QUANTITY DRIVEN WORK

1. Broad Street Culvert Replacement

Project Description: This project involved replacing an old and undersized culvert on the 400 block of Broad Street.

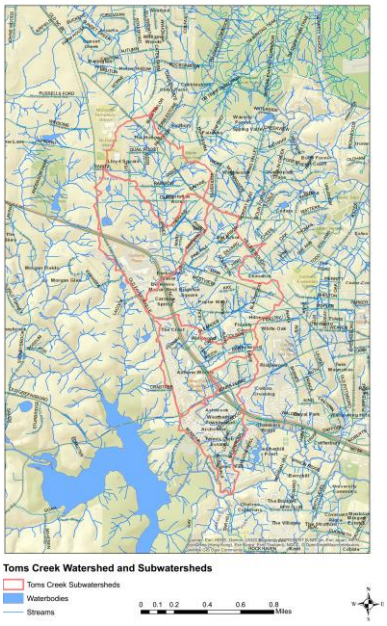
Project Background: The inadequate culvert was responsible for previous overtopping of the road. This site has been included in previous Town flood studies by Sungate Design.

Status: Complete. Construction was completed in December. The only possible remaining work is replanting if there is plant mortality from the initial planting.

Fiscal and Staffing Considerations: The engineering cost $50k and construction cost $136k. No additional staff impacts are anticipated.

Additional Information:
https://carrboro.legistar.com/LegislationDetail.aspx?ID=2288740&GUID=0B2EA271-314B-4ED8-8A38-0E199F87A49F%3E&FullText=1
https://carrboro.legistar.com/LegislationDetail.aspx?ID=2288740&GUID=0B2EA271-314B-4ED8-8A38-0E199F87A49F%3E

2. RainReady Study Follow Up



Project Description: In 2019, the Council directed staff to move forward with a pilot study due to the persistent and ongoing need to address flooding issues, with the upper Toms Creek watershed serving as the geographic focus.

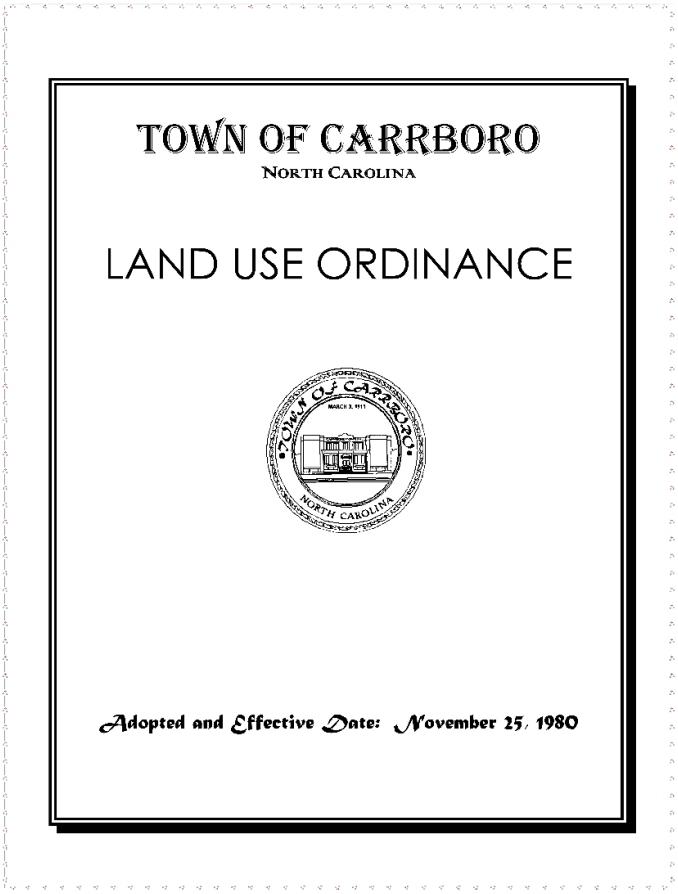
Project Background: For the Toms Creek watershed, flooding and drainage is a recurring and important theme. The upper watershed has received the most attention in recent years due to the degree of flooding and drainage issues experienced by residential property owners both in the regulated floodplain and other areas. A watershed based approach is needed to comprehensively address the issues that exist. An emerging concern is resiliency in consideration of the growing number of recent intense storms and the potential for a shift to more flooding in the future due to climate change.

Status: Planning. The Town contracted with the Center for Neighborhood Technology (CNT), resulting in a "RainReady" report in May, 2020. Sungate Design has also completed an engineering assessment of a catchment between Hillsborough Rd. and West Main Street with known drainage issues.

Fiscal and Staffing Considerations: Sungate's work cost $16.5k and the CNT's work cost $25k. There could be further implementation costs as a result of these projects. Any fiscal impact resulting from financial assistance to be provided as part of a new program will be determined through administrative and policy level review. There has been and will continue to be a staff impact associated with technical assistance. This impact will increase if staff will be administering a new program.

Additional Information: Additional information is available from multiple Council agenda items from 2013-2019. A project website has been created with relevant historical and project related information.

3. Land Use Ordinance Stormwater Provisions Review



Project Description: LUO stormwater provisions are under review.

Project Background: At the April 16, 2019 meeting, the Council referred further review of the stormwater provisions in the LUO to staff and the Stormwater Advisory Commission in consideration of the flooding and drainage impacts being experienced and elevated risk for increasing impacts due to climate change.

Status: Planning. This has been referred to Stormwater and Planning staff, Sungate Design, and the Stormwater Advisory Commission. Staff and Sungate are currently researching and considering the scope of potential changes, and anticipate working with the SWAC later in 2021 to allow for a nearer term focus on regulatory compliance, capital project planning, and SCM maintenance and inspection.

Fiscal and Staffing Considerations: There is no fiscal impact with reviewing and amending the LUO. There will be a staff impact with performing the review.

Additional Information:
https://carrboro.legistar.com/LegislationDetail.aspx?ID=3919560&GUID=59CDD594-2973-4C2B-813C-738A1CF5707B&Options=&Search
http://www.townofcarrboro.org/DocumentCenter/View/698/Article-XVI-Floodways-Floodplains-Drainage-and-Erosion-PDF

4. FEMA Hazard Mitigation Grant Program Letters of Interest (Acquisition and Elevation)

Project Description: The information presented below is for an acquisition project for 116 Carol Street, and a new elevation project for 100 James Street

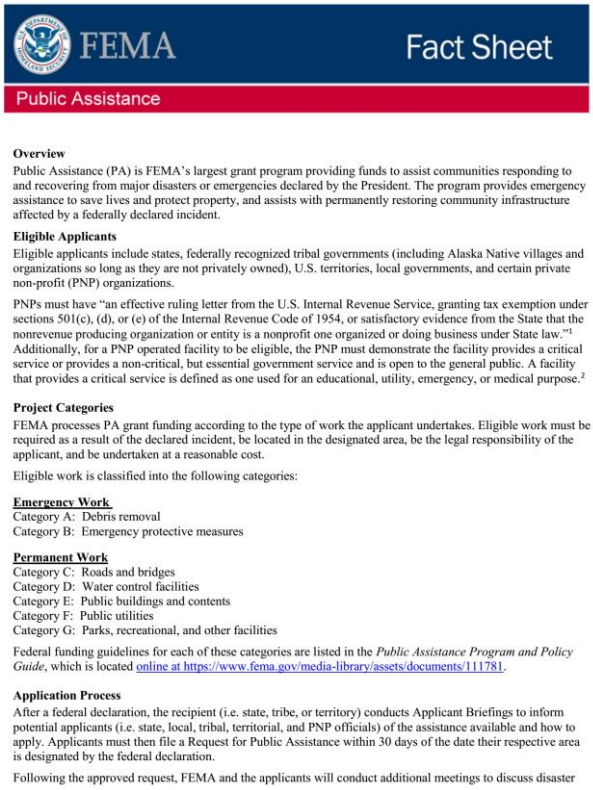
Project Background: Following on Hurricane Florence and Tropical Storm Michael, FEMA announced new rounds of HMGP funding. In addition to the Lorraine Street properties discussed above, two additional homeowners at 116 Carol Street and 100 James Street (properties included in previous HMGP applications for acquisitions that did not move forward) have responded, and were included in Letters of Interest submitted by the Town to the NC Department of Public Safety (NCDPS). Staff submitted one Letter of Interest for an acquisition project for 116 Carol Street and a second Letter of Interest for elevation of the home at 100 James Street in early 2019. Staff received notification in the summer of 2019 that the NCDPS would accept applications.

Status: Applications in Review. Application materials for the 116 Carol acquisition were submitted to the State in October, 2019 under Hurricane Florence. Application materials for the 100 James Street elevation were submitted to the State in November, 2019 under Tropical Storm Michael. Staff regularly check on the status, which has remained "pending obligation" since the applications were submitted. If approved, staff will follow up with pursuit of entering into (a) grant agreement(s) for one or both projects.

Fiscal and Staffing Considerations: If the Town is able to successfully enter into grant agreements (one for acquisition and one for elevation), costs for work covered by the grants will first be borne by the Town and then reimbursed to the Town with a combination of both Federal and State funds covering eligible costs, provided that all grant requirements are met. Elevation costs can be reimbursed at up to $175k per home and acquisition costs at up to $276k per home. There would be a significant staff impact to administer the grant funds.

Additional Information:
https://www.fema.gov/media-library-data/1493317448449-b83f27544e36b7bf67913f964a56b15a/HMA_Homeowners_Guide_040717_508.pdf

5. FEMA Public Assistance: Damage Recovery from Hurricane Florence



FEMA Fact Sheet

Public Assistance

Overview

Public Assistance (PA) is FEMA's largest grant program providing funds to assist communities responding to and recovering from major disasters or emergencies declared by the President. The program provides emergency assistance to save lives and protect property, and assists with permanently restoring community infrastructure affected by a federally declared incident.

Eligible Applicants

Eligible applicants include states, federally recognized tribal governments (including Alaska Native villages and organizations so long as they are not privately owned), U.S. territories, local governments, and certain private non-profit (PNP) organizations.

PNPs must have "an effective ruling letter from the U.S. Internal Revenue Service, granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954, or satisfactory evidence from the State that the nonrevenue producing organization or entity is a nonprofit one organized or doing business under State law."[1] Additionally, for a PNP operated facility to be eligible, the PNP must demonstrate the facility provides a critical service or provides a non-critical, but essential government service and is open to the general public. A facility that provides a critical service is defined as one used for an educational, utility, emergency, or medical purpose.[2]

Project Categories

FEMA processes PA grant funding according to the type of work the applicant undertakes. Eligible work must be required as a result of the declared incident, be located in the designated area, be the legal responsibility of the applicant, and be undertaken at a reasonable cost.

Eligible work is classified into the following categories:

Emergency Work
Category A: Debris removal
Category B: Emergency protective measures

Permanent Work
Category C: Roads and bridges
Category D: Water control facilities
Category E: Public buildings and contents
Category F: Public utilities
Category G: Parks, recreational, and other facilities

Federal funding guidelines for each of these categories are listed in the *Public Assistance Program and Policy Guide*, which is located online at https://www.fema.gov/media-library/assets/documents/111781.

Application Process

After a federal declaration, the recipient (i.e. state, tribe, or territory) conducts Applicant Briefings to inform potential applicants (i.e. state, local, tribal, territorial, and PNP officials) of the assistance available and how to apply. Applicants must then file a Request for Public Assistance within 30 days of the date their respective area is designated by the federal declaration.

Following the approved request, FEMA and the applicants will conduct additional meetings to discuss disaster

Project Description: The Town has been working through the FEMA Public Assistance process for damage recovery from Hurricane Florence. This aspect of Public Assistance is associated with covering the costs for debris removal, emergency protective measures, restoring roads, equipment and facilities to pre-storm conditions, and administrative costs. It is considered separately from the activities described in #11 below, although also under the Public Assistance umbrella.

Project Background: Stormwater staff have been leading the Town's pursuit of FEMA Public Assistance funding. Staff have submitted claims for losses not covered by insurance and have been working with FEMA/NCDPS staff to document and receive reimbursement, as well as reimbursement for staff time associated with emergency response and follow up. This process has been underway since the winter.

Status: Closeout. The Florence damage recovery work and reimbursal has been completed. Staff are working with NCDPS and FEMA to close out the final review now that the stream restoration project (#11) is complete.

Fiscal and Staffing Considerations: The Town has received about $59k in uninsured costs from FEMA to date, and could receive up to about $200k of additional funds, including any funds granted for the stream restoration project, and for staff time for Public Assistance administration. This work has required over 500 hundred hours of Stormwater staff time.

Additional Information:
https://www.fema.gov/media-library-data/1534520496845-4b41646e3d8839c768deb3a7f4ded513/PADeliveryModelFactSheetFINAL_Updated_052418.pdf
https://www.fema.gov/pdf/government/grant/pa/fema323_app_handbk.pdf

PART 2: WATER QUALITY & FEDERAL/STATE REGULATORY DRIVEN WORK

6. NPDES Town Wide Permit

Regulatory Requirement: The Town is regulated under a town wide permit that requires the Town to implement a comprehensive stormwater management program that includes six minimum measures:

(1) Public education and outreach on stormwater impacts
(2) Public involvement/participation
(3) Illicit discharge detection and elimination
(4) Construction site stormwater runoff control (delegated to Orange County)
(5) Post-construction stormwater management for new development and redevelopment, and
(6) Pollution prevention/good housekeeping for municipal operations.

The initial Carrboro permit was issued effective July 1, 2005, renewed in 2011, and again in 2017.

Background: In 1990, under the authority of the federal Clean Water Act and starting with large (population >100k) municipalities (and industries), EPA began regulating stormwater runoff. In 2000, the scope was extended to smaller municipalities, and EPA delegated the authority to the State to issue these municipalities (including Carrboro) a stormwater permit.

Status: Active. The planned EPA/State NPDES Phase II stormwater permit audit was completed on August 12. A Notice of Violation, as anticipated and previously reported, was provided on November 2. Staff prepared additional information as part of Council and Stormwater Advisory Commission agendas in early November. Staff presented a draft Stormwater Management Plan to the Stormwater Advisory Commission in early January, **and are submitting this plan to the NCDEQ in mid-February.**

Fiscal and Staffing Considerations: Preparing for and follow up from this audit and improving the Town's permit compliance and record keeping activities has been and will continue to be a significant undertaking.

Additional Information:

https://deq.nc.gov/about/divisions/energy-mineral-and-land-resources/stormwater/stormwater-program/npdes-ms4-permitting

7. Stormwater Control Measure Maintenance and Inspection Program

Background: The Town's Land Use Ordinance (LUO) has required "Stormwater Control Measures" (SCMs) as part of development projects. SCMs treat runoff to reduce both water quantity and quality impacts. Since 2007, the LUO[1] has articulated requirements for private landowner maintenance of SCMs. (Prior to 2007, this responsibility was implicit rather than explicit.) In early 2020, the Council approved a rate increase to support the necessary capacity to expand program efforts in general, and specifically including SCM compliance oversight. In August, 2020, NCDEQ audited the Town's performance for its permit. Past oversight of SCM maintenance was a recognized permit performance deficiency. Moving forward with a compliant and comprehensive Town wide SCM maintenance oversight program is also seen as an immediate and effective action that the Town can take for flood/climate change resilience since there are many existing SCMs for which performance can be improved with proper maintenance, and risks of poorer future performance can also be avoided through preventative maintenance.

Status: Active. The concept that staff are moving forward with, given the above, is to move forward with the SCM maintenance and inspection program activities with goals of:

1) A letter being sent to all owners of Town permitted SCMs outlining their responsibilities and clear communications about the program and what will be happening going forward (initiated in November);
2) All owners of Town permitted SCMs being required to initiate their own annual reporting of their maintenance and inspection efforts by the end of 2021;
3) Stormwater staff committing to complete staff inspections of all Town permitted SCMs by the end of 2022.

Staff have been reporting on activities to the Stormwater Advisory Commission since October. **More than 20 letters have been written to SCM property owners, representing about half of the entire SCM inventory. The response has in general acknowledged an interest in pursuing the maintenance, inspection and reporting being requested. Letters to the remaining owners are planned for the coming weeks.**

Fiscal and Staffing Considerations: This activity is requiring a significant amount of staff time.

Additional Information: http://www.townofcarrboro.org/751/Maintenance-and-Inspection

[1] Section 15-263.1 Maintenance of Structural BMPs

8. NPDES Public Works Facility NPDES Permit

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF ENERGY, MINERAL, AND LAND RESOURCES
GENERAL PERMIT NO. NCG080000

TO DISCHARGE STORMWATER UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

for establishments primarily engaged in the following activities:

Vehicle Maintenance Areas

Regulatory Requirement: Under federal and state law, the Public Works facility continues to be regulated through an NPDES stormwater general permit.

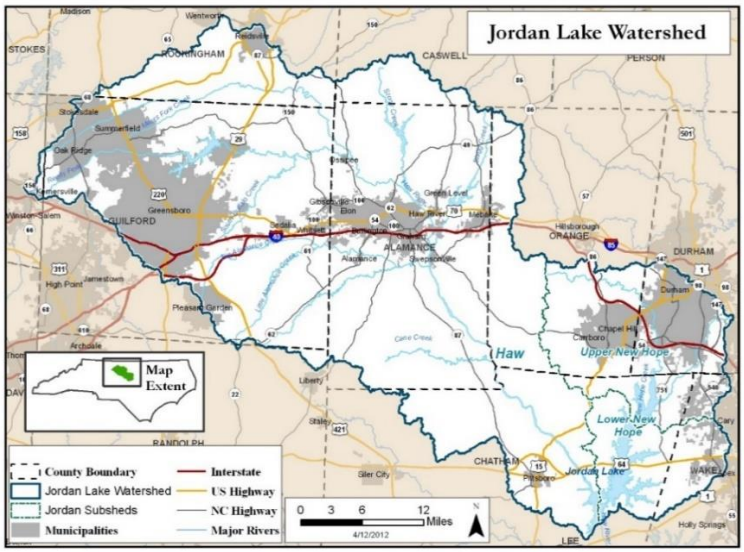
Background: In 1990, under the authority of the federal Clean Water Act and starting with large (population >100k) municipalities (and industries), EPA began regulating stormwater runoff. In 2000, the scope was extended to smaller municipalities, and EPA delegated the authority to the State to issue these municipalities a stormwater permit. In addition to receiving a town wide permit, Carrboro received a separate permit for the Public Works facility given the operations occurring at the site and potential for stormwater impacts on water quality.

Status: Active. This activity has been and remains in a regular/routine operational status, with the facility remaining compliant with federal/state requirements.

Fiscal and Staffing Considerations: The Town has been working with a consultant for about $6k/year to support regulatory compliance. There is also an ongoing level of staff activity to maintain compliance.

Additional Information:
https://deq.nc.gov/about/divisions/energy-mineral-land-resources/npdes-stormwater-gps

9. Jordan Lake Rules Compliance



Regulatory Requirement: The Jordan Lake Rules are a nutrient management strategy designed to restore water quality in the lake by reducing pollution entering the lake. Restoration and protection of the lake is essential because it serves as a water supply for several thriving communities, a prime recreation area for more than a million visitors each year, and an important aquatic ecosystem.

Background: Jordan Lake was impounded in 1983 by damming the Haw River near its confluence with the Deep River. It was created to provide flood control, water supply, fish and wildlife conservation, and recreation. The lake has had water quality issues from the beginning, with the NC Environmental Management Commission declaring it as nutrient-sensitive waters (NSW) the same year it was impounded. Since that time, Jordan Lake has consistently rated as eutrophic or hyper-eutrophic, with excessive levels of nutrients present. The most relevant provisions in the rules for Carrboro relate to stormwater management for both new and existing development, riparian buffers, and fertilizer application.

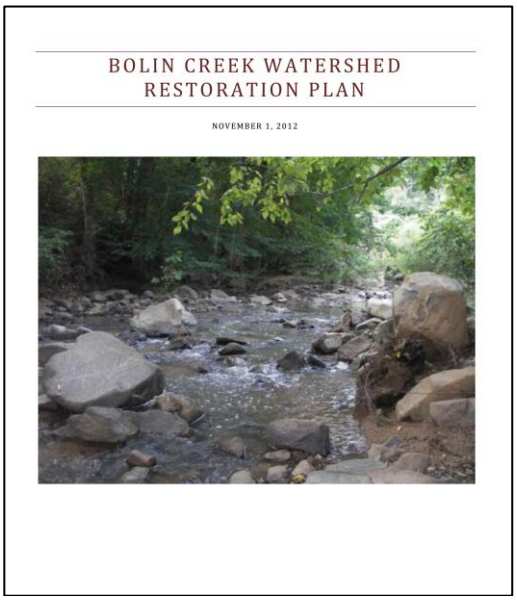
Status: Under Review (State). There was significant Town activity between about 2005 and 2015 to prepare for and enact ordinance provisions and begin work on implementation activities. The State then chose to pursue further studies to guide implementation. Jordan Lake Rules regulatory review has begun now that a NC Policy Collaboratory study has wrapped up. The goals of the rules readoption process is to evaluate the Collaboratory's findings and engage stakeholders throughout the watershed to help develop draft rules. The NC Division of Water Resources (DWR) has contracted with Triangle J Council of Governments (TJCOG) to administer this public participation process.

Fiscal and Staffing Considerations: The Town continues to be required to submit annual reports identifying stormwater retrofits, and has programmed several projects in the CIP. It is preliminary at this point to speculate on the potential fiscal/staff/regulatory impacts that will result, beyond an understanding that some staff time will be required to stay informed and report back as the review is pursued.

Additional Information:

https://deq.nc.gov/about/divisions/water-resources/water-planning/nonpoint-source-planning/jordan-lake-nutrient
https://www.tjcog.org/programs-energy-environment%E2%80%AF-water-resources/jordan-lake-one-water

10. Bolin Creek Watershed Restoration Plan Implementation



Regulatory Requirement: The downstream extent of Bolin Creek in Carrboro, and continuing into Chapel Hill, is on the state/federal list of impaired waters. Local actions are needed to improve water quality.

Background: Carrboro staff worked with Chapel Hill and other local, state and federal agency staff in 2006 to create the Bolin Creek Watershed Restoration Team (BCWRT) because of the impaired waters listing. At the time, the Bolin Creek watershed was selected as one of only 7 watersheds in the state to receive focused state and federal assistance in preparing grant applications and leveraging other resources to remove Bolin Creek from the impaired waters list. The BCWRT's long term goal is to improve the health of Bolin Creek and its tributaries and remove it from the impaired waters list. This is an ambitious goal that will require a robust commitment for many years to come.

Status: Planning. Watershed restoration plan implementation has been inactive since 2012 due to insufficient staff capacity and funding resources. Staff are exploring project opportunities.

Fiscal and Staffing Considerations: There are no near term considerations. Longer term fiscal and staff considerations are uncertain.

Additional Information:
https://townofcarrboro.org/280/Bolin-Creek-Watershed-Restoration

PART 3: WORK DRIVEN BY BOTH WATER QUANTITY AND QUALITY INTERESTS

11. Public Works Stream Restoration


Project Description: This project has involved two phases of repairing/restoring a badly eroding stream channel in an extremely high risk situation adjacent to Public Works. The first phase was preliminary engineering; the second is construction/restoration.

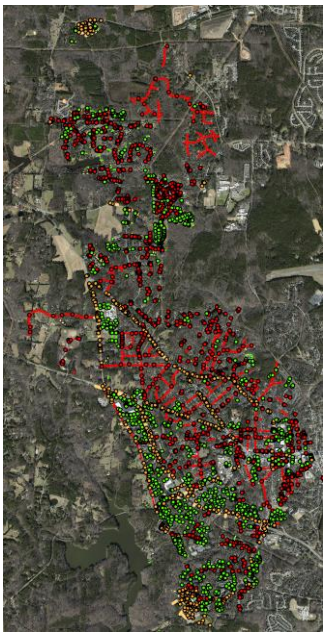
Project Background: There are two unnamed intermittent streams that flow from the south side of downtown along South Greensboro Street and Old Pittsboro Road, join just above the 54 Bypass, and then flow under the bypass and along the Public Works property line before joining Morgan Creek. The stream channel is very incised adjacent to Public Works, with an extremely actively eroding bank. During Hurricane Florence, a large section of the streambank immediately adjacent to the fuel tanks (as well as outbuildings) collapsed, escalating and accelerating the importance of addressing the bank erosion. This project has been an identified need since 2015.

Status: Closeout. The preliminary engineering was completed in early 2020. Construction bids were solicited in March and received in April. The Council approved moving forward with construction on May 5th. North State Environmental was awarded a construction contract in May; construction began in July. Grading was completed in early September and planting occurred in December.

Fiscal and Staffing Considerations: The total cost for engineering and construction was $230k. Staff are working with NCDPS and FEMA to close out the review of Public Assistance funding for this project (#5). There has been a significant staff impact associated with project management and pursuit of federal funding.

Additional Information:
https://www.fema.gov/media-library-data/1534520496845-4b41646e3d8839c768deb3a7f4ded513/PADeliveryModelFactSheetFINAL_Updated_052418.pdf
https://carrboro.legistar.com/LegislationDetail.aspx?ID=2288740&GUID=0B2EA271-314B-4ED8-8A38-0E199F87A49F%3E&FullText=1

12. MS4 Inventory Update, Condition Assessment, Asset and Workflow Management



Description: This initiative involves using new technology to update the MS4 inventory, assess MS4 conditions, and create asset management and workflow systems and tools. Asset management is a strategic approach to maintaining and sustaining infrastructure in order to deliver services at the lowest overall life cycle cost. This method is intended for managing any assets, has traditionally been used for drinking water and wastewater, and is increasingly being used by stormwater utilities.

Background: A GIS based system inventory was first completed about 15 years ago in preparation for the Town's NPDES permit. While maintenance of the inventory is ongoing, some additional work is needed to fully complete the inventory so it can serve as the foundation for comprehensive stormwater workflow, regulatory tracking and asset management needs. The Town is in the process of implementing a new workflow management system (CityWorks) and GIS based field inventory capabilities. A system condition assessment has not been completed, nor has an asset management system been created.

Status: Active. Staff began using CityWorks in May and will continue to configure and implement CityWorks and update the GIS data to serve this function.

Fiscal and Staffing Considerations: There is no direct fiscal impact currently. The need for additional resources such as engineering or contractual services will depend on the technical requirements and overall staff workload and the desired pace of moving this work forward.

Additional Information: https://louisville.edu/cepm/projects/sustainable-community-capacity-building/asset-management-for-stormwater

https://www.epa.gov/sites/production/files/2018-01/documents/overcoming-barriers-to-development-and-implementation-of-asset-management-plans.pdf

13. Stormwater Project Planning and Prioritization

				Points						
	Criteria	**Type**	**Possible**	**10**	**9**	**8**	**7**	**6**	**5**	**4**
	Public safety/welfare	Public interest	Mandatory	High infrastructure impacts			Medium infrastructure impacts			Low infrastructure impacts
Community Benefits	Conveyance repair/replacement	Infrastructure	10	Public infrastructure or insurable structures affected			Private property impacted			
	Public visibility/educational value	Public interest	10	High			Medium			
	Detention	Flood mitigation	10	Public infrastructure, insurable structures protected			private insurable structures protected			no insurable structures protected
	Water supply protection	Public interest	10				Yes			
	Green infrastructure	Multiple	10	Green street/parking lot			> 1 acre & reduction in curve # by >15			Other green infrastructure
Environmental Benefits	Stream/riparian repair/restoration	Stream/geomorphic	10	Perennial stream			Intermittent stream			
	Runoff (volume) reduction	Multiple	10	>cfs			> < cfs			>< cfs
	Impaired waters	Water quality/stream	8			Lower Bolin Creek		Upper Bolin Creek		
	Nutrient reduction	Water quality	7				> N reduction			< < N reduction
Feasibility	Landowner	Feasibility	10	Town owned		Other local agency		State/ federal		Private-landowner easement/agreement
	In CIP?	Feasibility	5						Yes	

Description: The purpose of this work is to create a process for planning for and prioritizing large stormwater improvement/capital projects, to inventory all potential projects with a 10-20 year planning horizon, and to develop a prioritized 5 year project list/CIP update during FY 21.

Background: Carrboro has been identifying stormwater capital projects in the Capital Improvements Program (CIP) since 2012. These projects have historically been significantly but not solely motivated by the implementation of State's rules to restore Jordan Lake. Other studies have been completed and potential projects identified by the Town Engineer and also through, for example, the State's Ecosystem Enhancement program, Bolin Creek watershed restoration efforts, and efforts to identify infrastructure replacement/ improvement and stream repair/restoration projects. Identifying and implementing capital projects is an ongoing Town process, with updates to the CIP typically prepared annually.

Status: Active. Preliminary and planning level cost projections have been considered in the past as part of a Stormwater Service Delivery Review in 2019. Jordan Lake Rules, Bolin Creek Watershed Restoration, and Condition Assessment/Asset Management are also relevant. Stormwater input has been provided as part of the annual CIP update. Since the November report, staff provided input on the annual CIP update which has included recommending Stormwater Enterprise Fund support for near term stormwater infrastructure improvements as part of the Roberts Street project and also at Town Hall/Fire Station #1 and the Century Center.

Fiscal and Staffing Considerations: There is no fiscal impact associated with identifying, planning for, and prioritizing projects. There will be a staff impact to pursue this work through FY 19/20, and a lower level impact in subsequent years.

Additional Information:
http://www.townofcarrboro.org/AgendaCenter/ViewFile/Agenda/_12052018-3552

Town Hall
301 W. Main St.
Carrboro, NC 27510

Town of Carrboro

Agenda Item Abstract

File Number:21-50

Agenda Date: 2/16/2021

File Type: Agendas

In Control: Board of Aldermen

Version: 1

TITLE:
Economic Development Monthly Report
PURPOSE: Regular Monthly Activities and Status Report
DEPARTMENT: Economic Development

CONTACT INFORMATION: Jon Hartman-Brown - 919-391-7846 - JHartman-Brown@TownofCarrboro.org

INFORMATION:

FISCAL & STAFF IMPACT:

RECOMMENDATION:

Economic Development Department

Monthly Update Report – January 2021

ACTIVITY

- **Attended the Chamber Annual Meeting**
  I, along with the Town Manager and several Councilmembers, attended the Chamber's Annual Meeting. It was a great presentation and a good opportunity to learn more about the great things happening in our business community.

- **Attending Weekly Regional Economic Developers Meeting for COVID-19 Response**
  I have been attending weekly meetings with Economic Development staff throughout the region including Chatham County, Orange County, Chapel Hill, UNC, Downtown Chapel Hill, Hillsborough, and Chamber staff. Our discussions have been revolving around post-COVID economic development and what that looks like. These meetings will be decreasing to a twice-a-month occurrence this calendar year as vaccinations begin to increase.

- **Attending CBA Marketing, Policy, and Leadership meetings**
  I am currently attending CBA Marketing Committee, Policy Committee, and Leadership Council meetings to both understand the role of the CBA and to network with these business owners and find ways the Department can get plugged in. The focus of February has been on "For the Love of Carrboro."

- **Working with Two New Businesses**
  I have been working with two potential new businesses on getting started. I am currently working through some business viability work with one and working through the revolving loan process with the other. Both present great opportunities and will meet some of the categorical restaurant demand we have here.

- **Acquiring new Parking Leases begun; Anticipated Completion by end of Q1**
  I am in the process of acquiring new parking leases in downtown Carrboro. Primarily I am working with Fitch Lumber and the Dispute Settlement Center, but there are two other areas where Town Staff are working to acquire additional spaces. Additionally, I am working with 300 E. Main to better communicate the publically available parking that we currently lease within the parking structure.

- **BIPOC Business Update**
  Since my last report, I have had the pleasure of meeting with and gathering feedback from three different BIPOC Business Advocates – two are current business/non-profit leaders, and one is a potential business owner. Access to capital, providing training/education, and building wealth all continue to be the resounding theme of many of my conversation with BIPOC business owners. This was originally identified in the Minority Business Roundtable report as well.

PROJECTS

- **Minority Business Roundtable – Implementation**
  Current Status: Online portion of the Resource Center is under development. Initial meetings with community leaders have been occurring and another roundtable discussion (to occur every 2 months) has been scheduled for February 25th.
  Next Steps: Development of a resource center (both online and physical locations).
  Projected Completion: On-going. We anticipate these activities to continue and become a part of the economic development workflow process. The resource center projected completion is late February.

- ~~**CTDA's VisitCarrboro.com Website Development – Project Completed**~~
  ~~Current Status: Project complete.~~

- **Project Arrange**
  We have received feedback that Project Arrange was very appreciate of the Town Manager's offer. The company has paused this project until they can reassess their needs post-COVID-19.

- **Economic Development Strategic Plan – Identifying Strategic Issues and Strategy**
  Current Status: Currently working with the ESC to solidify strategic issues and identify strategies for each issue.
  Next Steps: Continue to work with the ESC to identify strategies for each strategic issue at their next meeting.
  Projected Completion: Mid March.

Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:21-4

Agenda Date: 2/16/2021

File Type: Agendas

In Control: Board of Aldermen

Version: 1

TITLE:
Fire Department Monthly Report
PURPOSE: To provide the Town Council a monthly overview of calls for service.
DEPARTMENT: Fire Department

CONTACT INFORMATION: Chief David Schmidt, (919) 918-7349

INFORMATION: This report will provide information on Fire Department calls for service that occurred in Carrboro, South Orange Fire District, and neighboring jurisdictions.

FISCAL & STAFF IMPACT: N/A

RECOMMENDATION: Staff recommends the report be received and accepted.

Carrboro Fire Rescue Department January 2021 Incident Data

Location	Fire		EMS		Hazardous Condition		Service Call		Good Intent		False Alarm		Weather		Special Incident		Total #	Total %
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%		
Carrboro	2	50.0%	48	75.0%	6	85.7%	5	83.3%	3	23.1%	6	85.7%		0.0%	0	100.0%	70	69.3%
South Orange		0.0%	16	25.0%	1	14.3%	1	16.7%	3	23.1%	1	14.3%		0.0%		0.0%	22	21.8%
Chapel Hill		0.0%		0.0%		0.0%		0.0%	4	30.8%		0.0%		0.0%		0.0%	4	4.0%
New Hope Fire District	1	25.0%		0.0%		0.0%		0.0%		0.0%		0.0%					1	1.0%
North Chatham Fire District		0.0%		0.0%		0.0%		0.0%	2	15.4%		0.0%					2	2.0%
Orange Grove Fire District		0.0%		0.0%		0.0%		0.0%	1	7.7%		0.0%					1	1.0%
White Cross Fire District	1	25.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%		0.0%	1	1.0%
Grand Total	**4**	**100.0%**	**64**	**100.0%**	**7**	**100.0%**	**6**	**100.0%**	**13**	**100.0%**	**7**	**100.0%**		**0.0%**	**0**	**100.0%**	**101**	**100.0%**

Fire	Examples include any type of fire; structure, vehicles, vegetation, rubbish, other outside fires
Overpressure/Rupture	This is an overpressure or rupture of air, steam, or gas where there is no associated fire
EMS	Any type of medical call or rescue of a person in distress
Hazardous Condition	Any type of condition where no fire exists - fuel/chemical spills, electrical equipment failure
Service Call	Examples of Public service incidents include: lockouts, water leaks, assisting other public agencies
Good Intent	Examples of good intent incidents include: steam mistaken for smoke, authorized controlled burns, no incident found at the location
False Alarm	Examples of false alarms include: alarms sounding due to a malfunction or the unintentional activation, and malicious false alarms.
Weather	Examples of weater incidents include: earthquakes, floods, damage assessments, or weather spottiing
Special Incident	Example of special incidents include: citizen complaints due to code or ordinance violations

Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:21-51

Agenda Date: 2/16/2021

File Type: Agendas

In Control: Board of Aldermen

Version: 1

TITLE:
Public Hearing on Text Amendments to the Land Use Ordinance Relating to Dimensional Requirements in B-1(C) and B-1(G) Districts, Permit Requirements for Town-Owned and Operated Facilities, and Tree Canopy Coverage Standards

PURPOSE: The purpose of this agenda item is for the Town Council to consider an ordinance to amend the text of the Land Use Ordinance relating to the dimensional standards in the B-1(C) and B-1(G) zoning districts, permitting requirements for town-owned and operated facilities and tree canopy coverage standards. The amendments have been identified in relation to the 203 Project. The consideration of amendments to the Land Use Ordinance is a legislative decision; the Council must receive public input before reaching a decision on the draft ordinance.

DEPARTMENT: Planning Department

CONTACT INFORMATION: Christina Moon - 919-918-7325, cmoon@townofcarrboro.org <mailto:cmoon@townofcarrboro.org>; Patricia McGuire - 919-918-7327, pmcguire@townofcarrboro.org <mailto:pmcguire@townofcarrboro.org>; Marty Roupe - 919-918-7333, mroupe@townofcarrboro.org <mailto:mroupe@townofcarrboro.org>; Nick Herman - 919-929-3905, herman@broughlawfirm.com <mailto:herman@broughlawfirm.com>

INFORMATION: Updates to the Town Council on the development of the 203 Project have identified the need for text amendments to support the building design. Three amendments have been discussed. The first would establish a 60-foot maximum height limit for parking decks in the downtown business districts, B-1(C) and B-1(G). The second would add language to clarify that the town-owned and operated facilities that exceed two stories are subject to the issuance of a zoning permit per Section 15-146. A third amendment that would allow for a modified standard for tree canopy coverage subject to specific criteria has also been discussed. Staff is still working with the design consultant to determine if this amendment is needed. (Information from the November public hearing on the 203 Project when the text amendments were discussed in relation to the building design may be found at the following link: Town of Carrboro - Meeting of Town Council on 11/10/2020 at 7:00 PM (legistar.com) <https://carrboro.legistar.com/MeetingDetail.aspx?ID=802056&GUID=56F10CAB-AE2E-423F-82E3-D2B733F45740&Options=&Search=>).

The Town Council must receive public comments before adopting amendments to the Land Use Ordinance. The draft ordinance was referred to Orange County and presented to the Planning Board, Appearance Commission and Environmental Advisory Board at the Joint Advisory Board meeting on February 4, 2021.

The Planning Board and EAB discussed the item again on February 11th and prepared recommendations. Staff has been corresponding with members of the Appearance Commission to determine if a quorum would be available on Monday, February 15th. If the Appearance Commission is able to meet on Monday, staff will provide its comments at the hearing on February 16th. Comments from the Planning Board, EAB and Orange County are provided (Attachment C).

FISCAL & STAFF IMPACT: Public notice costs and staff time are associated with the review of text amendments for public hearings and advisory board review.

RECOMMENDATION: Staff recommends that the Town Council consider adopting the resolution of consistency *(Attachment A)* and the draft ordinance *(Attachment B).*

A RESOLUTION ADOPTING A STATEMENT EXPLAINING THE TOWN COUNCIL'S REASONS FOR ADOPTING AN AMENDMENT TO THE TEXT OF THE CARRBORO LAND USE ORDINANCE (N.C. Gen. Stat. 160A-383)

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows*:* A LAND USE ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE RELATING TO DIMENSIONAL REQUIREMENTS IN THE B-1(C) AND B-1(G) DISTRICTS, PERMIT REQUIREMENTS FOR TOWN-OWNED AND OPERATED FACILITIES AND CANOPY COVERAGE STANDARDS.

NOW, THEREFORE, the Town Council of the Town of Carrboro Resolves:

Section 1. The Council has reviewed the draft amendment to the text of the Land Use Ordinance and concludes that the proposed amendment is:

_____ *Consistent* with adopted plans such as *Carrboro Vision2020,* particularly the support of a centrally located and conveniently accessible library as described in provision 1.22, the development and placement of architecturally significant civic buildings in the downtown to support downtown vitality as expressed in provision 2.22, and the improvement of downtown infrastructure as noted in provision 3.21.

_____ *Inconsistent* with current adopted plans. The proposed action is *inconsistent* with the comprehensive plan for the following reason(s):

_____
_____
_____

_____ *Inconsistent* with the current adopted plans; however, because of the following changed circumstance(s), the Council's approval shall also be deemed an amendment to the existing adopted plan, _____, as described below.

Changed circumstance(s):

_____
_____
_____

Amendment to current adopted plan:

_____
_____
_____

Section 2. The Town Council's action is reasonable and in the public interest for the following reason(s):

The proposed text amendment is reasonable and consistent with the public health, safety and welfare by furthering the Town's efforts toward providing improved access to new public facilities.

Section 3. Therefore, the Carrboro Town Council has: *approved* / *denied* the proposed amendment to the text of the Carrboro Land Use Ordinance.

Section 4. This resolution becomes effective upon adoption.

Adopted by the Carrboro Town Council this 16th day of February 2021.

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE RELATING TO DIMENSIONAL REQUIREMENTS IN THE B-1(C) AND B-1(G) DISTRICTS, PERMIT REQUIREMENTS FOR TOWN-OWNED AND OPERATED FACILITIES, AND CANOPY COVERAGE STANDARDS

Draft 1-16-21

THE TOWN COUNCIL OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Subsection 15-185(a), Building Height Limitations, is amended by adding a new provision (5) to read as follows:

(5) With respect to structured parking decks where the underlying zoning is B-1(c) or B-1(g), so long as the parking deck is substantially serving the use on the lot on which it is located, the maximum height for the parking deck and associated appendages such as stair towers, elevator shafts and mechanical equipment, including solar collectors, shall not exceed 60 feet along any elevation. The DNP district requirements in subsection 15-185.1 shall not apply.

Section 2. Subsection 15-185.1(h), Downtown Neighborhood Protection Overlay District Requirements, is amended with an additional sentence to read as follows:

(h) Notwithstanding the permit requirements established in Sections 15-146 and 15-147, if a developer proposes to construct within those areas of the DNP district where the underlying zoning is B-1(c) a building that exceed two stories in height, or where the underlying zoning is B-1(g) a building that exceeds three stories, a conditional use permit must be obtained. Use classification 15.800, Town-owned and/or Operated Facilities and Services are not subject to this requirement.

Section 3. Subsection 15-319(b), Tree Canopy Coverage Standards, is rewritten as follows:

(b) Modifications to the Canopy Coverage Standards. The permit issuing authority may approve a development application that does not fully comply with the canopy coverage standards when it finds that the application substantially (50% or more) complies with these standards and that such a deviation:

(1) Enables a Net Zero GHG Emissions building achieved through energy efficiency and renewable energy generated on-site or imported from off-site; or

(2) Is in exchange for a payment in lieu that is equivalent to the cost of acquiring the space necessary for planting the trees that will not be planted on the site to meet the full tree canopy requirement. The payments must be equivalent to the cost of acquiring the space for the trees to be planted at a cost equivalent to the value of the property where the development is being built.

Section 4. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 5. This ordinance shall become effective upon adoption.

TOWN OF CARRBORO

Planning Board

301 West Main Street, Carrboro, North Carolina 27510

RECOMMENDATION

THURSDAY, FEBRUARY 4, 2021

Land Use Ordinance Text Amendment Relating to Dimensional Requirements in the B-1(C) and B-1(G) Districts, Permit Requirements for Town-Owned and Operated Facilities and Canopy Coverage Standards

Motion was made by Foushee and seconded by Posada that the Planning Board of the Town of Carrboro recommends that the Town Council approve the draft ordinance with the following modifications.

With regard to the proposed section 1 of the draft ordinance, we feel the current language has the potential to force applicants to choose between taking full advantage of the allowable height permitted by the underlying zoning and using roof top solar for shade. Please update the language to ensure that solar and shading features are not disadvantaged even if doing so requires increasing the maximum height.

With regard to the proposed section 3 of the draft ordinance, the updated standards may be appropriate for certain downtown zones but not residential areas or parks. We are not sure that the idea of the payment in lieu is realistic as described. Additional alternatives to canopy might include: green walls, solar devices that shade, high albedo roofing and ground cover.

VOTE:
AYES: (8) Clinton, Foushee, Fray, Gaylord-Miles, Mangum, Posada, Poulton and Sinclair
NOES: (0)
ABSTENTIONS: (0)
ABSENT/EXCUSED: (1) Tooloee

Associated Findings

By a unanimous show of hands, the Planning Board membership indicated that no members have any financial interests that would pose a conflict of interest to the adoption of this amendment.

Motion was made by Gaylord-Miles and seconded by Poulton that the Planning Board of the Town of Carrboro finds the proposed amendment is consistent with the policies in Carrboro Vision2020, particularly the support of a centrally located and conveniently accessible library as described in provision 1.22, the development and placement of architecturally significant civic buildings in the downtown to support downtown vitality as expressed in provision 2.22, and the improvement of downtown infrastructure as noted in provision 3.21.

Furthermore, the Planning Board of the Town of Carrboro finds the proposed text amendment is reasonable and in the public interest by furthering the Town's efforts toward providing improved access to new public facilities.

VOTE:
AYES: (8) Clinton, Foushee, Fray, Gaylord-Miles, Mangum, Posada, Poulton and Sinclair
NOES: (0)
ABSTENTIONS: (0)
ABSENT/EXCUSED: (1) Tooloee

Catherine Fray 02 / 12 / 2021

(Chair) (Date)

Signature Certificate

Document Ref.: 8YPYA-F3KVQ-I7RYG-MYGTR

Document signed by:

Catherine Fray

Verified E-mail:
cadamson@alumni.unc.edu

IP: 98.26.109.4 Date: 12 Feb 2021 14:41:55 UTC

Catherine Fray

Document completed by all parties on:
12 Feb 2021 14:41:55 UTC

TOWN OF CARRBORO

Environmental Advisory Board

301 West Main Street, Carrboro, North Carolina 27510

RECOMMENDATION

THURSDAY, FEBRUARY 11, 2021

Land Use Ordinance Text Amendment Relating to Dimensional Requirements in the B-1(C) and B-1(G) Districts, Permit Requirements for Town-Owned and Operated Facilities and Canopy Coverage Standards

Motion was made by Kaufman and seconded by Blanco that the Environmental Advisory Board of the Town of Carrboro recommends that the Town Council adopts the draft ordinance, with the following revisions:

Section 1. Subsection 15-185(a): From an environmental perspective, the height limitation does not serve any environmental purpose, therefore, we are in favor of as loose a standard as required or needed.

We recommend rewriting **Section 3. Subsection15-319(b)** to say, "Enables a Net Zero GHG Emissions building per the Town's adopted Net Zero Buildings definition"

The Town should develop a program which would define how payments in lieu are allocated and dedicated.

VOTE:
AYES: (4) Turner, Blanco, Brandon, Kaufman
NOES: ( )
ABSTENTIONS: ( )
ABSENT/EXCUSED: (2) Echart, Schalkoff

Associated Findings

By a unanimous show of hands, the Environmental Advisory Board membership indicated that no members have any financial interests that would pose a conflict of interest to the adoption of this amendment.

Motion was made by Brandon and seconded by Kaufman that the Environmental Advisory Board of the Town of Carrboro finds the proposed amendment is consistent with the policies in Carrboro Vision2020, particularly the support of a centrally located and conveniently accessible library as described in provision 1.22, the development and placement of architecturally significant civic buildings in the downtown to support downtown vitality as expressed in provision 2.22, and the improvement of downtown infrastructure as noted in provision 3.21.

Furthermore, the Environmental Advisory Board of the Town of Carrboro finds the proposed text amendment is reasonable and in the public interest by furthering the Town's efforts toward providing improved access to new public facilities.

VOTE:
AYES: (4) Turner, Blanco, Brandon, Kaufman
NOES: ( )
ABSTENTIONS: ( )
ABSENT/EXCUSED: (2) Echart, Schalkoff

Laura Janoway

For Tim Turner (Chair) 2-11-21 (Date)

ORANGE COUNTY PLANNING & INSPECTIONS DEPARTMENT

Craig N. Benedict, AICP, Director

Administration
(919) 245-2575
(919) 644-3002 (FAX)
www.orangecountync.gov

131 W. Margaret Lane
P O Box 8181
Hillsborough,
North Carolina, 27278

TRANSMITTAL DELIVERED VIA EMAIL

January 22, 2021

Christina Moon, AICP
Planning Administrator
Town of Carrboro
301 W. Main St.
Carrboro, NC 27510

SUBJECT: Joint Planning Review of Proposed Ordinance Amendments

Dear Tina:

Thank you for the opportunity to review the following Land Use Ordinance amendments received by us on January 16, 2021 and proposed for town public hearing on February 16, 2021:

- *An Ordinance Amending the Carrboro Land Use Ordinance Relating to Dimensional Requirements in the B-1(C) and B-1(G) Districts, Permit Requirements for Town-Owned and Operated Facilities, and Canopy Coverage Standards.*

We have reviewed the amendments and find no inconsistency with the adopted *Joint Planning Area Land Use Plan*.

If you have any questions or need additional information, please let me know.

Sincerely,

Perdita Holtz

Perdita Holtz, AICP
Planning Systems Coordinator

Agenda Item Abstract

File Number:21-53

Agenda Date: 2/16/2021 **File Type:**Agendas

In Control: Board of Aldermen

Version: 1

TITLE:
Check-in on the Comprehensive Plan Process
PURPOSE: The purpose of this agenda item is to provide the Town Council with an update on the current process and progress of this effort.
DEPARTMENT: Planning

CONTACT INFORMATION: Patricia McGuire, 919-918-7327, pmcguire@townofcarrboro.org

INFORMATION: Carrboro Connects, the Town's Comprehensive Planning process, continues to move forward with task force meetings and community engagement. Since the last report on October 13th, Council Members Seils, and Haven -O'Donnell have attended task force meetings and inspired members with their comments. Council Member Romaine is on schedule to join the task force at its fourth meeting on Thursday, February 18th.

The first community meeting was held on November 17 and over 150 community members, including task force members, joined in. The welcoming remarks from the Mayor and Council really set the tone for an exciting and engaging session.

Additional interviews with community groups, attendance at advisory board meetings, and plans for a speaker series have been underway.

A power point on the work to date is attached (*Attachment A*). Scott Goldstein will attend the meeting on Tuesday to walk through the presentation. A town-website hosted page is available at <http://www.townofcarrboro.org/2389/Town-of-Carrboro-Comprehensive-Plan>; the interactive project website with full functionality for accessing project information and engagement opportunities is available at CarrboroConnects.org <https://www.carrboroconnects.org/>.

FISCAL & STAFF IMPACT: None noted with the Town Council receiving this report.

Agenda Date: 2/16/2021 **File Type:**Agendas

In Control: Board of Aldermen

Version: 1

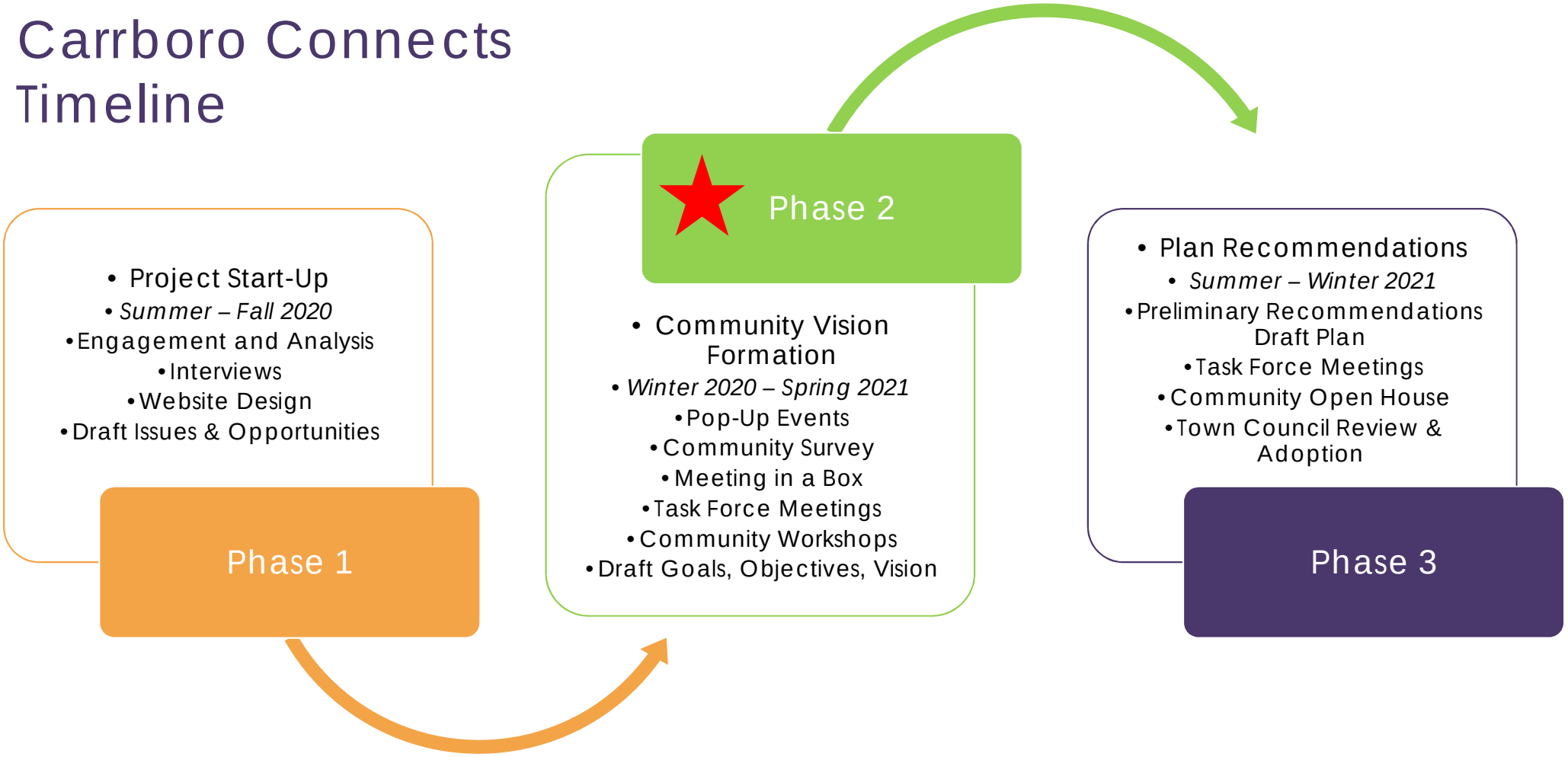
RECOMMENDATION: The staff recommends that the Town Council receive the information on the process and respond with questions and/or directions.

Comprehensive Plan

Town Council Update

Tuesday, February 16, 2021

Carrboro Connects Timeline



engagement update

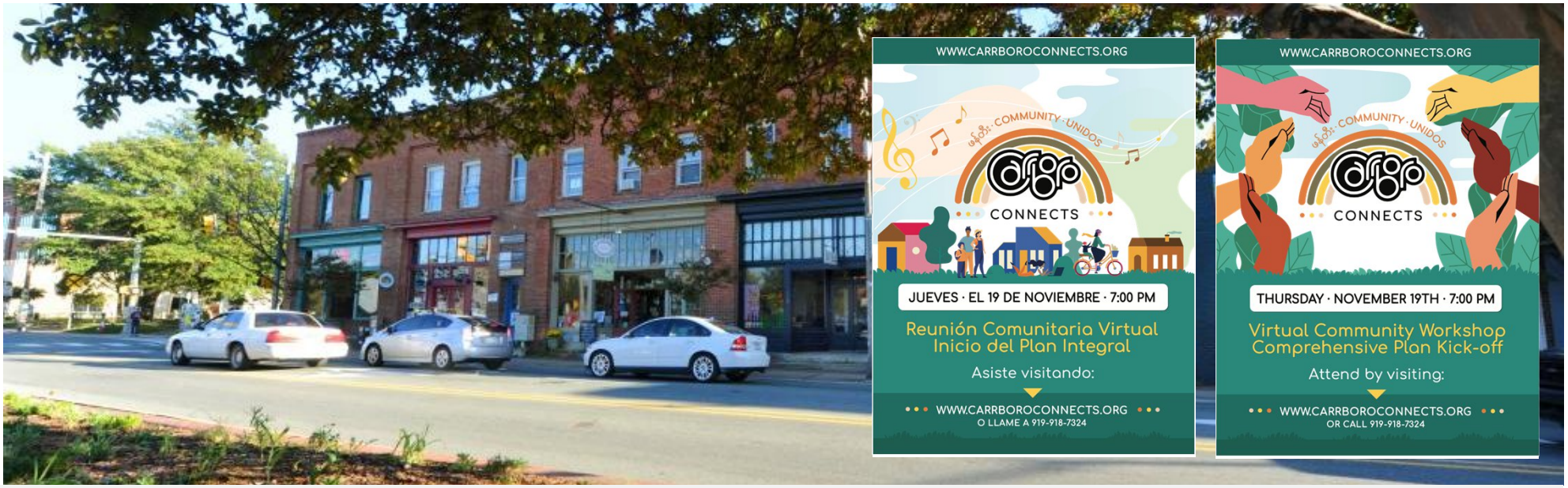
Marketing Materials

Digital · Print · English · Spanish

INSTAGRAM FACEBOOK TWITTER NEXTDOOR POSTERS POSTCARDS

Posters

Print + Stick · Inside + Outside · Here + There



Postcards

New postcards are being printed for upcoming event

www.carrboroconnects.org

Share your vision for the future and take part in Carrboro's first Comprehensive Plan!

Ways to provide input

Welcome to Carrboro Connects

Carrboro Connects, our Town's comprehensive planning effort, is focused on listening and learning from YOU to address issues like climate action, race and equity, and economic sustainability. Register today to share and help shape Carrboro's future for generations to come!

Register to Shape the Future

My Block, My Carrboro

Show us your neighborhood! Drop a pin on your block and leave an idea for improving its future! The comprehensive plan is about connecting both our people and places -- and hearing from all parts of our community. Show us your roots.

Pin Your Block

Register for News

Sign-up today! Receive email updates about the project, upcoming events, and opportunities to engage in-person, online, and via the interactive tools on this website

Register to Learn More

Create Community Together

The project tagline -- "Create Community Together" -- showcased in Burmese, English, and Spanish, is exactly what the comprehensive plan is all about! This project is about connecting with every person of every age, race, gender, ethnicity, and background to unite and advance quality of life for...

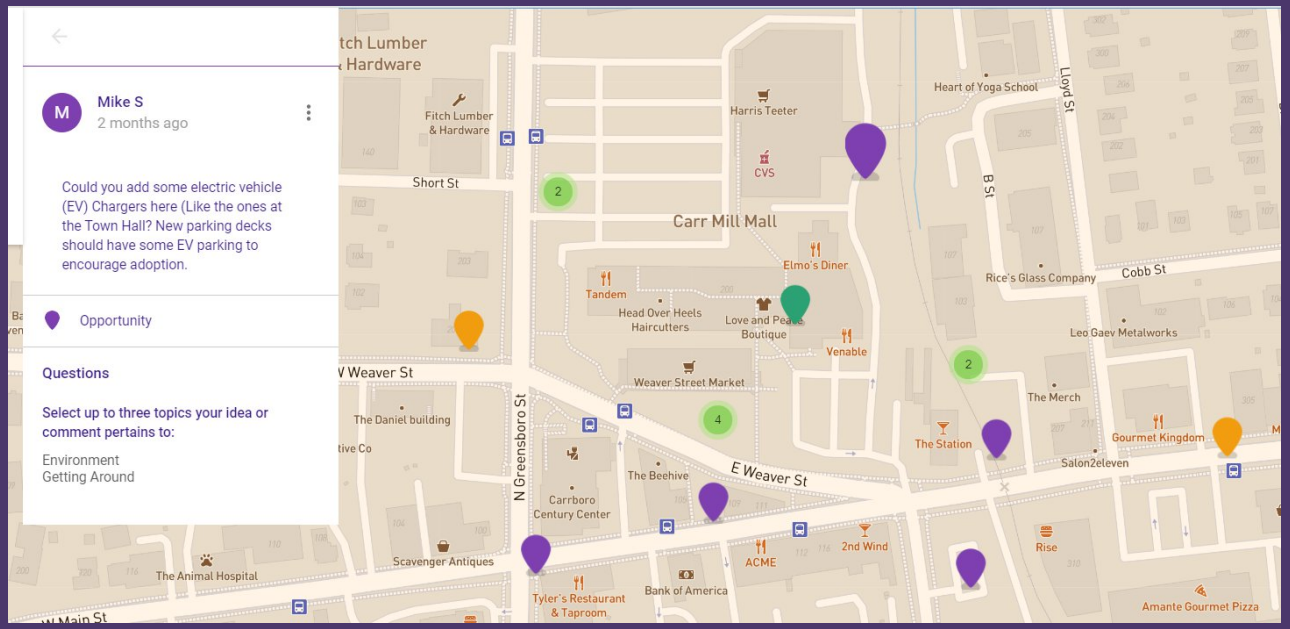
Register to Share Ideas

Web Site Stats

1,353 site visits
231 activated registrations

Map Tool
- 335 visits
- 30 contributors
- 99 markers placed

Share ideas
- 188 visits



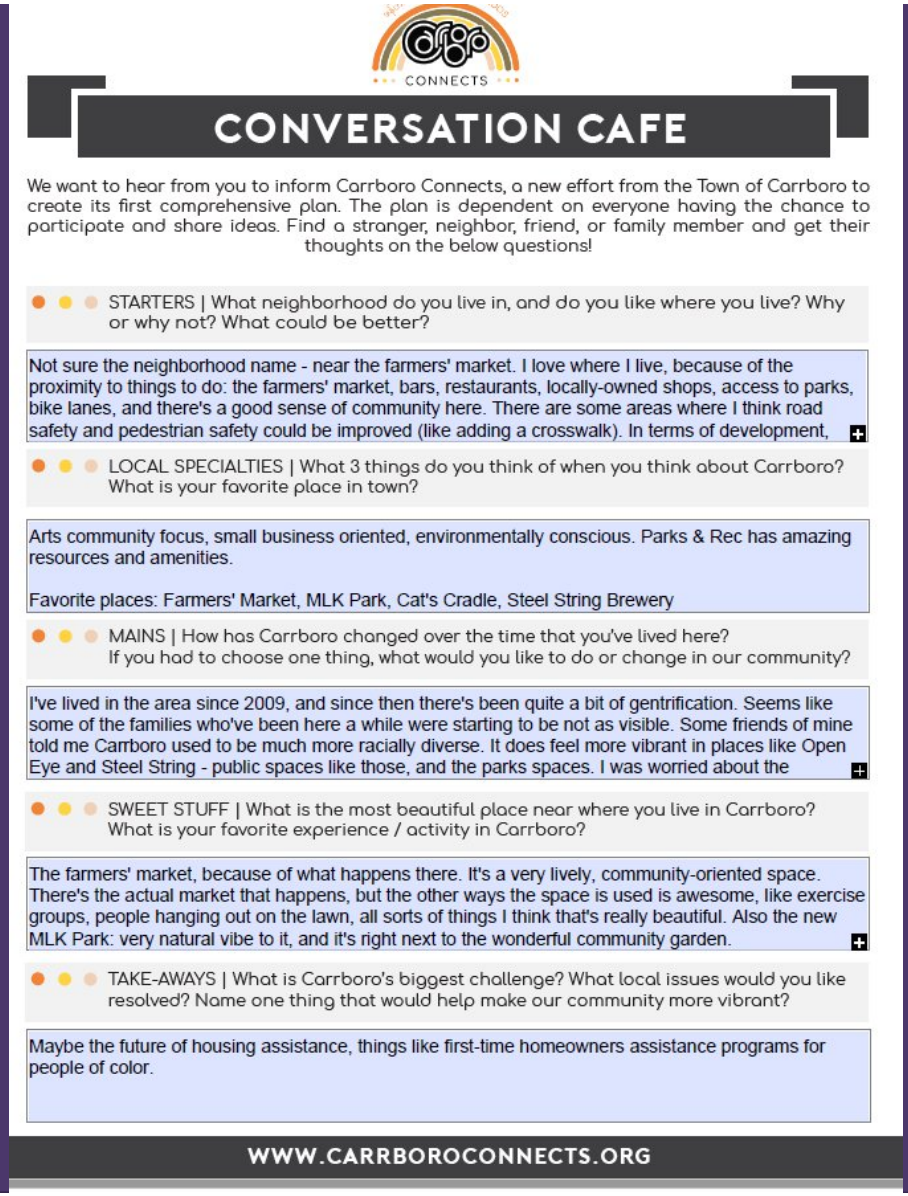
conversation café

café de charlas

listening, learning, exchanging

Download form at
www.CarrboroConnects.org/documents

Free T-Shirt to individual with most submittals



CONNECTS

CONVERSATION CAFE

We want to hear from you to inform Carrboro Connects, a new effort from the Town of Carrboro to create its first comprehensive plan. The plan is dependent on everyone having the chance to participate and share ideas. Find a stranger, neighbor, friend, or family member and get their thoughts on the below questions!

STARTERS | What neighborhood do you live in, and do you like where you live? Why or why not? What could be better?

Not sure the neighborhood name - near the farmers' market. I love where I live, because of the proximity to things to do: the farmers' market, bars, restaurants, locally-owned shops, access to parks, bike lanes, and there's a good sense of community here. There are some areas where I think road safety and pedestrian safety could be improved (like adding a crosswalk). In terms of development,

LOCAL SPECIALTIES | What 3 things do you think of when you think about Carrboro? What is your favorite place in town?

Arts community focus, small business oriented, environmentally conscious. Parks & Rec has amazing resources and amenities.

Favorite places: Farmers' Market, MLK Park, Cat's Cradle, Steel String Brewery

MAINS | How has Carrboro changed over the time that you've lived here? If you had to choose one thing, what would you like to do or change in our community?

I've lived in the area since 2009, and since then there's been quite a bit of gentrification. Seems like some of the families who've been here a while were starting to be not as visible. Some friends of mine told me Carrboro used to be much more racially diverse. It does feel more vibrant in places like Open Eye and Steel String - public spaces like those, and the parks spaces. I was worried about the

SWEET STUFF | What is the most beautiful place near where you live in Carrboro? What is your favorite experience / activity in Carrboro?

The farmers' market, because of what happens there. It's a very lively, community-oriented space. There's the actual market that happens, but the other ways the space is used is awesome, like exercise groups, people hanging out on the lawn, all sorts of things I think that's really beautiful. Also the new MLK Park: very natural vibe to it, and it's right next to the wonderful community garden.

TAKE-AWAYS | What is Carrboro's biggest challenge? What local issues would you like resolved? Name one thing that would help make our community more vibrant?

Maybe the future of housing assistance, things like first-time homeowners assistance programs for people of color.

WWW.CARRBOROCONNECTS.ORG

Additional stats:

63 Interviews

4 Task Force Meetings – Near 100% attendance of 27 members

150 attendees at community meeting

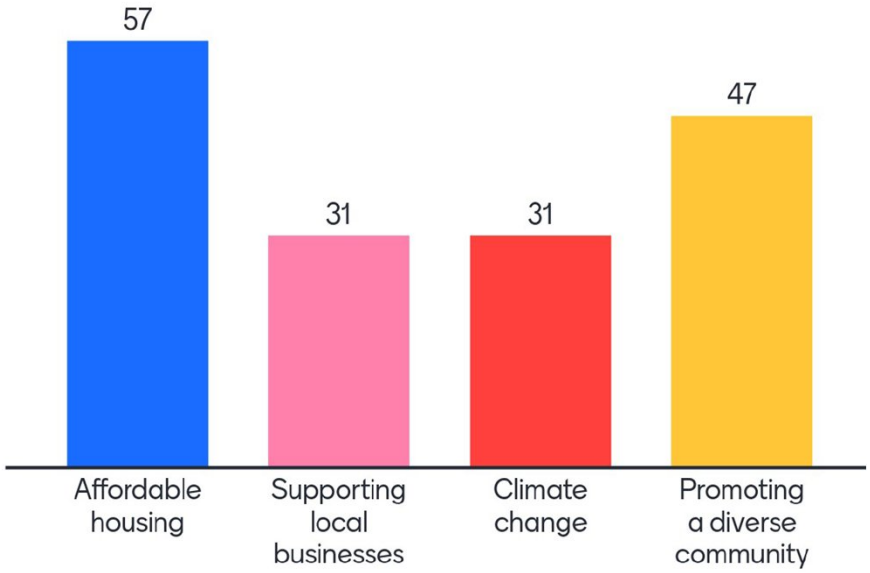
outdoor banner

Community Workshop 1


namdi brandon
Francie Sallinger (F...
Perry Haaland
Anahid Vrana
Connor Lopez (Yo...
Amy Singleton
Maggie Funkhouser
Quinton Harper
Catherine Fray (the...
Ben Berolzheimer,...
Randee Haven-O'D...
Braxton Foushee
Trish McGuire, she...
Bob Proctor
Tim Turner, Enviro...
Kathleen Anderson
Erin Cigliano, Work...
Kathy Kaufman
Laura Janway, Staff
Susan Romaine
Liz Evans she/her
Tim
From Chrissie Schalkoff (she/her) t...
Thank you all!
MariaJulia Echart
Scott Goldstein Fac...

What do you love most about Carrboro?

What are Carrboro's greatest challenges?



Upcoming: Facebook Live Event with El Centro 6:00 PM March 4, 2021

View event in Spanish at El Centro Hispono Facebook Page

racial and social equity –

cross-cutting theme across all issue areas

climate resilience

- Revising municipal policies
- Updating infrastructure and existing development
- Reducing greenhouse gas emissions

Credit Town of Carrboro

transportation

1. Equity-focused transportation initiatives & outreach
2. Connected biking and walking system
3. Public transit system that encourages non-auto travel

water

1. Education and awareness
2. Maintaining a sustainable water supply
3. Exploring alternatives for water supply

green infrastructure

1. Connected greenways and parkways, while protecting the natural environment
2. Green Stormwater Infrastructure (GSI) Implementation
3. Protection of natural areas

economic sustainability

- More inclusive economy
- More place-based, resilient and walkable
- Grow arts and entertainment
- Green industries
- Reduce friction & barriers to redevelopment
- Encourage business start-ups
- More racial equity in business growth & start-ups

Credit: David Jessee

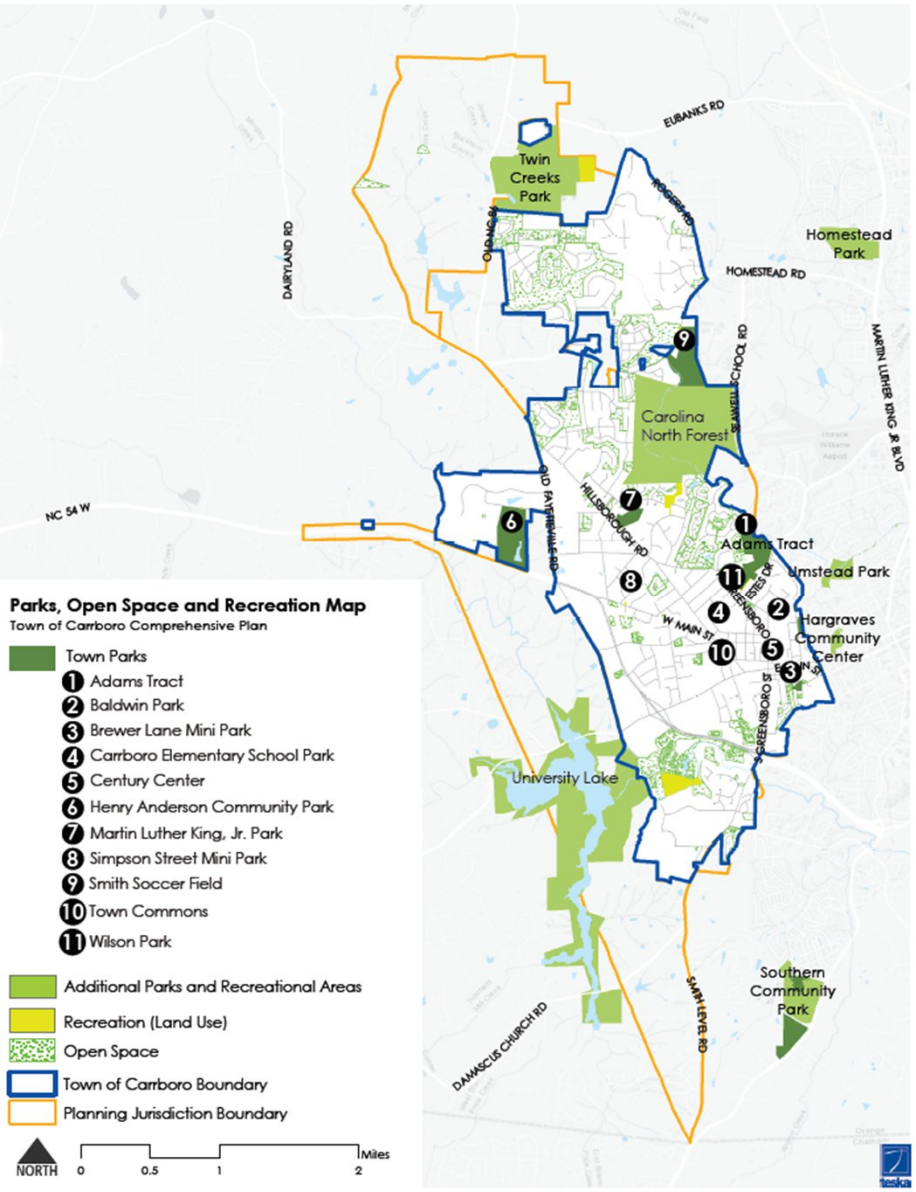
Credit: Zequel Hall / Town of Carrboro

Housing Cost Burden

Household Income	Homeowners	Renters
Less than $20,000	**100%**	**81%**
$20,000-$35,000	**81%**	**94%**
$35,000-$50,000	**86%**	**35%**
$50,000-$75,000	**31%**	**21%**
$75,000+	**8%**	**10%**

affordable housing

- Creating for-sale and rental affordable housing
- Maintaining existing affordable housing
- Promoting sustainable and energy-efficient housing



recreation, parks and cultural resources

- Promoting equitable access
- Understanding community needs
- Services & programming

FILM CARRBORO FEST

COMMUNITY · COMUNIDAD · LOCALS
DAY

Open Streets
Carrboro 2020

upcoming dates

- Feb. 18 @ 5:30, Task Force 5 - Recreation, Parks & Culture and Public Services
- March 4 @ 6:00 Facebook Live Spanish Event
- Mar. 18 @ 7:00, Community Meeting 2
- May 13 @ 5:30, Task Force 6 - Workshop on Goals, Strategies and Projects

Agenda Item Abstract

File Number:21-52

Agenda Date: 2/16/2021

File Type: Agendas

In Control: Board of Aldermen

Version: 1

TITLE:
Information on Text Amendments Required as part of G.S. Chapter 160D, Part 2
PURPOSE: The purpose of this item is provide the Town Council with the second installment of draft text amendments to the Land Use Ordinance required by the adoption of G.S. Chapter 160D.
DEPARTMENT: Planning Department

CONTACT INFORMATION: Christina Moon - 919-918-7325, cmoon@townofcarrboro.org <mailto:cmoon@townofcarrboro.org>; Marty Roupe - 919-918-7333, mroupe@townofcarrboro.org <mailto:mroupe@townofcarrboro.org>; Patricia McGuire - 919-918-7327, pmcguire@townofcarrboro.org <mailto:pmcguire@townofcarrboro.org>; Nick Herman - 919-929-3905, gnherman@broughlawfirm.com <mailto:gnherman@broughlawfirm.com>

INFORMATION: This agenda item is provided as the second update on the preparation of amendments to the Land Use Ordinance to conform with new regulations from the G.S. adoption of Chapter 160D. As noted previous, since amendments are numerous and will be made throughout the Land Use Ordinance, a plan and schedule was offered to bundle the changes by topical areas and present in a series of installments during the winter/spring in preparation for a single public hearing in May/June. The schedule seeks to allow time for the Council to ask questions or request additional information so that action on the required amendments can occur before the deadline of July 1, 2021.

Agenda materials include a draft ordinance that incorporates all the currently anticipated changes within the topical area under discussion for seven articles: VI-VII and IX-XII *(Attachment A)*. A copy of the working table providing information on the purpose of the change and specific section/provision(s) to be amended is provided as *(Attachment B)* and full copies of Articles VI-VIII, IX-XII, with the changes tracked *(Attachments C-I)*. A copy of the updated table of permissible uses (15-146) referencing class A and class B special use permits instead of conditional and special use permits will be provided with the final public hearing materials.

Information from the previous installment on January 26th including full copies of the existing articles III, IV, V, XVII, XX, and XXI, with proposed changes shown in tracking may be found here: (Town of Carrboro - Meeting of Town Council on 1/26/2021 at 7:00 PM (legistar.com) <https://carrboro.legistar.com/MeetingDetail.aspx?ID=823936&GUID=D387AE20-BC4A-444C-A4C3-58F350776615&Options=&Search=>).

It should be noted that the materials in the agenda packet are still in draft form, and additional revisions may be required as staff continues to review Chapter 160D and the associated updates in S.L. 2020-15. Any

substantive changes will be identified in the public hearing materials.

FISCAL & STAFF IMPACT: Staff and Town Attorney time and costs are associated with the preparation of this item; public notice costs and staff time will be associated with the future public hearing and advisory board review.

RECOMMENDATION: Staff recommends that the Town Council review the material and ask questions of staff and/or the Town Attorney as part of the discussion at the meeting.

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO CONFORM WITH RECENT CHANGES IN STATE LEGISLATION RELATING TO THE ADOPTION OF CHAPTER 160D

DRAFT 02-12-2021

THE CARRBORO TOWN COUNCIL ORDAINS:

Section 1. Article VI, 'Hearing Procedures for Appeals and Applications,' is renamed 'Evidentiary Hearing Procedures for Appeals and Applications.'

Section 2. Section 15-101(a), Evidentiary Hearing Required on Appeals and Applications, is rewritten to read as follows:

(a) Before making a decision on an appeal or an application for an administrative decision, variance, class B special use permit, or class A special use permit, certificate of appropriateness, or a petition from the planning staff to revoke a special use permit, the board of adjustment or the town council, as the case may be, shall hold an evidentiary hearing on the appeal or application. Evidentiary hearings are also known as quasi-judicial hearings. Evidentiary hearings on class A special use permits shall be set by the town council as provided in Section 2-17 of the Town Code. **(AMENDED 4/27/82)**

Section 3. Article VI, Evidentiary Hearing Procedures for Appeals and Applications, is amended to replace all references to the 'Board of Aldermen,' or 'Board' with the 'Town Council,' or 'Council,' respectively.

Section 4. Section 15-101, Evidentiary Hearing Required on Appeals and Applications, is amended by adding a new subsection (e) to read as follows:

(e) If an evidentiary hearing is set for a given date and a quorum of the board of adjustment or town council is not then present, the hearing shall be continued until then next regular meeting without further advertisement.

Section 5. Subsection 15-102(2), Notice of Evidentiary Hearing, is rewritten to read as follows:

(2) With respect to hearings on matters other than special use permits, notice shall be given to neighboring property owners by mailing a written notice not later than 10 days or earlier than 25 days before the hearing to those persons who are listed on Orange County's computerized land records system as owners of real property any portion of which is abutting or located within 150 feet of the lot that is the subject of the application or appeal. The planning staff shall also make reasonable efforts to mail a similar written notice not less than 10 days before the hearing to the occupants of residential rental property which is abutting or located within 150 feet of the lot that is the subject of the application or appeal. With respect to hearings on the issuance or revocation of special use permits, notice shall be given to abutting property owners by mailing a written notice not later than 10 days or earlier than 25 days before the hearing to those persons who are listed on Orange County's computerized land records system as owners of real property any portion of which is abutting or located within 500 feet of the lot that is the subject of a class B special use permit and 1000 feet of the lot that is the subject of a class A special use permit. The planning staff shall also make reasonable efforts to mail a similar written notice not less than 10 days or earlier than 25 days before the hearing to the

non-owner occupants of residential rental property abutting or located within 1,000 feet of the lot that is the subject of the class A special use permit. In all cases, notice shall also be given by prominently posting signs in the vicinity of the property that is the subject of the proposed action. Such signs shall be posted within the same 10 to 25-day period for mailed notice. . **(AMENDED 10/12/82; 1/22/85; 04/15/97; 10/12/99; 3/26/02)**

Section 6. Article VI, Evidentiary Hearing Procedures for Appeals and Applications, is amended by changing the names of 'conditional use permits' and 'special use permits' to 'class A special use permits' and class B special use permits.'

Section 7. Article VI, Evidentiary Hearing Procedures for Appeals and Applications, is amended by adding a new Section 15-102.1, 'Administrative Materials,' to read as follows:

Section 15-102.1. Administrative Materials.

The administrator or staff to the board of adjustment or town council shall transmit to the board or council all applications, reports, and written materials relevant to the matter being considered. The administrative may be distributed to the members of the board or council prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant.

(1) The administrative materials, may be provided in written or electronic form, and shall become part of the hearing records.

(2) Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board or council at the hearing.

Section 8. Section 15-103, Evidence, is rewritten to read as follows:

Section 15-103 Evidence.

(a) The provisions of this section apply to all evidentiary hearings for which a notice is required by Section 15-101.

(b) All persons who intend to present evidence to the permit-issuing board, rather than arguments only, shall be sworn.

(1) The applicant, the town, and any person who would have standing to appeal the decision under G.S. 160D-1402(c), and Article V of this chapter, shall have the right to participate as a party at the evidentiary hearing.

(2) Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board of adjustment or town council.

(3) Any person who, while under oath during a proceeding before the board or council determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

(c) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

(d) Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board or council. The chair shall rule on any objections, and the chair's rulings may be appealed to the full board or council. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

(e) The council or board making a quasi-judicial decision under this chapter through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the town, and any person with standing under G.S. 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas that the chair determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the council or board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

Section 9. Section 15-104, Modification of Application at Hearing, is amended by adding a new subsection (c) to read as follows:

(c) The administrator who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the council or board shall continue the hearing.

Section 10. Article VI, Evidentiary Hearing Procedures for Appeals and Applications, is amended by adding a new Section 15-107, 'Standing,' to read as follows:

Section 15-107 Standing.

A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons have standing to file a petition under this section:

(1) Any person possessing any of the following criteria:

a. An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.

b. An option or contract to purchase the property that is the subject of the decision being appealed

c. An applicant before the decision-making board whose decision is being appealed.

(2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) The Town of Carrboro whose decision-making board has made a decision that the Town Council believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by the Council.

(d) The respondent named in the petition shall be the Town of Carrboro whose decision-making board made the decision that is being appealed, except that if the petitioner is the town that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, then the respondent shall be the decision-making board. If the petitioner is not the applicant before the decision making board whose decision is being appealed, the petitioner shall also name that applicant as a respondent. Any petitioner may name as a respondent any person with an ownership or leasehold interest in the property that is the subject of the decision being appealed who participated in the hearing, or was an applicant, before the decision-making board.

(e) Upon filing the petition, the petitioner shall present the petition and a proposed writ of certiorari to the clerk of superior court of Orange County. The writ shall direct the town or the respondent decision-making board, if the petitioner is the town that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, to prepare and certify to the court the record of proceedings below within a specified date. The writ shall also direct the petitioner to serve the petition and the writ upon each respondent named therein in the manner provided for service of a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a decision-making board, the petition and the writ shall be served upon the chair of that decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure applies in the event the chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall issue the writ without notice to the respondent or respondents if the petition has been properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the court. Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution or enforcement of the decision of the quasi-judicial board pending superior court review. The court may grant a stay in its discretion and on conditions that properly provide for the security of the adverse party. A stay granted in favor of a city or county shall not require a bond or other security.

(f) The respondent may, but need not, file a response to the petition, except that, if the respondent contends for the first time that any petitioner lacks standing to bring the appeal, that contention must be set forth in a response served on all petitioners at least 30 days prior to the hearing on the petition.

If it is not served within that time period, the matter may be continued to allow the petitioners time to respond.

Section 11. Article VII, Enforcement and Review, is amended by replacing pronouns with gender neutral language throughout.

Section 12. Article VII, Enforcement and Review, is amended by changing the names of 'conditional use permits' and 'special use permits' to 'class A special use permits' and class B special use permits.'

Section 13. Section 15-114, Penalties and Remedies for Violations, is amendment by adding a new provision (a) under subsection (3) regarding automatic stay of the collection of civil penalties during an appeal, to read as follows:

a. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed.

Section 14. Subsection 15-116(a), Judicial Review, is rewritten to read as follows:

(a) Every quasi-judicial decision of the board shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d). Appeals in any such case shall be heard by the superior court of Orange County.

Section 15. Article VII, Enforcement and Review, is amended by adding a new Section 15-118, 'Statutes of Limitations,' to read as follows:

Section 15-118 Statutes of Limitations

(a) Zoning Map Adoption or Amendments. A cause of action as to the validity of any regulation adopting or amending a zoning map adopted under this Chapter or other applicable law or a development agreement adopted under Article 10 of this Chapter accrues upon adoption of the ordinance and shall be brought within 60 days as provided in G.S. 1-54.1.

(b) Text Adoption or Amendment. Except as otherwise provided in subsection (a) of this section, an action challenging the validity of a development regulation adopted under this Chapter or other applicable law shall be brought within one year of the accrual of such action. Such an action accrues when the party bringing such action first has standing to challenge the ordinance. A challenge to an ordinance on

the basis of an alleged defect in the adoption process shall be brought within three years after the adoption of the ordinance.

(c) Enforcement Defense. Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 bars a party in an action involving the enforcement of a development regulation 1403.1 or in an action under G.S. 160D-from raising as a claim or defense in the proceedings the enforceability or the invalidity of the ordinance. Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 bars a party who files a timely appeal from an order, requirement, decision, or determination made by the administrator contending that the party is in violation of a development regulation from raising in the judicial appeal the invalidity of the ordinance as a defense to the order, requirement, decision, or determination. A party in an enforcement action or appeal may not assert the invalidity of the ordinance on the basis of an alleged defect in the adoption process unless the defense is formally raised within three years of the adoption of the challenged ordinance.

(d) Termination of Grandfathered Status. When a use constituting a violation of this chapter is in existence prior to adoption of the Carrboro Land Use Ordinance creating the violation, and that use is grandfathered and subsequently terminated for any reason, the town shall bring an enforcement action within 10 years of the date of the termination of the grandfathered status, unless the violation poses an imminent hazard to health or public safety.

(e) Quasi-Judicial Decisions. Unless specifically provided otherwise, a petition for review of a quasi-judicial decision shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with G.S. 160D-406(j). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

(f) Others. Except as provided by this section, the statutes of limitations shall be as provided in Subchapter II of Chapter 1 of the General Statutes.

Section 16. Article VIII, Nonconforming Situations, is amended to replace all references to the 'Board of Aldermen,' or 'Board' with the 'Town Council,' or 'Council,' respectively.

Section 17. Article VIII, Nonconforming Situations, is amended by changing the names of 'conditional use permits' and 'special use permits' to 'class A special use permits' and class B special use permits.'

Section 18. Article VIII, Nonconforming Situations, is amended by replacing pronouns with gender neutral language throughout

Section 19. Section 15-128.2, 'Vested Rights: Site Specific Development Plan,' is rewritten as 'Vested Rights and Permit Choice," to read as follows:

Section 15-128.2 Vested Rights and Permit Choice

(a) Findings. Pursuant to G.S. sections 160D-108 and 160D-108.1, the Town Council recognizes that development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses, and finds that it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation.

(b) Permit Choice. If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land

development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

(c) Vested Rights. Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.

(2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.

(3) A site-specific vesting plan pursuant to G.S. 160D-108.1.

(4) A multi-phased development pursuant to subsection (f) of this section.

(5) A vested right established by the terms of a development agreement authorized by Article 10 of this Chapter.

The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of 8 common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by the town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating town enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

(d) Duration of Vesting. Upon issuance of a development permit, the statutory vesting granted by subsection (c) of this section for a development project is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. A zoning right that has been vested as provided in this chapter shall remain vested for a period of two years after issuance of a development permit unless work authorized by the permit has substantially commenced. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

The statutory vesting granted by this section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting

(e) Multiple Permits for Development Project. Subject to subsection (d) of this section, where multiple town development permits are required to complete a development project, the development permit applicant may choose the version of each of the town development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the

approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

(f) Multi-Phased Development. A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(g) Continuing Review. Following issuance of a development permit, a local government may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original approval.

(h) Process to Claim Vested Right. A person claiming a statutory or common law vested right may submit information to substantiate that claim to the administrator, who shall make an initial determination as to the existence of the vested right. The decision of the administrator may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1.

(i) Miscellaneous Provisions. The vested rights granted by this section run with the land except for the use of land for outdoor advertising governed by G.S. 136-136.1 and G.S. 136-131.2 in which case the rights granted by this section run with the owner of the permit issued by the North Carolina Department of Transportation. Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(j) As used in this section, the following definitions apply:

(1) Development. As defined in G.S. 143-755(e) (1).

(2) Development permit. As defined in G.S. 143-755(e)(2).

(3) Land development regulation. As defined in G.S. 143-755(e)(3).

(4) Multi-phased development. A development containing 25 acres or more that is both of the following:

a. Submitted for development permit approval to occur in more than one phase.

b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase

Section 20. Section 15-128.3, 'Vested Rights Upon Issuance of Building Permits', is repealed and replaced with 'Vested Rights – Site Specific Vesting Plans,' to read as follows:

Section 15-128.3 Vested Rights – Site Specific Vesting Plans.

(a) Site-Specific Vesting Plan. A site-specific vesting plan consists of a plan submitted to the town in which the applicant requests vesting pursuant to this section, describing with reasonable certainty

on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation. Unless otherwise expressly provided by the town, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site-specific vesting plan under this section that would trigger a vested right shall be finally determined by the Town Council pursuant to a development regulation, and the document that triggers the vesting shall be so identified at the time of its approval. A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

(b) Establishment of Vested Right. A vested right is established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting plan as provided in this section. Such a vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site specific vesting plan, including any amendments thereto.

(c) Approval and Amendment of Plans. If a site-specific vesting plan is based on an approval required by a town development regulation, the town shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than two years does not affect the duration of the site-specific vesting plan established under this section. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by G.S. 160D-602 shall be held.

The town may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare. Conditional approval results in a vested right, although failure to abide by the terms and conditions of the approval will result in a forfeiture of vested rights. The town shall not require a landowner to waive the landowner's vested rights as a condition of developmental approval. A site specific vesting plan is deemed approved upon the effective date of the town’s decision approving the plan or another date determined by the council upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the town as follows: any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

(d) Continuing Review. Following approval or conditional approval of a site-specific vesting plan, the town may make subsequent reviews and require subsequent approvals to ensure compliance with the terms and conditions of the original approval, provided that these reviews and approvals are not inconsistent with the original approval. The town may, pursuant to G.S. 160D-403(f), revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

(e) Duration and Termination of Vested Right.

(1) A vested right for a site-specific vesting plan remains vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the local government.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, the town may provide for rights to be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the town and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with subsection (a) of this section.

(3) Upon issuance of a building permit, the provisions of G.S. 160D-1111 and G.S. 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this section is outstanding.

(4) A right vested as provided in this section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

(f) Subsequent Changes Prohibited; Exceptions.

(1) A vested right, once established as provided for in this section, precludes any zoning action by the town which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:

a. With the written consent of the affected landowner.

b. Upon findings, by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan.

c. To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by the town, together with interest as provided under G.S. 160D-106. Compensation shall not include any diminution in the value of the property which is caused by the action.

d. Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the town of the site-specific vesting plan or the phased development plan.

e. Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development plan, in which case the town may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and an evidentiary hearing.

(2) The establishment of a vested right under this section does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to development regulation by the town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this section.

(3) Notwithstanding any provision of this section, the establishment of a vested right does not preclude, change, or impair the authority of the town to adopt and enforce development regulations governing nonconforming situations or uses.

(g) Miscellaneous Provisions.

(1) A vested right obtained under this section is not a personal right, but attaches to and runs with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner are entitled to exercise these rights.

(2) Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(3) In the event the town fails to adopt a development regulation setting forth what constitutes a site-specific vesting plan triggering a vested right, a landowner may establish a vested right with respect to property upon the approval of a zoning permit, or otherwise may seek appropriate relief from the Superior Court Division of the General Court of Justice.

Section 21. Subsection 15-135(d) is amended by changing the reference to the town's Comprehensive Land Use Plan to the town's Comprehensive Plan.

Section 22. Subsection 15-136, Commercial Districts Established, is amended to repeal the O/A-CU, Office/Assembly Conditional Use district, provision (11).

Section 23. Article IX, Zoning Districts and Zoning Maps, is amended by changing the names of 'conditional use permits' and 'special use permits' to 'class A special use permits' and class B special use permits.'

Section 24. Article IX, Zoning Districts and Zoning Maps, is amended to replace all references to the 'Board of Aldermen,' or 'Board' with the 'Town Council,' or 'Council,' respectively.

Section 25. Section 15-141.2, Village Mixed Use District Established, is rewritten to convert the VMU district from a conditional use district to a conditional district, as follows:

Section 15-141.2 Village Mixed Use District Established (AMENDED 05/25/99)

(a) There is hereby established a Village Mixed Use (VMU) district. This district is established to provide for the development of rural new villages at a scale intended to continue Carrboro's small town character as described in its Year 2000 Task Force Report and to promote a traditional concept of villages. The applicant for rezoning to this district must demonstrate that its planning, design and development will achieve, but not necessarily be limited to, all of the following specific objectives:

(1) The preservation of open space, scenic vistas, agricultural lands and natural resources within the Town of Carrboro and its planning jurisdiction and to minimize the potential for conflict between such areas and other land uses;

(2) The creation of a distinct physical settlement surrounded by a protected landscape of generally open land used for agricultural, forest, recreational and environmental protection purposes.

(3) Dwellings, shops, and workplaces generally located in close proximity to each other, the scale of which accommodates and promotes pedestrian travel for trips within the village.

(4) Modestly sized buildings fronting on, and aligned with, streets in a disciplined manner.

(5) A generally rectilinear pattern of streets, alleys and blocks reflecting the street network in existing small villages which provides for a balanced mix of pedestrians and automobiles.

(6) Squares greens, landscaped streets and parks woven into street and block patterns to provide space for social activity, parks and visual enjoyment.

(7) Provision of buildings for civic assembly or for other common purposes that act as visual landmarks and symbols of identity within the community.

(8) A recognizable, functionally diverse, but visually unified village focused on a village green or square.

(9) Development of a size and scale, which accommodates and promotes pedestrian travel rather than motor vehicle trips within the village.

(10) Compliance with the policies embodied in this chapter for the development of a village mixed use.

(b) The VMU district shall be a conditional district authorized under N.C.G.S. 160D-703(b). As such, property may be placed within this district only in response to a petition by the owners of all the property to be included.

(b1) Pursuant to N.C.G.S. sections 160D-705(c) and 160D-102(30), any VMU district adopted as a conditional use district, in accordance with this section and Article XX of this chapter, prior to July 1, 2021 shall be deemed a conditional district and the conditional use permit issued concurrently with the establishment of the district shall be deemed a valid class A special use permit.

(c) As indicated in the Table of Permissible Uses, the only permissible use within a VMU district is a village mixed use development, and a village mixed use development is only permissible within a VMU district.

(d) Property may be rezoned to the VMU district only when the property proposed for such rezoning:

(1) Comprises at least fifty, but not more than two hundred, contiguous acres. For purposes of this subsection, acreage is not "contiguous" to other acreage if separated by a public street or connected only at a point less than one hundred feet in width; and

(2) Is so located in relationship to existing or proposed public streets that traffic generated by the development of the tract proposed for rezoning can be accommodated without endangering the public health, safety, or welfare; and

(3) Will be served by OWASA water and sewer lines when developed.

(e) No more than 350 gross acres may be rezoned to the VMU district and no more than three villages may be approved.

(f) Nothing in this section is intended to limit the discretion of the Town Council to deny an application to rezone property to a VMU district if it determines that the proposed rezoning is not in the public interest.

(g) When a VMU rezoning application is submitted (in accordance with Article XX of this ordinance), the applicant shall simultaneously submit a master plan for the proposed village mixed use development, in accordance with the following provisions.

(1) The master plan shall show, through a combination of graphic means and text (including without limitation proposed conditions to be included in the rezoning t for the proposed development):

a. The location, types, and densities of residential uses;

b. The location, types, and maximum floor areas and impervious surface areas for non-residential uses;

c. The location and orientation of buildings, parking areas, recreational facilities, and open spaces;

d. Access and circulation systems for vehicles and pedestrians;

e. How the development proposes to satisfy the objectives of and comply with the regulations applicable to a village mixed use development as set forth in Section 15-176.2 of this chapter;

f. How the development proposes to minimize or mitigate any adverse impacts on neighboring properties and the environment, including without limitation impacts from traffic and stormwater runoff; and

g. How the development proposes to substantially comply with the town's recommended "Village Mixed Use Vernacular Architectural Standards." **(AMENDED 8/22/06).**

(2) The planning board, Northern Transition Advisory Committee, Appearance Commission, Environmental Advisory Board, Transportation Advisory Board (and other advisory boards to which the Town Council may refer the application) shall review the proposed master plan as part of the applicant's rezoning request. In response to suggestions made by the planning board (or other advisory boards), the applicant may revise the master plan before it is submitted to the Town Council.

(3) Applicants for VMU districts that are located within the Transition Area portion of the Carrboro Joint Development Area as defined within the Joint Planning Agreement should meet with Carrboro Town and Orange County Planning staff prior to the formal submittal of an application to informally discuss the preliminary rezoning development plan.

(4) Approval of a VMU rezoning application with a master plan under this section does not obviate the need to obtain a class A special use permit for the village mixed use development in accordance with the provisions of Section 15-176.2 of this chapter.

a. In addition to other grounds for denial of a class a special use permit application under this chapter, a class a special use permit for a village mixed use development shall be denied if the application is inconsistent with the approved master plan in any substantial way. Without limiting the generality of the foregoing, an application for a class A special use permit is inconsistent in a substantial way with a previously approved master plan if the plan of development proposed under the conditional use permit application increases the residential density or commercial floor area permissible on the property or decreases or alters the location of open space areas.

b. No class A special use permit for a village neighborhood mixed use development may be denied for reasons set forth in Subsection 15-54(c)(4) if the basis for such denial involves an element or effect of the development that has previously been specifically addressed and approved in the master plan approval process, unless (i) it can be demonstrated that the information presented to the Town Council at the master plan approval stage was materially false or misleading, (ii) conditions have changed substantially in a manner that could not reasonably have been anticipated, or (iii) a basis for denial for reasons set forth in Subsection 15-54(c)(4) is demonstrated by clear and convincing evidence.

(5) Subject to Subsection 15-141.2(g)(4)b, a master plan approved under this section as a condition of the conditional rezoning may only be amended in accordance with the provisions applicable to a rezoning of the property in question. Notwithstanding the foregoing, the Council may consider as a condition to the rezoning, parameters for future modifications to the master plan. All other requests for modifications shall be considered in accordance with the standards in subsection 15-141.4(f).

Section 26. Article IX, Zoning Districts and Zoning Maps is amended to repeal Section 141.3, Conditional Use Zoning Districts.

Section 27. Section 141.4, Conditional Zoning Districts, is rewritten to read as follows:

Section 15-141.4 Conditional Zoning Districts (AMENDED 5/27/08)

(a) Conditional zoning districts are zoning districts in which the development and use of the property so zoned are governed by the regulations applicable to one of the general use zoning districts listed in the Table of Permissible Uses, as modified by the conditions and restrictions imposed as part of the legislative decision creating the district and applying it to the particular property. Accordingly, the following conditional zoning districts may be established:

R-20-CZ, R-15-CZ, R-10-CZ, R-7.5-CZ, R-3-CZ, R-2-CZ, R-R-CZ, R-S.I.R.-CZ, and R-S.I.R.-2-CZ

B-1(C)-CZ, B-1(G)-CZ, B-2-CZ, B-3-CZ, B-3-T-CZ, B-4-CZ, CT-CZ, O-CZ, OACZ, M-1-CZ, M-2-CZ, M-3-CZ **(AMENDED 4/27/10; 06/23/15; 10/23/18)**

(b) The conditional zoning districts authorized by this section may be applied to property only in response to a petition signed by all the owners of the property to be included within such district.

(c) Subject to the provisions of subsections (k) and (l), the uses permissible within a conditional zoning district authorized by this section, and the regulations applicable to property within such a district, shall be those uses that are permissible within and those regulations that are applicable to the general use zoning district to which the conditional district corresponds, except as those uses and regulations are limited by conditions imposed pursuant to subsection (d) of this section. For example, property that is rezoned to a B-2-CZ district may be developed in the same manner as property that is zoned B-2, subject to any conditions imposed pursuant to subsection (d). **(AMENDED 10/23/18)**

(1) Notwithstanding the foregoing, property that is zoned B-4-CZ may be developed for use classifications 1.231 (duplex, maximum 20% units > 3 bedrooms/dwelling unit), 1.241 (two family apartment, maximum 20% units > 3 bedrooms/dwelling unit), 1.321 (multi-family residences, maximum 20% units > bedrooms/dwelling unit and 1.331 (multi-family, maximum 20% units > 3 bedrooms/dwelling unit) 1 in addition to other uses permissible in the B-4 district, subject to a conditional use permit, and the following: (i) not more than 25% of the total land area covered in this district may be developed for such uses; and (ii) the area developed for such uses shall have a minimum of 1,500 square feet per dwelling unit (except that applicable density bonuses shall apply).

(2) Except as otherwise provided in this section, the uses that are permissible within a M-3-CZ district, and the regulations applicable to property within such a district shall be those uses and those regulations that would be applicable to any property zoned M-1-CZ (i.e. excluding specific conditions made applicable to specific property zoned M-1-CZ) with the addition of use 3.250. (Reserved)**(AMENDED 11/9/11)**

(d) When a rezoning petition for a conditional zoning district is submitted (in accordance with Article XX of this chapter), the application shall include a list of proposed conditions (which may be in the form of written statements, graphic illustrations, or any combination thereof) to be incorporated into the ordinance that rezones the property to the requested conditional zoning district. The rezoning petition for a VMU district, described in subsection 15-141.2(g)(1), shall include a master plan as a condition of the approval. **(AMENDED 10/25/16)**

(e) A rezoning petition may be submitted to allow use classification 3.260 Social Service Provider with Dining within a building of more than two stories or 35 feet in height.
(AMENDED 10/25/16)

(1) The petition shall include information that demonstrates that, if the project is completed as proposed, it:

a. Will not substantially injure the value of adjoining or abutting property; and

b. Will be in harmony with the area in which it is to be located. The manner in which a project is designed to accommodate additional building height including, but not limited to, scale, architectural detailing, compatibility with the existing built environment and with adopted policy statements in support of vibrant and economically successful and sustainable, mixed-use, core commercial districts shall be among the issues that may be considered to make a finding that a project is or is not in harmony with the area in which it is to be located. The applicant may use a variety of graphic and descriptive means to illustrate these findings; and

c. Will be in general conformity with the Comprehensive Plan, Land Use Plan, long range transportation plans, and other plans officially adopted by the Council. **(AMENDED 03/22/16, 10/25/16)**

(2) All relative provisions of the Land Use Ordinance shall apply except to the extent that such provisions are superseded by the provisions of this section or any conditions incorporated into the conditional zoning district described in subsection (d1) above. **(AMENDED 10/25/16)**

(f) Specific conditions may be proposed by the petitioner or the Town and modified by the planning staff, advisory boards or Town Council as the rezoning application works its way through the process described in Article XX, but only those conditions mutually approved by Town and consented to by the petitioner in writing may be incorporated into the zoning regulations. Unless consented to by the

petitioner in writing, the town may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to the requirements of this chapter, applicable plans adopted pursuant to G.S. 160D-501, or the impacts reasonably expected to be generated by the development or use of the site.

(g) Minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments as described in Article XX.

(h) If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved apply only to those properties whose owners petition for the modification.

(i) All uses that are permissible in the conditional zoning district shall require the issuance of the same type of permit that such use in the corresponding general use district would ordinarily require (according to the Table of Permissible Uses), i.e. a class A special use permit, class B special use permit, or zoning permit.

(j) Notwithstanding the foregoing, all uses that are permissible in the B-4-CZ zoning district and M-3-CZ zoning district shall require the issuance of a conditional use permit.**(AMENDED 10/23/18)**

(k) Notwithstanding the foregoing, in approving a rezoning to a B-1(g) – CZ zoning district, the Town Council may authorize the property so zoned to be developed at a higher level of residential density than that otherwise permissible in B-1(g) zoning districts under Section 15-182 if the rezoning includes conditions that provide for site and building elements that will create a more vibrant and successful community. Site and building elements are intended to be selected from at least three of the following seven areas: stormwater management, water conservation, energy conservation, on-site energy production, alternative transportation, provision of affordable housing, and the provision of public art and/or provision of outdoor amenities for public use. Conditions that may be included to meet the above stated objective include but shall not be limited to the following: **(AMENDED 11/9/11)**

(1) Reduction in nitrogen loading from the site by at least 8% from the existing condition, as determined by the Jordan Lake Accounting Tool.

(2) Energy performance in building requirements to meet one or more of the following.

a. Achieve 40% better than required in the Model Energy Code, which for NC, Commercial is ASHRAE 90.1-2004-2006 IECC equivalent or better, and Residential is IECC 2006, equivalent or better).
b. “Designed to Earn the Energy Star” rating.

c. Architecture 2030 goal of a 50 percent fossil fuel and greenhouse gas emission reduction standard, measured from the regional (or country) average for that building type.
d. AIA goals of integrated, energy performance design, including resource conservation resulting in a minimum 50 percent or greater reduction in the consumption of fossil fuels used to construct and operate buildings.
e. LEED certification to achieve 50% CO2 emission reduction, or LEED silver certification
f. US Conference of Mayors fossil fuel reduction standard for all new buildings to carbon neutral by 2030.
g. Specific energy saving features, including but not limited to the following, are encouraged.

i. Use of shading devices and high performance glass for minimizing heating and cooling loads
ii. Insulation beyond minimum standards;
iii. Use of energy efficient motors/HVAC;
iv. Use of energy efficient lighting;
v. Use of energy efficient appliances
vi. LED or LED/Solar parking lot lighting (50-100% more efficient).
vii. Active and passive solar features.

(3) Provision of onsite facilities (e.g. solar, wind, geothermal) that will provide 5% of electricity demand associated with the project.

(4) Use of harvested rainwater for toilet flushing.

(5) Parking lot meets the standard for a “green” parking lot, per the EPA document Green “Parking Lot Resource Guide.”

(6) Inclusion of Low Impact Development features.

(7) Provision of covered bike parking sufficient to provide space for one space per every two residential units.

(8) Provision of a safe, convenient, and connected internal street system or vehicle accommodation area designed to meet the needs of the expected number of motor vehicle, bicycle, pedestrian, and transit trips.

(9) Inclusion of at least one (1) parking space for car sharing vehicles.

(10) Provision of public art and/or outdoor amenities for public use.

(11) Use of surface materials that reflect heat rather than absorb it.

(12) Use of devices that shade at least 30% of south-facing and west-facing building facades.

(13) Provision of affordable housing in accordance with Town policy.

(l) If a B-1(g) – CZ zoning district is created and, pursuant to subsection (k) of this section, a higher level of residential density than that otherwise permissible in B-1(g) zoning districts is approved for that district, then it shall be a requirement of such district that at least twenty percent (20%) of the total leasable or saleable floor area within all buildings located within such zoning district shall be designed for non-residential use. Occupancy permits may not be given for residential floor area if doing so would cause the ratio of residential floor area for which an occupancy permit has been issued to non-residential floor area for which an occupancy permit has been issued to exceed four to one (4:1). **(AMENDED 11/9/11)**

(m) For property that is zoned B-4-CZ, the Town Council may approve a class A special use permit that authorizes the tract to be divided into two or more lots, so long as (i) the application for the class A special use permit contains sufficient information to allow the Town Council to approve (and the Council does approve) such subdivision (including without limitation the street system, stormwater control system, open spaces, and all other common areas and facilities outside the boundaries of the subdivided lots) as well as the development of at least one of the lots within the subdivided tract, all in accordance with the applicable standards and requirements of this chapter (i.e.the subdivision and development of such lot(s) require no further review by the Council); and (ii) the application specifies (as a proposed condition on the CUP) the use or uses, maximum height, and maximum floor area of any structure(s) allowed on each lot for which the application does not provide sufficient information to allow development approval by the Council.(Amended 10/23/18)

(1) Notwithstanding the provisions of subsection 15-64(d), with respect to lots for which the application for a class A special use permit for the entire tract does not provide sufficient information to allow development approval of such lots by the Council, the Council shall specify (by way of a condition upon the class A SUP) whether development approval of such lots shall be regarded as an insignificant deviation or a minor modification, or shall require a new application. In making this determination, the Council shall consider the extent to which the initial class A SUP imposes limitations on the use and design of each such lot beyond the minimum requirements of this section. The Council's determination as to the type of approval of such lots shall apply only to applications that are consistent with the permit previously approved by the Council. Such applications may be submitted by persons who have an interest (as described in Section 15-48) only in such lots, rather than the developer of the entire tract zoned B-4-CZ.

(2) Except as provided in subdivision (1) above, the provisions of Section 15-64 and Subsection 15-141.4 shall apply to proposed changes to a class A SUP issued in connection with a B-4-CZ rezoning.

(n) For property that is zoned M-3-CZ, pursuant to subsection 15-141.4(c)(2) the following provisions shall apply.

(1) If the Town Council concludes that a proposed development of property zoned M-3- CZ will contain site and building elements that will create a more vibrant and successful community and provide essential public infrastructure, the Council may approve a class A special use permit that allows up to a specified maximum percentage of the gross floor area of the development to be devoted to any combination of uses 8.100, 8.200, 8.500, 8.600, and 8.700. The specified

maximum percentage of the gross floor area of the development that may be devoted to such uses shall be proportional to the extent to which the development provides site and building elements that exceed the basic requirements of this ordinance. Such site and building elements are intended to be selected from the following five areas: stormwater management and water conservation; substantial transportation improvement and alternative transportation enhancement; on-site energy production and energy conservation; creation of new and innovative light manufacturing operations; and the provision of public art and/or provision of outdoor amenities for public use.

(2) The following relationships between site and building elements and uses are hereby deemed to satisfy the standard set forth in subdivision (1) of this subsection: (i) up to fifteen percent of the gross floor area of a development approved pursuant to this section may be devoted to any combination of uses 8.100, 8.200, 8.500, 8.600, and 8.700 if the development includes at least fifteen percent of the examples of performance measures from the five areas of site and building element categories set forth below; (ii) up to thirty percent of the gross floor area of a development approved pursuant to this section may be devoted to any combination of the foregoing uses if the development includes at least thirty percent of the examples of performance measures from the five areas of site and building element categories set forth below; and (iii) up to forty percent of the gross floor area of a development approved pursuant to this section may be devoted to any combination of the foregoing uses if the development includes at least forty percent of the examples of performance measures from the five areas of site and building element categories set forth below. In addition, the Council may allow up to forty percent of a development approved pursuant to this section to be devoted to any combination of the foregoing uses if it concludes that the development will be making a substantial enough investment in one or more of the performance measures listed below to satisfy the standard set forth in subdivision (1) of this subsection.

Performance Measures

Site and Building Element Categories	Examples of Performance Measures
Stormwater management and Water conservation	1) Substantial stormwater retrofits 2) Reduction in nitrogen loading from the site by at least 8 percent from the existing condition, as determined by the Jordan Lake Accounting Tool
Substantial transportation improvement and Alternative transportation enhancement	3) Provision of a safe, convenient, and connected internal street system or vehicle accommodation area designed to meet the needs of the expected number of motor vehicle, bicycle, pedestrian, and transit trips 4) Substantial improvement to public infrastructure, such as enhanced bicycle and pedestrian paths, or access to transit 5) Construction of substantially improved site entrance, intersection
On-site energy production and energy conservation	6) Meets or exceeds standards for LEED Gold certification 7) Installation of active and passive solar features such as sufficient solar arrays to account for 50 percent or more of the electrical usage for the property 8) Use of harvested rainwater for toilet flushing 9) Use of devices that shade at least 30 percent of south-facing and west-facing building elevations 10) Use of low emissivity (low-e^2) windows along south-facing and west-facing building elevations 11) Installation of attic insulation that exceeds the current building code R-value rating by 35 percent or greater 12) Use of geothermal heat system to serve the entire complex 13) Use of LED fixtures for parking and street lights 14) Meets the Architecture 2030 goal of a 50 percent fossil fuel and greenhouse gas emission reduction standard, measured from the regional (or country) average for that building type or the US Conference of Mayors fossil fuel reduction standard for all new buildings to carbon neutral by 2030

Creation of new and innovative light manufacturing operations	15) The development of clean, innovative light manufacturing operation(s) that creates employment for a more than ten workers 16) Incorporates technologies to reduce production waste by 50 percent or more
The provision of public art and/or provision of outdoor amenities for public use	17) Outdoor amenities such as major public art 18) Amphitheatre or outdoor theater, outdoor congregating/gathering area 19) Outdoor eating facilities 20) Outdoor tables with game surfaces, etc.

(3) In approving a class A special use permit for a development of infill property zoned M-3-CZ, the Council may allow deviations from the otherwise applicable standards relating to public streets as follows:

a. The Council may approve a curb and gutter street having a right-of way of not less than 50 feet, travel lanes of not less than 11 feet, divided by a raised concrete median, with a two foot planting strip and a five foot sidewalk if the development provides a separate ten-foot wide paved bike path or shared-use path that constitutes a satisfactory alternative to a bike lane with the street right-of-way if the applicant can demonstrate that the proposed road will provide the functional equivalent to the required street classification standard for all modes of travel from the point of origin to the terminus at the property boundaries.

b. The Council may approve a street lighting system consisting of LED lights on 15 foot poles if satisfactory arrangements are made to ensure that all costs associated with the installation, operation, and maintenance of such poles and lights are borne by the developer or the developer's successor, and not the Town.

c. The Council may approve a street tree planting plan that provides for the installation of fewer 6" caliper trees rather than the planting of more numerous 2" caliper trees required by Section 15-316.

Section 28. Article X, Permissible Uses, is amended by changing the names of 'conditional use permits' and 'special use permits' to 'class A special use permits' and class B special use permits' throughout the article.

Section 29. Section 15-146, Table of Permissible Uses, is amended by replacing the designation "C" in the table indicating that a conditional use permit must be obtained, with the letter "A" indicating that a class A special use permit must be obtained. The Table of Permissible Uses is also amended by replacing the designation "S" in the table indicating that a special use permit must be obtained, with the letter "B" indicating that a class B special use permit must be obtained.

Section 30. Section 15-147, Use of the Designations Z,S,C in the Table of Permissible Uses is rewritten to reflect the change from conditional use permits to class A special use permits and the change from special use permits to class B special use permits, in the title of the section and throughout.

Section 15-147, Use of the Designations Z,S,C in the Table of Permissible Uses is amended to remove references to the B-4-CU district in subsections (P) and (Q).

Section 31. Article XI, Supplementary Use Regulations, is amended to replace all references to the 'Board of Aldermen,' or 'Board' with the 'Town Council,' or 'Council,' respectively.

Section 32. Article XI, Supplementary Use Regulations, is amended by changing the names of 'conditional use permits' and 'special use permits' to 'class A special use permits' and class B special use permits.'

Section 33. Article XI, Supplementary Use Regulations, is amended to replace all references to the 'Board of Aldermen,' or 'Board' with the 'Town Council,' or 'Council,' respectively.

Section 34. Subsection 15-176.2(a), Village Mixed use Developments is amended by updating the approval requirements in provision (1) to reflect the change from a conditional use district with an associated conditional use permit to a conditional district, approved with a master plan as a condition of the rezoning, and a subsequent class A special use permit.

Section 35. Article XII, Density and Dimensional Regulations, is amended by changing the names of 'conditional use permits' and 'special use permits' to 'class A special use permits' and class B special use permits.'

Section 36. Section 15-182, Residential Density, is amended to update the reference in provision (i) from Section 15-141.4(f) to 15-141.4(k).

Section 37. Article XII, Density and Dimensional Regulations, is amended to replace all references to the 'Board of Aldermen,' or 'Board' with the 'Town Council,' or 'Council,' respectively.

Section 38. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 39. This ordinance shall become effective upon adoption.

Draft ORD. No.	Chapt 160D Subject/Topic	Status	Purpose	Recommended Action	LUO Article or Town Code Chapter	Specific Citation(s)
	Boards	Required	Chapter 160D Requirement. Must keep minutes of proceedings of each board. (G.S. 160D-308.)	No change needed.		
	Boards	Required	Chapter 160D Requirement. Must have each board member take an oath of office before starting his or her duties. (G.S. 160D-309.)	Amend LUO Article III, PART VII. Membership Limitations on Boards, Committees, Advisory Groups, and Commissions with a new provision to require incoming advisory board members to receive the oath of office before begining to serve their duties. Requirement is provided in one central place for all advisory boards in association with the appointment process rather than repeated under the appointment language for each board. A less formal option would be to amend the Rules of Procedures for Advisory Board Rules to reflect this requirement.	Article III	Part VII
	Boards	Required	Chapter 160D Requirement. Must update ETJ population estimate, at least with each decennial census (also calculation for proportional representation is simplified and process for appointment is clarified). (G.S. 160D-307.)	Amend Article III,with new provisions (a1) under the appointments and terms for the planning board (15-21(a1) and board of adjustment(15-29(a1) to meet this requirement; boards where ETJ membership is a requirement part of the make up of the board. Consulting with Town Attorney as to whether similar language is needed for other advisory boards, such as the appearance commission and boards described in the Town Code.	Article III	15-21(a1) 15-29(a1)
	Boards	Required	Chapter 160D Requirement. Must provide proportional representation for ETJ on preservation commission if any districts or landmarks are designated in the ETJ. (G.S. 160D-307.)	Add a new provision 15-42(d1) under the Article III, Part V. for the appointment and terms of Appearance Commission, to include an ETJ membership requirement when a local historic district(s) is located in the ETJ.	Article III	15-42(d1)
	Boards	Required	Chapter 160D Requirement. Must adopt broadened conflict-of-interest standards for governing and advisory boards. (G.S. 160D-109.)	Amend LUO Section 15-322(d), to expand the conflict of interest provisions for advisory board review of legislative decisions (text & map amendments) to include close familial, business or other associational relationship. Amend LUO Section 15-324(e) to expand the conflict of interest provisions for advisory board review of legislative decisions (text & map amendments) to include close familial, business or other associational relationship.	Article XX	15-322(d) 15-324(e)
	Land Use Administration General	Required	Chapter 160D Requirement. Must have each staff member take an oath of office before starting his or her duties.	Add a new provision under the Land Use Administrator to include this new requirement.	Article III	15-37
			Town administrative update.	Amend LUO Section 15-22 to change CUP and SUP to Class A SUP and Class B SUP	Article III	15-22(e); 15-25(a) in three places; 15-40(a); 15-40(c)
			Town administrative update.	Amend LUO Section 15-25(a) to add a new provision (4) to include make recommendations to Board of Adjustment concerning class B sup to list of Planning Board duties.	Article III	15-25(a)(4)
			Town administrative update.	Amend LUO Section 15-26 to update list of examples of long range planning documents	Article III	15-26(a)

			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article III	15-21(a), in two places; 15-25(a)(1); 15-25(a)(2); 15-25(a)(3); 15-25(a)(5); 15-26(a) in two places; 15-26(b); 15-26(c) in two places; 15-26(d); 15-27(a) in three places; 15-27(h)(1), 15-27(h)(4); 15-27(h)(8); 15-29(a) in three places; 15-29(e); 15-38(b) in two places Part IV title; 15-40; 15-40(a); 15-40(b); 15-40(c) 14-52(a); 15-42(d) in two places; 15-44(a)(3); 15-44(a)(4); 15-44(a)(6); 15-44(b); 15-44(c); 15-45(a); 15-45(c)(3); 15-45.2(a); 15-45.2(d)
			Town administrative update.	Use gender neutral language. Remove references for chairman and vice chairman and replace with chair and vice chair.	Article III	15-21(e)(1); 15-21(e)(2) in four places; 15-24(a); 15-29(d)(1); 15-29(d)(2) in four places; 15-30(b); 15-33(a); 15-33(b); 15-42(c)(2) in three places 15-30(b); 15-29(d)(1); 15-29(d)(2) in four places; 15-33(a); 15-33(b);
	Substance of Zoning Ordinance	Required	Chapter 160D Requirement. Must maintain current and prior zoning maps for public inspection (local government clerk or other office may be the responsible office); may adopt and maintain in paper or digital format. (G.S. 160D-105.)	Minor amendment provided in Article IX, Zoning Districts and Zoning Map, Part II. Zoning Map. New phrase or sentence under either 15-143(b) of 15-143(d) to clarify the historical and current copies of the zoning map shall be maintained in paper and digital forms.	Article IX	15-143(b)
	Substance of Zoning Ordinance	Required	Chapter 160D Requirement. Must eliminate conditional use district zoning; existing conditional use district zoning converts to conditional district on January 1, 2021 upon adoption of updated local ordinances or July 1, 2021. (G.S. 160D-703; S.L. 2020-25; S.L. 2019-111, § 2.9(b).)	Amendments needed. New provision (a1) added under 15-46 in Article IV, Permits and Final Plat Approvals, to indicate the automatic conversation to Conditional Districts. Add a new provisision under the Section 141.3 Conditional Use Districts to indicate the automatic conversation to Conditional Districts--to match language in 15-46(a1) and repeal section. Review districts in Article IX, Zoning Districts and Zoning Maps and modify as needed, 3, specific districts such as the O/A, conditional use district and associated references throughout the ordinance. Scan LUO and make other updates as needed.	Article IV Article IX	15-46(a1) 15-141.3

	Substance of Zoning Ordinance	Required	Chapter 160D Requirement. Must not set a minimum square footage for structures subject to the One- and Two-Family Residential Building Code. (G.S. 160D-703; S.L. 2019-174.)	Possible amendment to Chapter 17 of the Town Code, Housing Code, 17-6, Space and U	Chapter 17 of Town Code	17-6
	Substance of Zoning Ordinance	Optional	Chapter 160D Option. May incorporate maps officially adopted by state or federal agencies (such as flood-insurance rate maps (FIRMs)) into the zoning map; may incorporate the most recent officially adopted version of such maps so that there is no need for ordinance amendment for subsequent map updates; must maintain current effective map for public inspection; may maintain in paper or digital format. (G.S. 160D-105.)	No change needed. 15-251.2(b)(1) provides for such incorporation. (1) Those Special Flood Hazard Areas that are identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Orange County, dated 09/26/2017, which are adopted by reference and declared to be a part of this ordinance. (AMENDED 09/26/17)	Article XVI	15-251.2(b)(1)
	Substance of Zoning Ordinance	Optional	Chapter 160D Option. May require certain dedications and performance guarantees for zoning approvals to the same extent as for subdivision approvals. (G.S. 160D-702.)	Amendments needed. G.S. 160D-702 allows local governments to use performance guarantees for zoning approvals, consistent with the provisions for performance guarantees for subdivision approvals, as provided for in G.S. 160D-804(g). Additional language needed to conform the existing standards for performance guaranteees for zoning permits (15-53) and SUPs (15-60(s), and subdivisions (15-60(b)) to the standards in 160D-804.	Article IV	15-53 (zoning permits) 15-60(a) (special use permits)
	Substance of Other Development Ordinances	Required	Chapter 160D Requirement. Must conform subdivision performance guarantee requirements with statutory standards. (G.S. 160D-804.1; S.L. 2020-25; S.L. 2019-79 (S.B. 313), to be incorporated into G.S. Chapter 160D.)	Language added in 15-60(b) to clarify maximum amount and allowable uses for bond money.	Article IV	15-60(b) subdivisions
	Substance of Other Development Ordinances	Required	Chapter 160D Requirement. Must conform subdivision procedures for expedited review of certain minor subdivisions. (G.S. 160D-802, established prior to G.S. Chapter 160D.)	Amendment needed. New section 15-78.1 added which provisions related to expedited review provided directly from the language in 160D-802.	Article IV	15.78.1

	Substance of Other Development Ordinances	Required	Chapter 160D Requirement. Must not require a developer, as a condition to subdivision approval, to bury a power line existing above ground and outside of property to be subdivided. (G.S. 160D-804(h); S.L. 2020-25.)	Amendment needed. Add new provision (c) under 15-246 to list exemptions as provided in 160D as amended in S.L. 202-25.	Article XVI	15-246
	Substance of Other Development Ordinances	Required	Chapter 160D Requirement. Must exempt farm use on bona fide farm in ETJ from city zoning to the same extent it would be exempt from county zoning; Chapter 160D clarifies that other municipal development regulations may still apply. (G.S. 160D-903(c).)	Amendments needed. Bona fide farm definition added to Section 15-15. New provision 15-46(f) added with language clarifying exemption.	Article III	15-46(f)
	Substance of Other Development Ordinances	Required	Chapter 160D Requirement. Must not exclude manufactured homes based on the age of the home. (G.S. 160D-910.)	Add definition of manufactured home from 160D to definitions in Article II. Amend table of permissible uses in Section 15-146 to allow manufactured homes.	Article II Article X	15-15 15-146
	Substance of Other Development Ordinances	Required	Chapter 160D Requirement. Must follow standardized process for housing code enforcement to determine owner's abandonment of intent to repair and need for demolition. (G.S. 160D-1203(6).)	Review language in the Housing Code, Chapter 17 of the Town Code. Amendment may be needed.	Chapter 17 of Town Code	
	Substance of Other Development Ordinances	Required	Chapter 160D Requirement. May adopt moratoria for development regulations (subject to limitation on residential uses); moratoria do not affect rights established by permit choice rule. (G.S. 160D-107.)	No amendment needed. The Town will follow requirements if a future moratoria is considered/adopted.	NA	
	Development Agreements	Required	Chapter 160D Requirement. Must process a development agreement as a legislative decision. (G.S. 160D-105.)	Consider adding a reference to development agreements and requirement for legislative hearing procedures in Article XX. Note in Article IV and X for "breadcrumbs."	Article IV	
	Quasi-Judicial Decisions Procedures	Required	Chapter 160D Requirement. Must follow statutory procedures for all quasi-judicial development decisions, including variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. (G.S. 160D-102(28).)	Minor amendment provided to include the word "evidentiary" for hearings subject to quasi-judicial proceedings. The existing language described in Article VI describes a quasi-judicial process. This amendment seems to be sufficient for this requirement. Reference to adminstrative decisions and certificates of appropriateness added for clarity.	Article VI; Article IV; Article V; Article XXI	15-101(a)
	Quasi-Judicial Decisions Procedures	Required	Chapter 160D Requirement. Must hold an evidentiary hearing to gather competent, material, and substantial evidence to establish the facts of the case; the evidentiary hearing must have testimony under oath; must establish written findings of fact and conclusions of law. (G.S. 160D-406.)	Consistent with the emphasis in 160D that hearings are either evidentiary for quasi-judicial proceedings or legislative hearings for amendments, the terms 'evidentiary' and 'quasi-judicial' have been added throughout Article VI. No substantive change needed. The existing language in 15-101 and 15-103 describes the elements of an evidentiary hearing.	Article VI	15-101
	Quasi-Judicial Decisions Procedures	Required	Chapter 160D Requirement. Board chair must rule at the evidentiary hearing on objections to inclusion or exclusion of administrative material; such ruling may be appealed to the full board. (G.S. 160D-406(d).)	Amendment needed. New subsection added to 15-103, Evidence.	Article VI	15-103(d)
	Quasi-Judicial Decisions Procedures	Required	Chapter 160D Requirement. Must allow parties with standing to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments; may allow non-parties to present competent, material, and substantial evidence that is not repetitive. (G.S. 160D-406(d).)	Amendment needed. New provisions (1) & (2) added to 15-103(b) for clarity.	Article VI	15-103(b)(1) & 15-103(b)(2)

	Quasi-Judicial Decisions Procedures	Optional	Chapter 160D Option. May continue an evidentiary hearing without additional notice if the time, date, and place of the continued hearing is announced at a duly noticed hearing that has been convened; if quorum is not present at a meeting, the evidentiary hearing is automatically continued to the next regular meeting of the board with no notice. (G.S. 160D-406(b).)	No amendment needed for continuation; existing language in Section 101(d) provides for this. New provision (e) added to provide for continuation if a quorum is not present.	Article VI	15-101(d) 15-101(e)
	Quasi-Judicial Decisions Procedures	Optional	Chapter 160D Option. May distribute meeting packet to board members in advance of the evidentiary hearing; if this is done, then must distribute the same materials to the applicant and landowner at the same time; must present such administrative materials at the hearing and make them part of the hearing record. (G.S. 160D-406(c).)	Amended added for clarity. New subsection added as 15-102.1 added under the procedure for evidentiary hearing in Article VI.	Article VI	15-102.1
	Quasi-Judicial Decisions Procedures	Optional	Chapter 160D Option. May have the planning board serve as a preliminary forum for review in quasi-judicial decisions; if this is done, the planning board must not conduct a formal evidentiary hearing, but must conduct an informal preliminary discussion of the application; the forum and recommendation must not be used as the basis for the decision by the board—the decision must still be based on evidence presented at the evidentiary hearing. (G.S. 160D-301.)	No change needed. Existing provisions in the LUO provide for the Planning Board and other advisory boards to review SUP/CUP--revised as Class B Special Use Permits in 15-56 (Board of Adjustment) and Class A Special Use Permits in 15-57 (Town Council).	Article IV	15-56(c); 15-57
	Quasi-Judicial Decisions Procedures	Be Aware	Additional Information. Be aware that even if there is no objection before the board, opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value and traffic impacts. (S.L. 2019-111, § 1.9.)	No change needed. Included in the table for information. Language could be added for clarity to members of the public.	Article VI	15-103
	Quasi-Judicial Decisions Certain Quasi-Judicial Decisions	Required	Must not impose conditions on special use permits that the local government does not otherwise have statutory authority to impose. (G.S. 160D-705(c); S.L. 2019-111, Pt. I.)	The existing language in 15-59, seems to state this limit, but an additional provision (1) has been added for clarity.	Article IV	15-59(b)(1)
	Quasi-Judicial Decisions Certain Quasi-Judicial Decisions	Required	Must obtain applicant's/landowner's written consent to conditions related to a special use permit to ensure enforceability. (G.S. 160D-1402(k); G.S. 160D-1403.2; S.L. 2019-111, Pt. I.)	Additional provision (2) has been added under 15-59(b) to clarify this requirement.	Article IV	15-59(b)(2)
	Quasi-Judicial Decisions Certain Quasi-Judicial Decisions	Required	Must set a thirty-day period to file an appeal of any administrative determination under a development regulation; must presume that if notice of determination is sent by mail, it is received on the third business day after it is sent. (G.S. 160D-405(c).)	No change needed. Subsection 15-91 seems to cover all decisions. Addition of "administrative decisions" to 15-101(a) provides "bread crumb" to the articles relating to appeals. Can add language relating to the three day mailing if needed.	Article V	15-91(d) 15-101(a)
	Quasi-Judicial Decisions Certain Quasi-Judicial Decisions	Required	May use purely legislative conditional zoning and/or quasi-judicial special use permitting; must not use combined legislative and quasi-judicial process, such as conditional use district zoning. (G.S. 160D-102.)	Amendments needed. New provision (a1) added under 15-46, Permits Required, stating that existing conditional use districts automatically converted to conditional districts. Existing subsection 15-59(d) repealed. Additional language added in Article IX, Zoning Districts and Zoning Map.	Article IV	15-46(a1)

	Administrative Decisions Development Approvals	Required	Must provide development approvals in writing; may provide in print or electronic form; if electronic form is used, then it must be protected from further editing. (G.S. 160D-403(a).)	Amendment added for clarity. New sentence at the end of provision 15-46(b) added. Existing Section 15-106 currently requires written decisions for quasi-judicial descisions. The language in 160D-403 suggests that a written decision is needed for administrative decisions--zoning permits as well.	Article IV Article VI	15-46(b) 15-106
	Administrative Decisions Development Approvals	Required	Must provide that applications for development approvals must be made by a person with a property interest in the property or a contract to purchase the property. (G.S. 160D-403(a).)	Additional language added to Section 15-48, Who May Submit Permit Application, to list all the potential applicants stated in the Chapter 160D.	Article IV	15-48
	Administrative Decisions Development Approvals	Required	Must provide that development approvals run with the land. (G.S. 160D-104.)	No change needed. Section 15-63, Effect of Permit on Successors and Assigns provides for permits to runs with the land so long as the permit continues to be used for the purposes for which the permit was granted.	Article IV	15-63
	Administrative Decisions Development Approvals	Required	For revocation of development approval, must follow the same process as was used for the approval. (G.S. 160D-403(f).)	No change needed. Section 15-115, Permit Revocation and Building Permit Denial speaks to the process for revocation. Subsection (b) speaks to the same process for special use permits as the approval process in Article VI.	Article VII	15-115(b)
	Administrative Decisions Determinations	Required	Must provide written notice of determination by personal delivery, electronic mail, or first-class mail to the property owner and party seeking determination, if different from the owner. (G.S. 160D-403(b).)	No change needed. Relating to special use permits, the process is described in 15-115(b) as the same for approval which includes written and posted notice and written determination. Provisions relating to notice outlined in 15-115(b) for SUPs and 15-115 (c) for zoning permits. New language added to 15-46(b) clarifies written approval for zoning permits.	Article VII	15-115(b); 15-115(c)
	Administrative Decisions Determinations	Optional	May require owner to post notice of determination on the site for ten days; if such is not required, then owner has option to post on the site to establish constructive notice. (G.S. 160D-403(b).)	No change needed. Article 15-91(e) speaks to the posting of a sign meeting specific criteria.	Article V	15-91(e)
	Administrative Decisions Appeals of Administrative Decisions	Required	Must allow administrative decisions of any development regulations (not just zoning) to be appealed to the board of adjustment, unless provided otherwise by statute or ordinance. (Appeals relating to erosion and sedimentation control, stormwater control, or building code and housing code violations are not made to the board of adjustment unless specified by local ordinance.) (G.S. 160D-405.)	No change needed. The existing language under Section 15-91, Appeals, seems to cover all decisions. For clarity, however, "administrative decisions" has been added to the list of matters in subsection 15-101(a), Hearing Required on Appeals and Applications.	Article V Article VI	15-91 15-101(a)
	Administrative Decisions Appeals of Administrative Decisions	Required	Must set a thirty-day period to file an appeal of any administrative determination under a development regulation; must presume that if notice of determination is sent by mail, it is received on the third business day after it is sent. (G.S. 160D-405(c).)	No change needed. Existing language under Section 15-91 sufficient.	Article V	15-91(d)
	Administrative Decisions Appeals of Administrative Decisions	Required	Must require the official who made the decision (or his or her successor if the official is no longer employed) to appear as a witness in the appeal. (G.S. 160D-406.)	No change needed. Existing language in 15-91(i) states that the administrator shall be present at the hearing as a witness.	Article V	15-91(i)
	Administrative Decisions Appeals of Administrative Decisions	Required	Must pause enforcement actions, including fines, during the appeal. (G.S. 160D-405(f).)	Amendment needed. Section 15-114(b)(3)(a) currently provides for the collection of civil penalties to be stayed, but not the accural. Subsection 15-114 to be rewritten to align with the new language is 160D and S.L. 2020-25.	Article VII	15-114(b)(3)
	Administrative Decisions Vested Rights	Optional	May designate that appeals be filed with the local government clerk or another official. (G.S. 160D-405.)	No change needed. Section 15-91(c) provides for an appeal to be filed with the Town Clerk.	Article V	15-91(c)
	Administrative Decisions Vested Rights	Required	Must recognize that building permits are valid for six months, as under prior law. (G.S. 160D-1111 G.S. 160D-108(d)(1).)	No change needed. The Land Use Ordinance does not speak to building permits. Period of approval noted.	NA	

	Administrative Decisions Vested Rights	Required	Must recognize the default rule that development approvals/permits are valid for twelve months, unless altered by statute or extended by local rule adjusted by statute or local rule. (G.S. 160D-108(d)(2).)	No change needed. The LUO provides for approved land use permits to be valid for a period of two years and, subsequently, extended for another period of two years.	Article IV	15-62(a) and 15-62(c)
	Administrative Decisions Vested Rights	Required	Must identify site-specific vesting plans (formerly site-specific development plans) with vesting for two to five years, as under prior law, except for specified exceptions. (G.S. 160D-108.1 G.S. 160D-108(d)(3); -108(f).)	Amendment needed. Provisions for vested rights are outlined in Section 15-128.2, under Article VIII, Nonconforming Situations. See also related vested rights upon issuance of building permits-15-128.3	Article VIII	15-128.2
	Administrative Decisions Vested Rights	Required	Must recognize multi-phase developments—long-term projects of at least 25 acres—with vesting up to seven years, except for specified exceptions (160D-108(c)(d)(4); -108(f).) (The previously authorized phased-development plan is obsolete and should be deleted from ordinance.)	Amendment needed. New language added as subsection (d) under 15-61. Further consultation with the Town Attorney may be needed for addressing all of the elements of this requirement. The existing language relating to phased developments, is in Article IV under permits, and speaks more to the completion of requirements such as recreation facilities that are intended to either serve the entire development versus a particular phase. Vested Rights are discussed in Article VIII under nonconforming situations. It appears that the existing language should be repealed and replaced with the new requirements in 160D.	Article IV; Article VIII	15-61; 15-128.2
	Administrative Decisions Vested Rights	Optional	May provide for administrative determination of vested rights and for appeal to the board of adjustment. (G.S. 160D-108(h)(c), -405.)	The existing language for vested rights in Article VIII provides for zoning permits-in subsection 15-128.2(b). This provision can be reworked into the updated language for vesting.	Article VIII	15-128.2
	Administrative Decisions Permit Choice	Required	Must not make an applicant wait for final action on the proposed change before proceeding if the applicant elected determination under prior rules. (G.S. 143-755; G.S. 160D-108(b).)	Amendment needed. New section 15-49.1 added with language in S.L. 2020-25.	Article IV	15-49.1
	Administrative Decisions Permit Choice	Be Aware	Be aware that if a local development regulation changes after an application is submitted, the applicant may choose the version of the rule that applies; but may require the applicant to comply with new rules if the applicant delays the application for six months. (G.S. 143-755; G.S. 160D-108(b); S.L. 2020-25.)	Amendment needed. New section 15-49.1 added with language in S.L. 2020-25.	Article IV	15-49.1
	Administrative Decisions Permit Choice	Be Aware	Be aware that an application for one development permit triggers permit choice for permits under any development regulation; such permit choice is valid for eighteen months after approval of the initial application. (G.S. 143-755; G.S. 160D-108(b); S.L. 2019-111, Pt. I.)	Article IV, phasing section or Article IV, 15-61. New language will be added in the rewritten section on vested rights: Article VIII.	Article VIII	15-128.2
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article IV	
			Town administrative update.	Changes for gender neutral language.	Article IV	
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article V	
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article VI	
			Town administrative update.	Amend LUO sections 15-271, 15-273 to change CUP and SUP to Class A SUP and Class B SUP	Article XVII	15-15-271(b) in two places; 15-273

			Town administrative update.	Amend LUO Subsection 15-271(d) to update the provisons associated with a master sign permits approved as part of a CUP to class A SUP and a new provision to clarify that existing CUPs will automatically be converted to SUPs.	Article XVII	15-271(d); 15-271(d)(1) in three places;
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article XVII	15-271(d); 15-271(d)(1); 15-271(d)(2) in two places; 15-271(d)(3); 15-272(4)
	Comprehensive Plan	Required	Chapter 160D Requirement. Must adopt a comprehensive plan or land-use plan by July 1, 2022, to maintain zoning (no need to re-adopt a reasonably recent plan). (G.S. 160D-501(a).)	No change needed. Work on the Town's comprehensive plan is underway and scheduled for adoption in time to meet this requirement. The legislative descision process for amendments (text and map) require a deteermination of consistency/ Once adopted, the comprehensive plan will be a key document for determining consistency	Article XX	
	Comprehensive Plan	Required	Chapter 160D Requirement. Must adopt a plan or a plan update following the procedures used for a legislative decision. (G.S. 160D-501(c).)	Amend Article I, General Provisions, with a new Section 15-10, Relationship to Comprehensive Plan, or establish a subsection to 15-6, Relationship to Land Use Plan, to describe the comprehensive plan and its purpose, the topics it may address and the manner in which it can be adopted and amended--the procedure for legislative decisions set out in Article XX. Include a sentence that the plan must be updated at regular intervals. Amend 15-320(a) to include the comprehensive plan.	Article I Article XX	15-10 or 15-6 15-320
	Comprehensive Plan	Required	Chapter 160D Requirement. Must reasonably maintain a plan. (G.S. 160D-501(a).)	Include a sentence at the end of the new subsection on the comprehensive plan in Article I, that the plan must be updated at regular intervals.	Article I	15-10 or 15-6
	Legislative Decisions Notice	Required	Chapter 160D Requirement. Must follow applicable procedures for legislative decisions under any development regulation authorized under Chapter 160D, not just zoning; must adopt any development regulation by ordinance, not by resolution. (G.S. 160D-601.)	No change needed. The Town currently adopts amendments by ordinance, as is noted under 15-321(a). If needed, 15-325 could be rewritten to say, "In deciding whether to adopt a proposed ordinance to amend this chapter" instead of "In deciding whether to adopt a proposed amendment to this chapter."	Article XX	15-321(a)
	Legislative Decisions Notice	Required	Chapter 160D Requirement. For zoning map amendments, must provide notice not only to immediate neighbors but also to properties separated from the subject property by street, railroad, or other transportation corridor. (G.S. 160D-602.)	Amend the area subject to receive written notice to include the owners of abutting properties while retaining the existing provisions of 1000 feet of the property so as not to reduce the area if "abutting" properties creates a smaller area for notice. Since the provision for renters is described as a reasonable effort the 1000 feet is left as is.	Article XX	15-323(c)
	Legislative Decisions Notice	Required	Chapter 160D Requirement. For zoning map amendments, must provide posted notice during the time period running from twenty-five days prior to the hearing until ten days prior to the hearing. (G.S. 160D-602(c).)	Amend the Section 15-323(e) to include the 10-25 day window for posting notice.	Article XX	15-323(e)

	Legislative Decisions Notice	Optional	Chapter 160D Option. For extension of ETJ, may use single mailed notice for ETJ and zoning-map amendment pursuant to statutory procedures. (G.S. 160D-202.)	No change needed.	Article XX	
	Legislative Decisions Notice	Optional	Chapter 160D Option. For zoning map amendments, may require applicant to notify neighbors and hold a community meeting and may require report on the neighborhood communication as part of the application materials. (G.S. 160D-602(e).)	The Council has discussed whether to include a neighborhood meeting as part of the conditional zoning process. This could be incorporated into the process as a policy (recommendation listed on a standard checklist), or formally incorporated into the ordinance. If the latter, the description of the conditional zoning process under Article IX, Zoning Districts & Zoning Map seems to be an more appropriate location than Article XX.	Article IX Article XX	
	Legislative Decisions Planning Board Comment	Required	Chapter 160D Requirement. Must refer zoning amendments to the planning board for review and comment; must not have governing board handle planning board duty to review and comment on zoning amendments. (G.S. 160D-604(c), (e).)	No change needed. Section 15-322 refers amendments (zoning or map, and text) to the planning board and other advisory boards.	Article XX	15-322
	Legislative Decisions Planning Board Comment	Required	Chapter 160D Requirement. Must have planning board consider any plan adopted according to G.S. 160D-501 when making a comment on plan consistency. (G.S. 160D-604(d).)	No change needed. Subsection 15-322(a) refers amendments to the Planning Board and other advisory boards when the matter involves an issue relating to their purview; subsections 15-322(b) directs the Planning Board and other advisory boards to advise and comment on consistency with adopted plans. This section will be amended to reflect the comprehensive plan--underway.	Article XX	15-322(b).
	Legislative Decisions Planning Consistency	Required	Chapter 160D Requirement. When adopting an amendment to the zoning ordinance, must adopt a brief statement describing whether the action is consistent or inconsistent with approved plans. (G.S. 160D-605(a).) (This eliminates the 2017 requirement that statements take one of three particular forms.)	Amendment needed. Subsection 15-324(d) describes the required elements of the consistency statement for considering text/map amendments. As noted in the 160D bullet, this language was rewritten in 2017 with three specific options: 15-324(d)-(1) through 15-324(d)(3) including provisions a.-c. This section will need to be rewritten again to go back to the earlier verision--a statement of consistency with adopted plans for text and map amendments, and an additional statement of reasonableness for map amendments.	Article XX	15-324(d)(1) thru 15-324(3)
	Legislative Decisions Planning Consistency	Required	Chapter 160D Requirement. Must adopt a statement of reasonableness for zoning map amendments; for such statements, may consider factors noted in the statutes; may adopt a statement of reasonableness for zoning text amendments. (G.S. 160D-605(b).)	Amendment needed. See note above regarding changes to Subsection 15-324(d). There may be interest in keeping the rational language for both types of amendments-map and text, although the requirement only applies to map.	Article XX	15-324(d)
	Legislative Decisions Planning Consistency	Optional	Chapter 160D Option. May consider and approve a statement of reasonableness and a plan consistency statement as a single, combined statement. (G.S. 160D-605(c).)	No change needed. The current practise is to include both elements in a single consistency statement.	Article XX	15-324
	Legislative Decisions Planning Consistency	Optional	Chapter 160D Option. May adopt plan consistency statement when acting upon the zoning amendment or as a separate motion. (G.S. 160D-605(a).)	No change needed. The current practice is to adopt the consistency statement first, followed by the amendment.	Article XX	15-324

	Legislative Decisions Planning Consistency	Optional	Chapter 160D Option. May meet the requirement for plan consistency even without formal adoption of a written statement if the minutes of the governing board meeting reflect that the board was fully aware of and considered the plan. (G.S. 160D-605(a).)	No change needed. This is a policy question, but the formal adoption of a statement of consistency provides clarity to the motion and decision.	Article XX	15-324
	Legislative Decisions Planning Consistency	Optional	Chapter 160D Option. May adopt plan consistency statement when acting upon the zoning amendment or as a separate motion. (G.S. 160D-605(a).)	No change needed.	Article XX	15-324
	Legislative Decisions Planning Consistency	Optional	Chapter 160D Option. May concurrently consider a comprehensive plan amendment and a zoning amendment; must not require a separate application or fee for plan amendment. (G.S. 160D-605(a).)	Amendment needed. A separate statement for changes to the comprehensive plan, seems appropriate.	Article XX	15-324
	Legislative Decisions Planning Consistency	Required	Chapter 160D Requirement. Must note on the applicable future land use map when a zoning map amendment is approved that is not consistent with the map; the future land use map is deemed amended when an inconsistent rezoning is approved. (G.S. 160D-605(a).) (This clarifies that a rezoning inconsistent with a plan does not amend the text of the plan, but it does amend the future land use map.)	Amendment needed. Rewritting the existing provisions of 15-324(d) to include a new provision for this purpose.	Article XX	15-324
	Legislative Decisions Voting	Required	Chapter 160D Requirement. Must permit adoption of a legislative decision for development regulation on first reading by simple majority; no need for two-thirds majority on first reading, as was required for cities under prior law. (G.S. 160A-75; S.L. 2019-111, § 2.5(n).)	Subsection 15-324(c), under Council Action on Amendments, should be amended to remove the existing reference to 15-326 and the supermarjority vote required with a protest petition, since the provisions for protect petitions were removed in 2016.	Article XX	15-324
	Legislative Decisions Certain Legislative Decisions	Required	Chapter 160D Requirement. Must prohibit third-party down-zonings; may process down-zonings initiated by the local government or landowner (G.S. 160D-601; S.L. 2019-111, Pt. I.)	Amendment needed. A new sentence has been added to the end of 15-321, Initiation of Amendments which clarifies that requests for downzoning can only be made by the property owner or the Town.	Article XX	15-323(d)
	Legislative Decisions Certain Legislative Decisions	Required	Chapter 160D Requirement. Must obtain applicant's/landowner's written consent to conditions related to a conditional zoning approval to ensure enforceability. (G.S. 160D-703(b); S.L. 2019-111, Pt. I	Existing provisions under conditional zoning districts, 15-141.4(e) speak to mutually approved conditions. New language needed to add requirement for written consent.	Article IX	15-141.4
	Legislative Decisions Certain Legislative Decisions	Required	Chapter 160D Requirement. May use purely legislative conditional zoning and/or quasi-judicial special use permitting; must not use combined legislative and quasi-judicial process, such as conditional use district zoning. (G.S. 160D-102.)	Amendment needed. Existing conditional use districts will be automatically converted to conditional districts will the adoption of this amendment process. The existing provisions for conditional use zoning, 15-141.3 will be largely deleted. Certain conditional use districts that have special standards may need to be modified.	Article IX	14-141-3(e)
	Legislative Decisions Certain Legislative Decisions	Optional	Chapter 160D Option. With applicant's written consent, may agree to conditional zoning conditions that go beyond the basic zoning authority to address additional fees, design requirements, and other development considerations. (G.S. 160D-703(b); S.L. 2019-111, Pt. I.)	The existing provisions under 15-141.4(e) limits conditions to (i) those that address the conformance of the development and use of the site to the provisions of this chapter or to applicable plans adopted by the Board, and (ii) those that address the impacts reasonably expected to be generated by the development or use of the site.	Article IX	14-141-3(e)

	Legislative Decisions Certain Legislative Decisions & Substance of Zoning Ordinance & Certain Quasi-Judicial Decisions	Optional	Chapter 160D Option. May allow administrative minor modification of conditional zoning, special use permits, and other development approvals; if allowed, must define "minor modification: by ordinance, must not include modification of use or density, and major modifications must follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)	Amendment needed. New language outlining clear standards/parameters for minor modifications would be beneficial.	Article IX	141.3
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article XX	
	Substance of other Development Ordinances Historic Preservation	Required	Chapter 160D Requirement. Must follow standard quasi-judicial procedures when considering preservation certificates of appropriateness. (G.S. 160D-947(c).	Existing language in the LUO under 15-339(d) directs the Historic District Commission (Appearance Commission) when considering a certificate of appropriateness (COA) to follow the provisions for the Board of Adjustment considering a SUP (meaning a quasi-judicial process). New language under this subsection and under subsection 15-336 has been added, incorporating the terms quasi-judicial for clarity.	Article XXI	15-336; 15-339(d)
	Substance of other Development Ordinances Historic Preservation	Required	Chapter 160D Requirement. Must frame preservation district provisions as "standards" rather than "guidelines." (G.S. 160D-947(c).	References to "guidelines" in Subsection 15-338 changed to "standards."	Article XXI	15-338(b) in two places; 15-338(c); 15-338(d); 15-338(f)
	Substance of other Development Ordinances Historic Preservation	Optional	160D Option. May choose for appeals of preservation commission decisions to go to board of adjustment. Default rule is that preservation appeals go directly to superior court rather than to board of adjustment. (G.S. 160D-947(e).)	No change needed. The existing language in the LUO under 15-339(g) provides for COA appeals to go to the Board of Adjustment.	Article XXI	15-339(g)
	Judicial Review Appeals of Quasi-Judicial Decisions	Required	Chapter 160D Requirement. Must update ordinance to address appeals of certificates of appropriateness for historic landmarks and historic districts; default rule is that such appeals go straight to court; local government may opt for such appeals to go to the board of adjustment, as under prior statutes. (G.S. 160D-947.)	No change needed. The existing language in the LUO under 15-339(g) provides for COA appeals to go to the Board of Adjustment.	Article XX Article V	15-339(g) 15-91(d)
	Judicial Review Appeals of Quasi-Judicial Decisions	Required	Chapter 160D Requirement. Must provide that appeals of certificates of appropriateness must be filed within thirty days after the decision is effective or written notice is provided, the same as for appeals of other quasi-judicial decisions. (G.S. 160D-947; -1405.)	No change needed. The existing language in the LUO under 15-339(g) outlines the procdure for COA appeals to go to the Board of Adjustment following the standard process for appeals in 15-91 (Article V) Subsection 15-91(d) speaks to the 30-day window.	Article XXI Article V	15-339(g) 15-91(d)
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article XXI	
			List other administrative changes for Article XXI			

ARTICLE VI

EVIDENTIARY HEARING PROCEDURES FOR APPEALS AND APPLICATIONS

Section 15-101 Evidentiary Hearing Required on Appeals and Applications.

(a) Before making a decision on an appeal or an application for an administrative decision, variance, class B special use permit, or class A special ~~conditional~~ use permit, certificate of appropriateness, or a petition from the planning staff to revoke a special use permit ~~or conditional use permit~~, the board of adjustment or the town council~~board of aldermen~~, as the case may be, shall hold an evidentiary hearing on the appeal or application. Evidentiary hearings are also known as quasi-judicial hearings. Evidentiary h~~H~~earings on class A special ~~conditional~~ use permits shall be set by the town council~~board of aldermen~~ as provided in Section 2-17 of the Town Code. **(AMENDED 4/27/82)**

(b) Subject to subsection (c), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.

(c) The board of adjustment or town council~~board of aldermen~~ may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay.

(d) The board of adjustment or town council~~hearing board~~ may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing needs to be published. **(REWRITTEN 3/23/10)**

(e) If an evidentiary hearing is set for a given date and a quorum of the board of adjustment or town council is not then present, the hearing shall be continued until then next regular meeting without further advertisement.

Section 15-102 Notice of Evidentiary Hearing.

Except as provided in Section 15-117 (dealing with appeals of stop work orders), the administrator shall give notice of any hearing required by Section 15-101 as follows: **(AMENDED 10/24/89)**

(1) Not later than ten days before the hearing, a written notice of such hearing shall be sent by first class mail to (i) the appellant or applicant, (ii) the owner of the property that is the subject of the hearing if the owner did not initiate the hearing, and (iii) any other person who makes a written request for such notice. **(AMENDED 10/21/14)**

(2) With respect to hearings on matters other than special ~~and conditional~~ use permits, notice shall be given to neighboring property owners by mailing a written notice not later than 10 days or earlier than 25 days before the hearing to those persons who are listed on Orange County's computerized land records system as owners of real property any portion of which is abutting or located within 150 feet of the lot that is the subject of the application or appeal. The planning staff shall also make reasonable efforts to mail a similar written notice not less than 10 days before the hearing to the occupants of residential rental property which is abutting or located within 150 feet of the lot that is the subject of the application or appeal. With respect to hearings on the issuance or revocation of special ~~and conditional~~ use permits, notice shall be given to abutting property owners by mailing a written notice not later than 10 days or earlier than 25 days before the hearing to those persons who are listed on Orange County's computerized land records system as owners of real property any portion of which is abutting or located within 500 feet of the lot that is the subject of a class B special use permit and 1000 feet of the lot that is the subject of a class A special ~~conditional~~ use permit. The planning staff shall also make reasonable efforts to mail a similar written notice not less than 10 days or earlier than 25 days before the hearing to the non-owner occupants of residential rental property abutting or located within 1,000 feet of the lot that is the subject of the class A special~~conditional~~ use permit. In all cases, notice shall also be given by prominently posting signs in the vicinity of the property that is the subject of the proposed action. Such signs shall be posted within the same 10 to 25-day period for mailed notice. ~~not less than 7 days prior to the hearing~~. **(AMENDED 10/12/82; 1/22/85; 04/15/97; 10/12/99; 3/26/02)**

(3) In the case of class A special~~conditional~~ use permits, notice shall be given to other potentially interested persons by publishing a notice in a newspaper having general circulation in the Carrboro area one time not less than seven nor more than fifteen days prior to the hearing. **(AMENDED 10/12/99)**

(4) The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal~~,~~ and give a brief description of the action requested or proposed.

(5) In the case of an application for a variance from the provisions of Sections 15-265 and 15-266, dealing with requirements peculiar to areas within the University Lake Watershed or Jordan Lake Watershed, the administrator shall also send the notice required by this section to each government having jurisdiction in the watershed or using the water supply for consumption. **(AMENDED 10/15/96)**

Section 15-102.1. Administrative Materials.

The administrator or staff to the board of adjustment or town council shall transmit to the board or council all applications, reports, and written materials relevant to the matter being

considered. The administrative may be distributed to the members of the board or council prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant.

(1) The administrative materials, may be provided in written or electronic form, and shall become part of the hearing records.

(2) Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board or council at the hearing.

Section 15-103 Evidence.

(a) The provisions of this section apply to all evidentiary hearings for which a notice is required by Section 15-101.

(b) All persons who intend to present evidence to the permit-issuing board, rather than arguments only, shall be sworn.

(1) The applicant, the town, and any person who would have standing to appeal the decision under G.S. 160D-1402(c), and Article V of this chapter, shall have the right to participate as a party at the evidentiary hearing.

(2) Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board of adjustment or town council.

(3) Any person who, while under oath during a proceeding before the board or council determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

(c) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

(d) Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board or council. The chair shall rule on any objections, and the chair's rulings may be appealed to the full board or council. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

(e)——The council or board making a quasi-judicial decision under this chapter through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the town, and any person with standing under G.S. 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas that the chair determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the council or board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

Section 15-104 Modification of Application at Hearing.

(a) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the town council~~board of aldermen~~ or board of adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.

(b) Unless such modifications are so substantial or extensive that the town council or board of adjustment~~board~~ cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the council or board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

(c) The administrator who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the council or board shall continue the hearing.

Section 15-105 Record.

(a) A tape recording shall be made of all hearings required by Section 15-101, and such recordings shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.

(b) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the town for at least two years.

Section 15-106 Written Decision. (AMENDED 10/21/14)

~~———~~(a) ___As provided in G.S. 160D-403(a)~~160A-388(e2)~~, every quasi-judicial decision made by the town council~~board of aldermen~~ or the board of adjustment shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the council's or board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the town or board.

(b)___~~-~~A quasi-judicial decision is effective upon filing the written decision in the planning department. The decision of the council or board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

Section 15-107~~-~~ Standing.

A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons have standing to file a petition under this section:

(1) Any person possessing any of the following criteria:

a. An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.

b. An option or contract to purchase the property that is the subject of the decision being appealed

c. An applicant before the decision-making board whose decision is being appealed.

(2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at

least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) The Town of Carrboro whose decision-making board has made a decision that the Town Council believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by the Council.

(d) The respondent named in the petition shall be the Town of Carrboro whose decision-making board made the decision that is being appealed, except that if the petitioner is the town that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, then the respondent shall be the decision-making board. If the petitioner is not the applicant before the decision making board whose decision is being appealed, the petitioner shall also name that applicant as a respondent. Any petitioner may name as a respondent any person with an ownership or leasehold interest in the property that is the subject of the decision being appealed who participated in the hearing, or was an applicant, before the decision-making board.

(e) Upon filing the petition, the petitioner shall present the petition and a proposed writ of certiorari to the clerk of superior court of Orange County. The writ shall direct the town or the respondent decision-making board, if the petitioner is the town that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, to prepare and certify to the court the record of proceedings below within a specified date. The writ shall also direct the petitioner to serve the petition and the writ upon each respondent named therein in the manner provided for service of a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a decision-making board, the petition and the writ shall be served upon the chair of that decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure applies in the event the chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall issue the writ without notice to the respondent or respondents if the petition has been properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the court. Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution or enforcement of the decision of the quasi-judicial board pending superior court review. The court may grant a stay in its discretion and on conditions that properly provide for the security of the adverse party. A stay granted in favor of a city or county shall not require a bond or other security.

(f) The respondent may, but need not, file a response to the petition, except that, if the respondent contends for the first time that any petitioner lacks standing to bring the appeal, that contention must be set forth in a response served on all petitioners at least 30 days prior to the hearing on the petition. If it is not served within that time period, the matter may be continued to allow the petitioners time to respond.

Section 15-1087 through 15-110 Reserved.

ARTICLE VII

ENFORCEMENT AND REVIEW

Section 15-111 Complaints Regarding Violations.

Whenever the administrator receives a written, signed complaint alleging a violation of this chapter, the administrator~~he~~ shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

Section 15-112 Persons Liable.

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this chapter may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

Section 15-113 Procedures Upon Discovery of Violations.

(a) If the administrator finds that any provision of this chapter is being violated, the administrator~~he~~ shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the administrator's discretion.

(b) The final written notice (and the initial written notice may be the final notice) shall state what action the administrator intends to take if the violation is not corrected and shall advise that the administrator's decision or order may be appealed to the board of adjustment as provided in Section 15-91.

(c) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety, or welfare, the administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 15-114.

Section 15-114 Penalties and Remedies for Violations.

(a) Violations of the provisions of this chapter or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or class A or class B special use ~~or conditional~~ use permits, and violations of stop work orders, shall constitute a misdemeanor, punishable as provided in G.S. 14-4. **(AMENDED 10/24/89)**

(b) Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the issuance of variances or class A or class B special use ~~or~~

~~conditional~~ use permits, shall also subject the offender to a civil penalty of up to five thousand dollars ($5,000.00).

(1) In determining the amount of the civil penalty assessment, the administrator shall consider the following factors, and the decision levying a civil penalty shall cite those factors deemed applicable:

a The degree and extent of harm to the natural resources of the town and its planning jurisdiction, to the public health, or to private property resulting from the violation;

b The extent to which the violation undermines the regulatory objectives of the land use ordinance;

c. The duration and gravity of the violation;

d. The cost of rectifying the damage;

e The amount of money saved by noncompliance;

f Whether the violation was committed willfully or intentionally; negligently; or as the result of an unforeseeable or unavoidable accident;

g Whether the violator promptly ceased the violation upon notice by the town and took whatever steps were reasonably possible to limit or correct any damage caused by the violation;

h. The prior record of the violator in complying or failing to comply with the provisions of this chapter or any of its requirements, including violations of any conditions and safeguards established in connection with the issuance of variances or special use or conditional use permits;

i. The cost to the town of the enforcement procedures;

j. The scope and the scale of the project where the violation occurs;

k. Whether the civil penalty is levied for a single day's violation or a single event or whether it is levied on a daily basis for a continuing violation, as authorized under subsection (d) below. Civil penalties levied on a daily basis may cumulatively exceed the $5,000.00 cap set forth in this subsection.

l. Without limiting the authority of the board of adjustment under subsection (e), the board of adjustment may affirm a penalty as

imposed, decrease the amount of the penalty, or increase the amount of the penalty.

(2) The notice of civil penalty shall inform the violator that the penalty is due upon receipt of the notification and, if applicable, that successive civil penalties of a specified amount shall accrue each day that the violation continues. The notice shall also inform the violator that if the civil penalty is not paid within ten days of receipt of the notice, the penalty may be recovered by the town in a civil action in the nature of debt.

(3) A civil penalty may be appealed to the Board of Adjustment in accordance with Section 15-91 of this chapter, except that such appeal must be filed within 10 days after receipt by the violator of the notice of civil penalty.

a. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed.~~An appeal stays further efforts to collect a civil penalty but does not stay the accrual of daily civil penalties~~.

b. If a civil penalty is levied for a violation about which the violator was previously sent a final notice of violation in accordance with Section 15-113, and the violator did not appeal to the Board of Adjustment within the prescribed time the administrator's determination as to the existence of the violation, an appeal of the civil penalty under this subsection presents only the issue of whether the administrator erred in setting the amount of the civil penalty, not the issue of whether the violation occurred or the violator's responsibility for the violation. **(AMENDED 06/07/88; 04/23/96)**

(c) This chapter may also be enforced by any appropriate equitable action.

(d) Each day's continuing violation shall be a separate and distinct offense. **(AMENDED 06/07/88; 04/23/96)**

(e) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this chapter.

Section 15-115 Permit Revocation and Building Permit Denial (AMENDED 10/24/06).

(a) A zoning, sign, class A, or class B special use~~, or conditional~~ use permit may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter, or any additional requirements lawfully imposed by the permit issuing board.

(b) Before a class A ~~conditional use~~ or class B special use permit may be revoked, all of the notice and hearing and other requirements of Article VI shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

(1) The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth in subsection (a) shall be upon the party advocating that position. The burden of persuasion shall also be upon that party. **(AMENDED 11/10/81)**

(2) A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

(c) Before a zoning or sign permit may be revoked, the administrator shall give the permit recipient ten days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the administrator shall provide to the permittee a written statement of the decision and the reasons therefor.

(d) No person may continue to make use of land or buildings in the manner authorized by any zoning, sign, class A or class B special use ~~or conditional use~~ permit after such permit has been revoked in accordance with this section.

(e) Building permits required pursuant to G.S. 160A-417 may be denied for lots that have been illegally subdivided. No building permit may be denied, however, if the permit applicant can show that he purchased the lot in good faith (i.e. he did not know and had no reasonable way of knowing that the lot was illegally subdivided) and for value. **(AMENDED 10/24/06)**

Section 15-116 Judicial Review (AMENDED 4/27/82; 10/21/14)

(a) Every quasi-judicial decision of the board shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402~~160A-393~~. Appeals shall be filed within the times specified in G.S. 160D-1405(d). Appeals in any such case shall be heard by

the superior court of Orange County. ~~A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is filed in the planning department or after a written copy thereof is delivered as provided in Subsection 15-106(b). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.~~

(b) A copy of the writ of certiorari shall be served upon the Town of Carrboro.

Section 15-117 Stop Work Orders. (AMENDED 10/24/89)

(a) Whenever the land use administrator determines that a person is engaged in doing work that constitutes, creates, or results in a violation of this chapter and that irreparable injury will occur if the violation is not terminated immediately, the administrator may order the specific part of the work that constitutes, creates, or results in a violation of this chapter to be immediately stopped.

(b) A stop work order issued under this section shall be in writing, directed to the person doing the work and shall state the specific work to be stopped, the specific reasons therefor, and the conditions under which the work may be resumed. A copy of the stop work order shall also be sent forthwith to the owner of the property where the work is taking place and the developer, if different from the owner.

(c) Any person aggrieved by the issuance of a stop work order may appeal the issuance of the order to the Carrboro Board of Adjustment pursuant to Section 15-91 of this chapter. However, notwithstanding subsection 15-91(d), an appeal shall not stay the operation of the stop work order except as provided in subsection (d) of this section.

(d) The board of adjustment shall meet and act upon the appeal within 15 working days after receipt of the appeal notice. If the board fails to comply with this requirement, the stop work order shall be stayed automatically beginning on the day following the expiration of this 15-working-day period, and the stay shall remain in effect until the board of adjustment meets and acts on the appeal.

(e) The notice of hearing requirements set forth in Section 15-102 shall not apply to appeals of stop work orders. However, the staff shall orally notify the appellant of the date, time, and place of the hearing as soon as it has been scheduled and shall send to the appellant a written confirmation of this notice as soon as possible.

(f) Neither the person whom a stop work order is served nor an owner or developer served with a copy under subsection (b) may thereafter cause, suffer, or permit a violation of the order while it remains in effect, except during a period in which the operation of the order is stayed under subsection (d).

Section 15-118 Statutes of Limitations

(a) Zoning Map Adoption or Amendments. A cause of action as to the validity of any regulation adopting or amending a zoning map adopted under this Chapter or other applicable law

or a development agreement adopted under Article 10 of this Chapter accrues upon adoption of the ordinance and shall be brought within 60 days as provided in G.S. 1-54.1.

(b) Text Adoption or Amendment. Except as otherwise provided in subsection (a) of this section, an action challenging the validity of a development regulation adopted under this Chapter or other applicable law shall be brought within one year of the accrual of such action. Such an action accrues when the party bringing such action first has standing to challenge the ordinance. A challenge to an ordinance on the basis of an alleged defect in the adoption process shall be brought within three years after the adoption of the ordinance.

(c) Enforcement Defense. Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 bars a party in an action involving the enforcement of a development regulation 1403.1 or in an action under G.S. 160D-from raising as a claim or defense in the proceedings the enforceability or the invalidity of the ordinance. Nothing in this section or in G.S. 1-54(10) or G.S. 1-54.1 bars a party who files a timely appeal from an order, requirement, decision, or determination made by the administrator contending that the party is in violation of a development regulation from raising in the judicial appeal the invalidity of the ordinance as a defense to the order, requirement, decision, or determination. A party in an enforcement action or appeal may not assert the invalidity of the ordinance on the basis of an alleged defect in the adoption process unless the defense is formally raised within three years of the adoption of the challenged ordinance.

(d) Termination of Grandfathered Status. When a use constituting a violation of this chapter is in existence prior to adoption of the Carrboro Land Use Ordinance creating the violation, and that use is grandfathered and subsequently terminated for any reason, the town shall bring an enforcement action within 10 years of the date of the termination of the grandfathered status, unless the violation poses an imminent hazard to health or public safety.

(e) Quasi-Judicial Decisions. Unless specifically provided otherwise, a petition for review of a quasi-judicial decision shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with G.S. 160D-406(j). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

(f) Others. Except as provided by this section, the statutes of limitations shall be as provided in Subchapter II of Chapter 1 of the General Statutes.

Section 15-11~~98~~ through 15-120 Reserved.

ARTICLE VIII

NONCONFORMING SITUATIONS

Section 15-121 Definitions.

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

(1) **DIMENSIONAL NONCONFORMITY.** A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

(2) **EFFECTIVE DATE OF THIS CHAPTER.** Whenever this article refers to the effective date of this chapter, the reference shall be deemed to include the effective date of any amendments to this chapter if the amendment, rather than this chapter as originally adopted, creates a nonconforming situation.

(3) **EXPENDITURE.** A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.

(4) **NONCONFORMING LOT.** A lot existing at the effective date of this chapter (and not created for the purposes of evading the restrictions of this chapter) that does not meet the minimum area requirement of the district in which the lot is located.

(5) **NONCONFORMING PROJECT.** Any structure, development, or undertaking that is incomplete at the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

(6) **NONCONFORMING SIGN.** A sign (see Section 15-270 for definition) that, on the effective date of this chapter does not conform to one or more of the regulations set forth in this chapter, particularly Article XVII, Signs.

(7) **NONCONFORMING SITUATION.** A situation that occurs when, on the effective date of this chapter, an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this chapter, because signs do not meet the requirements of Article XVII of this chapter, or because land or buildings are used for purposes made unlawful by this chapter.

(8) **NONCONFORMING USE.** A nonconforming use that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.)

Section 15-122 Continuation of Nonconforming Situations and Completion of Nonconforming Projects.

(a) Nonconforming situations that were otherwise lawful on the effective date of this chapter may be continued, subject to the restrictions and qualifications set forth in Section 15-123 through 15-129.

(b) Nonconforming projects may be completed only in accordance with the provisions of Section 15-128.

Section 15-123 Nonconforming Lots.

(a) When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in Section 15-181, then the lot may be used as proposed just as if it were conforming. However, no use (e.g., a duplex) that requires a greater lot size than the established minimum lot size for a particular zone is permissible on a nonconforming lot.

(b) When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements (Section 15-184) cannot reasonably be complied with, then the entity authorized by this chapter to issue a permit for the proposed use (the administrator, board of adjustment, or Town Council~~Board of Aldermen~~) may allow deviations from the applicable setback requirements if it finds that:

(1) The property cannot reasonably be developed for the use proposed without such deviations;

(2) These deviations are necessitated by the size or shape of the nonconforming lot; and

(3) The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.

(c) For purposes of subsection (b), compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with

such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

(d) This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A change in use of a developed nonconforming lot may be accomplished in accordance with Section 15-126.

(e) Subject to the following sentence, if, on the date this section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section. This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within 500 feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

Section 15-124 Extension or Enlargement of Nonconforming Situations.

(a) Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

(1) An increase in the total amount of space devoted to a nonconforming use; or

(2) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking requirements.

(b) Subject to subsection (d) a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this chapter, was manifestly designed or arranged to accommodate such use. However, subject to Section 15-128 (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.

(c) Subject to Section 15-128 (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a quarry) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if ten percent or more of the earth products had already been removed at the effective date of this chapter.

(d) The volume, intensity, or frequency of use or property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes

in the degree of activity rather than changes in kind and no violations of other paragraphs of this section occur.

(e) Notwithstanding subsection (a), when one single-family detached residence is located on a lot and that residence (i) constitutes a non-conforming use where it is located, or (ii) is located on a lot that is nonconforming in terms of size, or (iii) is non-conforming with respect to the dimensional or parking requirements of this chapter, then such single-family residence may be enlarged or replaced with another single-family residence of a larger size, so long as: **(Amended 5/21/02)**

(1) The enlargement or replacement does not create new non-conformities or increase the extent of existing non-conformities with respect to dimensional, parking or other requirements; and

(2) The enlarged or replacement house does not contain more than three bedrooms, or the number of bedrooms of the original house, whichever is greater; and

(3) The square footage of heated floor space within the enlarged or replacement house does not exceed that of the original house by more than 50% or 500 square feet, whichever is greater; and

(4) If the original house is replaced, the original house is removed from the lot.

(e1) Notwithstanding subsection (a), when more than one single-family residences are located on a single lot, and such structures (i) constitute non-conforming uses where they are located, or (ii) are located on a lot that is nonconforming in terms of size or density, or (iii) are non-conforming with respect to the dimensional or parking requirements of this chapter, any of such residential structures may be enlarged or replaced with another single-family residential structure of a larger size, so long as: **(Amended 5/21/02)**

(1) The enlargement or replacement does not create new non-conformities or increase the extent of existing non-conformities with respect to dimensional, parking or other requirements; and

(2) The enlarged or replacement house does not contain more than three bedrooms, or the number of bedrooms of the original house, whichever is greater; and

(3) The square footage of heated floor space within the enlarged or replacement house does not exceed that of the original house by more than 50% or 500 square feet, whichever is greater; and

(4) If the original house is replaced, the original house is removed from the lot.

(f) Notwithstanding subsection (a), whenever: (i) there exists a lot with one or more structures on it; and (ii) a change in use that does not involve any enlargement of a structure is proposed for such lot; and (iii) the parking requirements of Article XVIII that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with Section 15-297 if: (i) parking requirements cannot be satisfied on the lot with respect to which the permit is required; and (ii) such satellite parking is reasonably available. If such satellite parking is not reasonably available at the time the class A or class B special use permit or ~~zoning or special or conditional use permit~~ is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the permit.

(g) A nonconforming use that operates within an enclosed building may expand one time by enlarging the building within which the use is conducted or by expanding within a building where an extension is not otherwise allowed under subsection (b), so long as: **(AMENDED 6/15/86)**

(1) The area of the enlargement of the nonconforming use does not exceed the maximums established below:

a. If the gross floor area previously occupied by the nonconforming use does not exceed 1,000 square feet, then the maximum expansion shall be equal to 100% of the gross floor area previously occupied by the nonconforming use.

b. If the gross floor area previously occupied by the nonconforming use is between 1,001 and 5,000 square feet, then the maximum expansion shall be equal to 1,000 square feet plus 35% of the difference between the gross floor area previously occupied by the nonconforming use and 1,000 square feet.

c. If the gross floor area previously occupied by the nonconforming use exceeds 5,000 square feet, then the maximum expansion shall be equal to 2,400 square feet plus 25% of the difference between the gross floor area previously occupied by the nonconforming use and 5,000 square feet. However, in no case may the gross floor area of the expansion exceed 5,000 square feet.

(2) No additional outside storage is associated with the expansion; and

(3) The nonconforming use, when expanded, does not generate noise that tends to have an annoying or disruptive effect upon (i) uses located outside the immediate space occupied by the nonconforming use if that is one of several located on a lot; or (ii) uses located on adjacent lots; and

(4) At least "B" level screening is provided in conjunction with the expansion ("A" level screening shall be provided if required under Article XIX); and

(5) The expansion does not involve the addition of any new drive-in windows; and

(6) A permit authorizing the expansion is issued by the board of adjustment, unless the expansion is proposed in connection with a development that otherwise requires a class A special use permit~~conditional use permit~~, in which case the permit must be issued by the Town Council~~Board of Aldermen~~. Such a permit may be issued only if the board finds that the proposed expansion satisfies the foregoing requirements and that:

a. All of the applicable requirements of this chapter that can reasonably be complied with will be complied with. Compliance with a requirement of this chapter is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional dimensional nonconformities (including parking nonconformities) would thereby be created; and

b. On balance, the benefits to the neighborhood that result from the improvements required under this subsection in conjunction with the expansion of a nonconforming use outweigh the disadvantages inherent in the expansion of a nonconforming use.

(h) Notwithstanding subsection (a), an expansion of a building intended to be used for the provision of emergency services (use classification 13.000) which is nonconforming with respect to setback requirements, whereby the expanded building will be no closer than the existing building to the lot line or the street right-of-way line or centerline with respect to which the existing building is nonconforming, shall not constitute an increase in the extent of nonconformity or a nonconforming situation, provided that to take advantage of this provision, the permit required for the expansion shall be a class A special use permit~~conditional use permit~~ notwithstanding anything to the contrary in the table of permissible uses. **(AMENDED 06/07/88)**

Section 15-125 Repair, Maintenance and Reconstruction.

(a) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than

twenty-five percent of the appraised valuation of the structure to be renovated may be done only in accordance with a zoning permit issued pursuant to this section.

(b) If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed twenty-five percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a zoning permit issued pursuant to this section. This subsection does not apply to structures used for single-family residential purposes, which structures may be reconstructed pursuant to a zoning permit just as they may be enlarged or replaced as provided in subsection 15-124(e).

(c) For purposes of subsections (a) and (b):

(1) The "cost" of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.

(2) The "cost" of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of subsection (a) or (b) by doing such work incrementally.

(3) The "appraised valuation" shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or the valuation determined by a professionally recognized property appraiser.

(d) The administrator shall issue a permit authorized by this section if the administrator ~~he~~ finds that, in completing the renovation, repair or replacement work:

(1) No violation of Section 15-124 will occur; and

(2) The permittee will comply to the extent reasonably possible with all provisions of this chapter applicable to the existing use, (except that the permittee shall not lose his right to continue a nonconforming use or a nonconforming level of residential density). **(AMENDED 11/26/85)**

Compliance with a requirement of this chapter is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.

Section 15-126 Change In Use of Property Where a Nonconforming Situation Exists.

(a) A change in the use of property (where a nonconforming situation exists) that is sufficiently substantial to require a new class A or class B special use, or zoning~~, special use, or conditional use~~ permit in accordance with Section 15-46 may not be made except in accordance with

subsection (b) through (d). However, this requirement shall not apply if only a sign permit is needed. **(AMENDED 4/27/82)**

(b) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this chapter applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this chapter is achieved, the property may not revert to its nonconforming status.

(c) If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this chapter applicable to that use cannot reasonably be complied with, then the change is permissible, if the entity authorized by this chapter to issue a permit for that particular use (the administrator, board of adjustment, or Town Council~~Board of Aldermen~~) issues a permit authorizing the change. This permit may be issued if the permit-issuing authority finds, in addition to any other findings that may be required by this chapter, that:

(1) The intended change will not result in a violation of Section 15-124; and

(2) All of the applicable requirements of this chapter that can reasonably be complied with will be complied with. Compliance with a requirement of this chapter is not reasonably possible if, among other reasons, compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. However, the permit-issuing authority may conclude that compliance is not reasonably possible if the cost (financial and otherwise) of compliance is substantially disproportional to the benefits of eliminating a nonconformity**.** In no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created. **(AMENDED 5/25/04)**

(d) If the intended change in use is to another principal use that is also nonconforming, then the change is permissible if the entity authorized by this chapter to issue a permit for that particular use (administrator, board of adjustment, or Town Council~~Board of Aldermen~~) issues a permit authorizing the change. The permit-issuing authority may issue the permit if it finds, in addition to other findings that may be required by this chapter, that:

(1) The use requested is one that is permissible in some zoning district with either a class A, class B, or zoning~~, special use, or conditional use~~ permit; and

(2) All of the conditions applicable to the permit authorized in subsection (c) of this section are satisfied; and

(3) The proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for.

Section 15-127 Abandonment and Discontinuance of Nonconforming Situations. (AMENDED 06/18/91)

(a) When a nonconforming use is discontinued for a period of at least twelve consecutive months, the property may thereafter be used only for conforming purposes, except as provided in subsection (b).

(b) When a nonconforming use has been discontinued for a consecutive period of at least twelve months, then the property may thereafter be re-used for a use within the same principal use classification as the most recently discontinued nonconforming use if the permit-issuing authority issues a permit authorizing the change. As used in this subsection, the term permit-issuing authority means the Town Council~~Board of Aldermen~~, if the use proposed would require a class A special use permit~~conditional use permi~~t in any zoning district where such use is permissible, and otherwise means the board of adjustment. The permit issuing authority may issue the permit if it finds, in addition to other findings that may be required by this chapter, that:

(1) All of the conditions applicable to the permit authorized in subsection 15-126(c) are satisfied; and

(2) The property where the nonconforming use is proposed to be reinstated is particularly well adapted (in terms of the nature and orientation of improvements on that property) to that nonconforming use, and it would be substantially difficult or impractical to use this property for conforming purposes; and

(3) Reinstatement of the nonconforming use will not have a substantially adverse effect on the public health or safety or the value, use, or enjoyment of properties in the immediate area of the nonconforming use; and

(4) Since the nonconforming use was discontinued, the property has not been used for conforming purposes for more than a continuous period of three months.

(c) If the principal activity on the property where a nonconforming situation other than a nonconforming use exists is discontinued for a consecutive period of at least twelve months, then that property may thereafter be used only in conformity with all of the regulations applicable to the pre-existing use unless the entity with authority to issue a permit for the intended use issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. This permit may be issued if the permit-issuing authority finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The permit shall specify which nonconformity need not be corrected.

(d) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for twelve months shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter [subject to subsection (b)].

(e) When a structure or operation made nonconforming by this chapter is vacant or discontinued at the effective date of this chapter, the twelve month period for purposes of this section begins to run at the effective date of this chapter.

Section 15-128 Completion of Nonconforming Projects.

(a) All nonconforming projects on which construction was begun at least 180 days before the effective date of this chapter as well as all nonconforming projects that are at least twenty-five percent completed in terms of the total expected cost of the project on the effective date of this chapter may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this subsection shall apply only to the particular phase under construction.

(b) Except as provided in subsection (a), and except to the extent that a developer has a vested right as set forth in Sections 15-128.2, ~~and~~ 15-128.3, all work on any nonconforming project shall cease on the effective date of this chapter, and all permits previously issued for work on nonconforming projects shall be revoked as of that date. The permit-issuing authority shall issue such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changes his position in some substantial way in reasonable reliance on the land use law as it existed before the effective date of this chapter and thereby would be unreasonably prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the permit-issuing authority shall be guided by the following, as well as other relevant considerations: **(AMENDED 11/10/81; 10/01/91)**

(1) All expenditures made to obtain or pursuant to a building, class A or class B special use, or zoning~~, sign, or special or conditional use~~ permit that was validly issued and that remains unrevoked shall be considered as evidence of reasonable reliance on the land use law that existed before this chapter became effective. **(AMENDED 4/27/82)**

(2) Except as provided in subdivision (b)(1), no expenditures made more than 180 days before the effective date of this chapter may be considered as evidence of reasonable reliance on the land use law that existed before this chapter became effective. An expenditure is made at the time a party incurs a binding obligation to make that expenditure.

(3) To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made some expenditures to acquire a potential development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a resale of the property.

(4) To the extent that a nonconforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion of a conforming project, a party shall not be considered prejudiced by having made such expenditures.

(5) An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of (i) the total estimated costs of the proposed project, and (ii) the ordinary business practices of the developer.

(6) A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the land use law affecting the proposed development site could not be attributed to him.

(7) Even though a person had actual knowledge of a proposed change in the land use law affecting a development site, the permit-issuing authority may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. The permit-issuing authority may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that (i) at the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development, and (ii) the developer had legitimate business reasons for making expenditures.

(8) In deciding whether a permit should be issued under this section, the permit issuing authority shall not be limited to either denying a permit altogether or issuing a permit to complete the project (or phases, sections, or stages thereof) as originally proposed or approved. Upon proper submission of plans by the applicant, the permit issuing authority may also issue a permit authorizing a development that is less nonconforming than the project as originally proposed or approved but that still does not comply with all the provisions of the ordinance making the project nonconforming. **(AMENDED 10/01/91)**

(c) When it appears from the developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, stages, segments, or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing required under subsection (b). In addition to the matters and subject to the guidelines set forth in subdivisions (1) through (8) of subsection (b), the permit issuing authority shall, in determining whether a developer would be unreasonably prejudiced if not allowed to

complete phases or segments of a nonconforming project, consider the following in addition to other relevant factors:

(1) Whether any plans prepared or approved regarding incompleted phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural, or engineering work.

(2) Whether any improvements, such as streets or utilities, have been installed in phases not yet completed.

(3) Whether utilities and other facilities installed in completed phases have been constructed in such a manner or location or on such a scale, in anticipation of connection to or interrelationship with approved but incompleted phases, that the investment in such utilities or other facilities cannot be recouped if such approved but incompleted phases are constructed in conformity with existing regulations.

(AMENDED 10/01/91)

(d) The permit-issuing authority shall not consider any application for the permit authorized by subsection (b) that is submitted more than sixty days after the effective date of this chapter. The permit-issuing authority may waive this requirement for good cause shown, but in no case may it extend the application deadline beyond one year.

(e) The administrator shall send copies of this section to the persons listed as owners for tax purposes (and developers, if different from the owners) of all properties in regard to which permits have been issued for nonconforming projects or in regard to which a nonconforming project is otherwise known to be in some stage of development. This notice shall be sent by certified mail not less than fifteen days before the effective date of this chapter.

(f) The permit-issuing authority shall establish expedited procedures for hearing applications for permits under this section. These applications shall be heard, whenever possible, before the effective date of this chapter, so that construction work is not needlessly interrupted.

(g) When it appears from the developer's plans or otherwise that the nonconforming project was intended to be or reasonably could be completed in stages, segments, or other discrete units, the permit-issuing authority shall not allow the nonconforming project to be constructed or completed in a fashion that is larger or more extensive than is necessary to allow the developer to recoup and obtain a reasonable rate of return on the expenditures he has made in connection with that nonconforming project. **(REPEALED 10/01/91; AMENDED 10/01/91)**

Section 15-128.1 Authorization of Nonconforming Projects (AMENDED 10/01/91)

Whenever an amendment to this chapter becomes effective after an application for a development permit is submitted but before the permit is issued, and the effect of the amendment is to render the proposed development nonconforming in some respect, then the permit issuing authority may nevertheless issue the permit even though the project is nonconforming if it finds that the

applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on this chapter as it existed prior to the amendment and thereby would be unreasonably prejudiced if required to comply with this chapter as so amended.

Vested Rights and Permit Choice ~~Section 15-128.2 Vested Rights: Site Specific Development Plan (AMENDED 10/01/91)~~

(a) Findings. Pursuant to G.S. sections 160D-108 and 160D-108.1, the Town Council recognizes that development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses, and finds that it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation.

(b) Permit Choice. If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

(c) Vested Rights. Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.

(2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.

(3) A site-specific vesting plan pursuant to G.S. 160D-108.1.

(4) A multi-phased development pursuant to subsection (f) of this section.

(5) A vested right established by the terms of a development agreement authorized by Article 10 of this Chapter.

The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of 8 common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by the town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating town enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

(d) Duration of Vesting. Upon issuance of a development permit, the statutory vesting granted by subsection (c) of this section for a development project is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. A zoning right that has been vested as provided in this chapter shall remain vested for a period of two years after issuance of a development permit unless work authorized by the permit has substantially commenced. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

The statutory vesting granted by this section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting

(e) Multiple Permits for Development Project. Subject to subsection (d) of this section, where multiple town development permits are required to complete a development project, the development permit applicant may choose the version of each of the town development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

(f) Multi-Phased Development. A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(g) Continuing Review. Following issuance of a development permit, a local government may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original approval.

(h) Process to Claim Vested Right. A person claiming a statutory or common law vested right may submit information to substantiate that claim to the administrator, who shall make an initial determination as to the existence of the vested right. The decision of the administrator may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1.

(i) Miscellaneous Provisions. The vested rights granted by this section run with the land except for the use of land for outdoor advertising governed by G.S. 136-136.1 and G.S. 136-131.2 in which case the rights granted by this section run with the owner of the permit issued by the North Carolina Department of Transportation. Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(j) As used in this section, the following definitions apply:

(1) Development. As defined in G.S. 143-755(e) (1).

(2) Development permit. As defined in G.S. 143-755(e)(2).

(3) Land development regulation. As defined in G.S. 143-755(e)(3).

(4) Multi-phased development. A development containing 25 acres or more that is both of the following:

a. Submitted for development permit approval to occur in more than one phase.

b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase

~~(a) The Board determines that a special use permit or a conditional use permit shall be regarded as a "site specific development plan" under the provisions of G.S. 160A-385.1. Therefore, once a special use permit or conditional use permit has been issued, the permit recipient shall have a "vested right" to complete the development authorized by such permit in accordance with its terms, irrespective of subsequent amendments to this chapter, to the extent provided in G.S. 160A-385.1.~~

~~(b) The Board further determines that recipients of zoning permits should be entitled to the same protections as recipients of special or conditional use permits. Therefore, subject to Subsection 15-148(b), once a zoning permit has been issued, the permit recipient shall have a "vested right" to complete the development authorized by such permit in accordance with its terms, irrespective of subsequent amendments to this chapter, to the same extent provided in G.S. 160A-385.1 for developments authorized by the approval of "site specific development plans."~~

~~(c) A vested right under this section commences upon the issuance of the permit in question, and the date of issuance is to be determined in accordance with the provisions of Subsection 15-62(d).~~

~~(1) A zoning right that has been vested as provided in this chapter shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site specific development plan (that are not~~

~~processed as new applications - - see Section 15-64), unless expressly provided by the approval authority at the time the amendment or modification is approved.~~

~~(2) As provided in G.S. 160A-385.1(d)(6), a right which has been vested in accordance with this section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.~~

~~(d) Nothing in this section shall prohibit the revocation of a permit pursuant to Section 15-115, and the vesting of rights provided for under this section shall be terminated upon such revocation.~~

~~(e) The effect of this section is to ensure that, during the period of vesting, the developer is protected from subsequent changes in this ordinance to a greater extent than is authorized under Section 15-128.3 (which provides for a vesting of rights only after a building permit has been obtained), or Section 15-128 (which generally provides for a vesting of rights only after the developer has made substantial expenditures in good faith reliance upon this chapter).~~

Section 15-128.3 Vested Rights Upon Issuance of Building Permits (Repealed and replaced) (AMENDED 10/01/91)

~~As provided in G.S. 160A-385, amendments, modifications, supplements, repeal or other changes in the zoning regulations set forth in this chapter or zoning district boundaries shall not be applicable or enforceable without consent of the owner with respect to buildings and uses for which a building permit has been issued pursuant to G.S. 160A-417 prior to the enactment of the ordinance making the change or changes, so long as the permit remains valid and unexpired pursuant to G.S. 160A-418 and unrevoked pursuant to G.S. 160A-422.~~

Section 15-128.3 Vested Rights – Site Specific Vesting Plans.

(a) Site-Specific Vesting Plan. A site-specific vesting plan consists of a plan submitted to the town in which the applicant requests vesting pursuant to this section, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation. Unless otherwise expressly provided by the town, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site-specific vesting plan under this section that would trigger a vested right shall be finally determined by the Town Council pursuant to a development regulation, and the document that triggers the vesting shall be so identified at the time of its approval. A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be

obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

(b) Establishment of Vested Right. A vested right is established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting plan as provided in this section. Such a vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site specific vesting plan, including any amendments thereto.

(c) Approval and Amendment of Plans. If a site-specific vesting plan is based on an approval required by a town development regulation, the town shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than two years does not affect the duration of the site-specific vesting plan established under this section. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by G.S. 160D-602 shall be held.

The town may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare. Conditional approval results in a vested right, although failure to abide by the terms and conditions of the approval will result in a forfeiture of vested rights. The town shall not require a landowner to waive the landowner's vested rights as a condition of developmental approval. A site specific vesting plan is deemed approved upon the effective date of the town's decision approving the plan or another date determined by the council upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the town as follows: any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

(d) Continuing Review. Following approval or conditional approval of a site-specific vesting plan, the town may make subsequent reviews and require subsequent approvals to ensure compliance with the terms and conditions of the original approval, provided that these reviews and approvals are not inconsistent with the original approval. The town may, pursuant to G.S. 160D-403(f), revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

(e) Duration and Termination of Vested Right.

(1) A vested right for a site-specific vesting plan remains vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the local government.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, the town may provide for rights to be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of

development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the town and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with subsection (a) of this section.

(3) Upon issuance of a building permit, the provisions of G.S. 160D-1111 and G.S. 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this section is outstanding.

(4) A right vested as provided in this section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

(f) Subsequent Changes Prohibited; Exceptions.

(1) A vested right, once established as provided for in this section, precludes any zoning action by the town which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:

a. With the written consent of the affected landowner.

b. Upon findings, by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan.

c. To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by the town, together with interest as provided under G.S. 160D-106. Compensation shall not include any diminution in the value of the property which is caused by the action.

d. Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the town of the site-specific vesting plan or the phased development plan.

e. Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-

specific vesting plan or the phased development plan, in which case the town may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and an evidentiary hearing.

(2) The establishment of a vested right under this section does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to development regulation by the town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this section.

(3) Notwithstanding any provision of this section, the establishment of a vested right does not preclude, change, or impair the authority of the town to adopt and enforce development regulations governing nonconforming situations or uses.

(g) Miscellaneous Provisions.

(1) A vested right obtained under this section is not a personal right, but attaches to and runs with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner are entitled to exercise these rights.

(2) Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(3) In the event the town fails to adopt a development regulation setting forth what constitutes a site-specific vesting plan triggering a vested right, a landowner may establish a vested right with respect to property upon the approval of a zoning permit, or otherwise may seek appropriate relief from the Superior Court Division of the General Court of Justice.

Section 15-129 Nonconforming Signs.

(a) Notwithstanding any other provision of this article, a nonconforming sign that exceeds the height or size limitations of Article XVII by more than ten percent or that is nonconforming in some other way shall, within three years following the effective date of this chapter, or two years after notification, whichever is sooner, be altered to comply with the provisions of this chapter (particularly

Article XVII) or be removed. If the nonconformity consists of too many freestanding signs or an excess of total sign area, the person responsible for the violation may determine which sign or signs need to be altered or removed by bringing the development into conformity with the provisions of Article XVII.

(b) Within nine months after the effective date of this chapter, the administrator shall make every reasonable effort to identify all the nonconforming signs within the town's planning jurisdiction. He shall then contact the person responsible for each such sign (as well as the owner of the property where the nonconforming sign is located, if different from the former) and inform such person (i) that the sign is nonconforming, (ii) how it is nonconforming, (iii) what must be done to correct it and by what date, and (iv) the consequences of failure to make the necessary corrections. The administrator shall keep complete records of all correspondence, communications, and other actions taken with respect to such nonconforming signs.

(c) This section applies to all signs, including off-premises signs.

Section 15-130 Nonconforming Mobile Home Communities. (**AMENDED 10/20/87**)

(a) Existing mobile home communities (use classifications 1.122 or 1.123) that do not meet all of the standards for such a use that are set forth elsewhere in this ordinance at the time of adoption of this section shall be considered nonconforming. Such uses shall not expand in any way beyond the existing developed areas, but shall be allowed to remove and replace the units on spaces existing within the existing community at the time of adoption of this section.

(b) Only the replacement and location of units on an existing mobile home space shall be permitted, provided that the total number of units does not exceed the number existing at the time of adoption of this section; and provided that the existing waste treatment system is functioning properly. Removal and replacement of such units shall not be considered expansion of the nonconforming use.

(c) Any mobile home unit replacing an existing mobile home unit on an existing home space, pursuant to subsections (a) and (b) above, and not previously located within the mobile home community, must be a Class A or Class B mobile home as defined in Article II of this ordinance.

Section 15-131 through Section 15-134 Reserved.

ARTICLE IX

ZONING DISTRICTS AND ZONING MAP

PART I. ZONING DISTRICTS

Section 15-135 Residential Districts Established.

(a) The following basic residential districts are hereby established: R-20, R-15, R-10, R-7.5, R-3, R-2, R-R, R-S.I.R., and R-S.I.R.-2. The purpose of each of the foregoing residential districts is to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in non-residential districts. **(AMENDED 5/12/81; 12/7/83; 2/4/86)**

(b) The WR (watershed residential) district is also established. All land within this district is located within the University Lake Watershed, and while this district is designed to achieve the objectives identified in subsection (a), it is also intended to protect the community water supply by allowing residential development of the land within the University Lake Watershed only at reduced density levels. **(AMENDED 12/7/83; 05/15/90)**

(c) The R-R (rural residential) district is designed to accommodate the residential and related uses as well as several additional uses that would be appropriate in the more sparsely populated areas of the town's joint planning transition area or extraterritorial planning area, but that would be inappropriate within the more intensively developed residential zones. **(AMENDED 11/14/88)**

(d) The R-S.I.R. (suitable for intensive residential) zone is designed (i) to encourage high density residential development that is compatible with the housing element of the town's Comprehensive ~~Land Use~~ Plan, and (ii) to locate this high density development in areas most suitable for it, thereby reducing pressure for growth in less desirable locations and reducing urban sprawl. Land in this zone is deemed especially suitable for intensive residential development because of (i) the availability of police, fire, and sanitation service at low marginal cost due to existing service patterns, (ii) the availability of public water and sewer service, (iii) the ample road system serving the area, (iv) the compatibility of existing development in the area with high density residential development, and (v) the compatibility of high density residential development with environmental concerns, especially water quality. Developers are encouraged to construct housing that is consistent with the town's housing objectives through density bonuses, as set forth in Section 15-182.1.

(e) The R-S.I.R.-2 zoning district is designed to serve essentially the same purposes as the R-S.I.R. zone, but the maximum density allowed in the R-S.I.R.-2 district is less than that permitted in the R-S.I.R. district (see Section 15-182.1). Except as otherwise specifically provided in this chapter, all regulations and standards applicable to the R-S.I.R. district are also applicable to the R-S.I.R.-2 district. **(AMENDED 11/10/81)**

(f) **REPEALED 12/7/83**

Section 15-135.1 Conservation District (AMENDED 12/7/83).

There is hereby established a conservation (C) district. The purpose of this district is to protect the public health, safety, and welfare by severely restricting development within and adjacent to certain lakes, ponds, watercourses, streams, creeks, drainage areas, floodplains, wetlands, and other flood-prone areas within the University Lake Watershed. The limited development allowed within a conservation district not only minimizes the danger to the community water supply from the more intensive development of this land but also allows this land to act as a natural buffer between more intensively developed areas and the watercourses contained within a conservation district. **(AMENDED 12/7/83)**

Section 15-136 Commercial Districts Established (AMENDED 02/4/86; 05/28/02).

The districts described below are hereby created to accomplish the purposes and serve the objectives indicated:

(1) **B-1(C) TOWN CENTER BUSINESS.** This district is designed to encourage and accommodate a unified, compact, contiguous shopping and entertainment area focused around restaurants, specialty shops, arts and crafts. This area is intended for development around a theme or themes consistent with the Carr Mill, The Station, and historic or old Carrboro. The area is intended to accommodate the pedestrian user. **(AMENDED 06/09/98)**

(2) **B-1(G) GENERAL BUSINESS.** This district is designed to accommodate a broad range of business uses. This district, because of its close proximity to established residential single family neighborhoods, is limited in the types of night uses permitted. Uses may be restricted in the hours of operation where the permit-issuing authority finds that such restrictions are necessary to prevent unreasonable disruptions to the peace and quiet of a nearby residential area. **(AMENDED 12/08/92; 06/09/98; 06/20/06)**

(2.1) **(EAT) RESTAURANT DISTRICT OVERLAY**. This overlay district is designed to accommodate on-premises (inside and outside) dining 8.100 and 8.200 restaurant uses in the B-1(g) General Business district. Because of the B-1(g) district's close proximity to established residential single-family neighborhoods, the EAT overlay is restricted to properties a minimum distance of one property width from abutting residential zones and is limited in the types of night uses permitted. In addition, emphasis is given to the existing restrictions in the B-1(g) district and the ability of the permit-issuing authority to limit hours of operation where such restrictions are necessary to prevent unreasonable disruptions to the peace and quiet of a nearby residential area. Use of property within the overlay district for 8.100 and 8.200 purposes shall require the issuance of a conditional use permit. **(AMENDED 03/21/95)**

(3) **B-2 FRINGE COMMERCIAL.** This district is a transitional district which is designed to accommodate commercial uses in areas that formerly were residential but that now may be more desirable for commercial activities due to high traffic volumes and

proximity to other nonresidential districts. At the same time, continued residential use of existing and nearby structures, and preservation of the existing character and appearance of this area is encouraged. Accordingly, however, whenever the use of the land in this district is changed to commercial, it is intended and desired that existing residential structures be converted and adapted to commercial use rather than new buildings constructed, and to encourage this, the regulations for this district allow development at a lower density than is permitted in the B-1 districts and permit uses that tend to generate minimal traffic. In this way, the B-2 district should provide a smoother transition from the more intensively developed B-1 areas to residential areas. Any development within the B-2 district shall comply with the following requirements: **(AMENDED 09/06/88; 06/20/06).**

a. To the extent practicable, development shall otherwise retain, preserve and be compatible with the residential character of the older homes within and immediately adjacent to this district;

b. To the extent practicable, vehicle accommodation areas associated with uses on lots in this district shall be located in the rear of buildings so that parking areas are not readily visible from the streets; and

(4) **B-3 NEIGHBORHOOD BUSINESS.** This district is designed to accommodate commercial needs arising at the neighborhood level, such as grocery stores, branch banks, gas sales, and the like, as well as other commercial and office uses that are of such size and scale that they can compatibly coexist with adjoining residential neighborhoods. To insure compatibility between B-3 areas and the neighborhoods, no B-3 district shall be greater than five acres, and no areas shall be zoned B-3 if any portion of a pre-existing business district lies within one-half mile in any direction. **(AMENDED 3/7/2006)**

(5) **B-4 OUTLYING CONCENTRATED BUSINESS.** This zone is designed to accommodate a variety of commercial enterprises that provide goods and services to a larger market area than those businesses permitted in the neighborhood business district. Development regulations also permit higher buildings and increased density over that allowed in the B-3 zone. This zone is intended to create an attractive, concentrated business district in areas that are outside the town's central business district but that are served by the town's major thoroughfares. Examples of permitted uses include shopping centers, professional offices and motels. Uses that are not permitted include outside storage and drive-in theaters.

(6) **B-5 WATERSHED COMMERCIAL**. This district is designed to accommodate commercial uses within the University Lake Watershed area without adversely affecting the community water supply.

(7) **CT CORPORATE TOWN.** This district is designed to create a visually attractive, commercial use district with flexible space. The district is intended to provide space for assemblage and research and development type enterprises. Any structure in this

district which is proposed for non-residential use shall be located a minimum distance of 50 feet from any residential dwelling unit in the district that was in existence on July 1, 1985. In order to encourage the creation of flexible space, an average minimum building height of 18 feet for any principal structure is required. The continued use of existing residential dwelling units along North Greensboro Street is encouraged. **(AMENDED 06/20/06).**

(8) **B-3-T TRANSITION AREA BUSINESS.** This district is designed to accommodate commercial needs arising in the town's more rural neighborhoods, especially in the joint planning transition areas, and which are more appropriately dealt with at the neighborhood level than at a community or regional level. To insure compatibility between B-3-T areas and their associated rural neighborhoods, no B-3-T district shall be greater than five acres, and no areas shall be zoned B-3-T if any portion of a pre-existing business district lies within one-half mile in any direction. **(AMENDED 11/14/88)**

(9) **O OFFICE.** This district is intended to provide locations for low intensity office and institutional uses. This district is designed for parcels three (3) acres or less in size. Rather than have new buildings constructed, it is intended and desired that any existing residential structures within the district be converted and adapted to office or institutional use. In order to assure compatibility of residential conversions or new office construction with existing and future residential development, specific performance measures to mitigate negative impacts of office development will be required. Any development within the Office (O) district shall comply with the following requirements:

a. Type A screening will be required between any non- residential use and adjacent properties, except for openings necessary to allow pedestrian movement between the office or institutional use and adjacent properties;

b. To the extent practicable, vehicle accommodation areas associated with uses on lots in this district shall be located in the rear of buildings so that parking areas are not readily visible from the streets, unless doing so would adversely affect adjoining residential properties;

c. Whenever a new building is erected in this district, (i) the exterior walls shall be constructed of materials commonly used on the exterior walls of single-family residences (such as brick, stone, wood, or fabricated residential lap siding made of hardboard, vinyl, or aluminum); (ii) the pitch of the roof shall have a minimum vertical rise of one foot for every five feet of horizontal run; provided that this requirement shall not apply to lots that have frontage on any street where, within the same block as the property in question, at least 75% of the buildings (in place on April 16, 1991) that front along the same side of the street do not have roofs that comply with this pitched roof standard; and (iii) windows shall be of a type commonly used in single-family residences;

d. Manufacturer's specifications for proposed outdoor lighting fixtures (including candlepower distribution) must be included in the submitted plans and maximum illumination areas must be delineated on the site plan. Light sources (light bulbs or tubes) shall be shielded to reflect down onto the ground and not out onto neighboring properties. **(AMENDED 04/16/91)**

(10) **O/A OFFICE/ASSEMBLY.** This district is intended to provide for office, administrative, professional, research, and specialized manufacturing (such as light assembly and processing) activities in close proximity to an arterial street. This district is intended to provide employment near residential areas; therefore, the required development standards are intended to be compatible to adjacent residential uses and provide a park-like setting for employment. It is strongly encouraged that development in the Office/Assembly zoning district be designed so that employees may easily utilize alternative forms of transportation (such riding buses, cycling or walking) to commute to their place of employment. Any development within the Office/Assembly (O/A) district shall comply with the following requirements: **(AMENDED 05/25/99; 5/28/02)**

a. No area less than five contiguous acres may be zoned as an Office/Assembly district;

b. The performance standards (Article XI, Part I) applicable to 4.000 classification uses in business zones shall govern uses in an Office/Assembly zone;

c. As shown in Section 15-308, Table of Screening Requirements, screening will be required between non-residential uses in the Office/Assembly district and adjacent residential properties;

d. Manufacturer's specifications for proposed outdoor lighting fixtures (including candlepower distribution) must be included in the submitted plans and maximum illumination areas must be delineated on the site plan. Light sources (light bulbs or tubes) shall be shielded to reflect down onto the ground and not out onto neighboring properties. **(AMENDED 04/16/91)**

e. Not more than 25 percent of the total building gross floor constructed within the proposed district may be used for uses permissible within this district that fall within the 2.000 classification.

(11) **O/A CU OFFICE/ASSEMBLY CONDITIONAL USE**. **(REPEALED)** ~~This district is identical to the O/A district and shall be subject to all regulations applicable to the O/A district (including but not limited to the performance standards set forth in Part 1 of Article XI) except as follows: **(AMENDED 05/25/99; 5/28/02)**~~

a. This district shall be a conditional use district authorized under N.C.G.S. 160A-382. As such, property may be placed within this district only in response to a petition by the owners of all the property to be included.

b. No area less than four contiguous acres and no more than a total of twenty-five (25) acres may be rezoned to the O/A CU.

c. As indicated in the Table of Permissible Uses, the only permissible use within an O/A CU district is an office/assembly planned development, and an office/assembly planned development is permissible only in an O/A CU district.

1. The applicant for an office/assembly planned development conditional use permit shall specify which of the use classifications generally permissible with an O/A district the applicant wants to make permissible within the proposed O/A CU district.

2. Once a conditional use permit authorizing an office/assembly planned development has been issued, then individual tenants or occupants of the spaces or properties covered by the permit may occupy or use such individual spaces or properties without need for additional zoning, special use, or conditional use permits, so long as such use or occupancy is consistent with the approved conditional use permit including limitations on permissible use classifications approved pursuant to subsection 1 above or other conditions or limitations imposed as conditions pursuant to Section 15-59.

Uses within the O/A CU district shall be limited to those where loading and unloading occurs during daylight hours only.

c.1. Not more than 25 percent of the total building gross floor constructed within the proposed district may be used for uses permissible within this district that fall within the 2.000 classification.

d. When an O/A CU rezoning petition is submitted (in accordance with Article XX of this chapter), the applicant shall simultaneously submit a conditional use permit application for an office/assembly planned development.

1. The rezoning and conditional use permit applications shall be processed and reviewed concurrently.

2. The Board of Aldermen shall simultaneously conduct a public hearing on the rezoning and conditional use permit applications, in accordance with the procedures applicable to other conditional use permit applications.

3. If the Board concludes in the exercise of its legislative discretion that the proposed rezoning would not be consistent with the public health, safety, or welfare, it may deny the application in accordance with the same procedures applicable to any ordinance amendment request.

~~4. The Board may not approve the rezoning application unless it simultaneously approves a conditional use permit for an office/assembly planned development, which permit may be issued subject to reasonable conditions and requirements a set forth in Section 15-59.~~

~~e. Buildings within the O/A CU district shall comply with the following standards:~~

~~1. Exterior walls shall be constructed of materials commonly used on the exterior walls of single-family residences (such as brick, stone, wood or fabricated residential lap siding made of hardboard or vinyl).~~

~~2. The pitch of the roof shall have a minimum vertical rise of one foot for every two feet of horizontal run.~~

~~3. Windows shall be of a scale and proportion typical of single-family residences.~~ ~~**(AMENDED 05/25/99)**~~

Section 15-136.1 Historic Rogers Road District Established (ADDED 6/18/2019)

(a) The Historic Rogers Road district, HR-R (residential), is established to implement the goals and recommendations of the *Mapping Our Community's Future* community planning effort, completed in May 2016. The intent of *Mapping Our Community's Future* and the HR-R District is to:

(1) Create opportunities for long-term residents to continue living in the community and to age in place;

(2) Preserve the socioeconomic and cultural diversity of the neighborhood;

(3) Increase physical connections within the neighborhood, including for pedestrians and bicyclists;

(4) Respect and protect the natural character of the neighborhood;

(5) Ensure that new development is consistent with neighborhood character and the vision that residents have developed for its future;

(6) Provide greater residential housing choice, affordability, and diversity;

(7) Increase economic opportunities within the neighborhood;

(8) Increase recreational resources within the neighborhood; and

(9) Ensure that new development is adequately served by infrastructure, including streets, sidewalks, and utilities.

(b) The HR-R zoning district is designed to protect and preserve the character of existing lower-density areas (minimum lot size 14,520 square feet, or no more than three lots per acre) within the neighborhood while providing for compatible new development, including new housing choice options, and increased home occupation opportunities for residents.

Section 15-137 Manufacturing Districts Established (AMENDED 6/22/82; 2/4/86).

(1) The M-1 and M-2 districts are hereby created to accomplish the purposes and serve the objectives set forth in this subsection. Part of Article XI contains performance standards that place limitations on the characteristics of uses located in the districts created by this section.

(a) **M-1 LIGHT MANUFACTURING.** This zone is designed to accommodate a limited range of industrial activities and a wide range of commercial uses including wholesaling, storage, mail-order, auto related, and office and retail in conjunction with industrial or wholesaling uses. Permitted industrial uses include enterprises engaged in manufacturing, processing, creating, repairing, renovating, painting, cleaning and assembly where all operations are contained inside a fully enclosed building. The performance standards for the M-1 zone located in Part I of Article XI are more restrictive than those in the M-2 district.

(b) **M-2 GENERAL MANUFACTURING.** This district is designed to accommodate the widest range of industrial uses. Business operations may be conducted within and outside a fully enclosed building. The performance standards for this zone are less restrictive than those in the M-1 district.

(2) There is also established a watershed light industrial (WM-3) zoning district. The purpose of this district is to allow areas within the University Lake Watershed that have been zoned M-1 prior to the effective date of this subdivision to continue to be used and developed for light industrial and related purposes, subject to certain restrictions designed to protect the watershed. Consistent with the purpose of this zone, this district shall be confined to that area zoned M-1 on the effective date of this subsection (12/7/1983); this area shall not be expanded and no new WM-3 areas shall be designated. For the purposes of this section, changes to make WM-3 zoning uniform on lots that were depicted as entirely within the M-1 zoning at the time of its establishment, but that were later depicted as being bisected by the zoning boundary, will not be considered an expansion of the district or the creation of new WM-3 areas **(AMENDED 12/7/83, 06/27/17)**

(3) There is also established a Planned Industrial Development (PID) zoning district. The purpose of this district is to provide for the possibility of well planned and tightly controlled industrial development in areas that are suitable for such development but that are not deemed appropriate for M-1 or M-2 zoning because of the less restricted types of development that may occur in such zones. **(AMENDED 6/22/82; 12/7/83)**

(a) No area less than twenty contiguous acres may be zoned as a Planned Industrial Development district, and then only upon a request submitted by or on behalf of the owner or owners of all the property intended to be covered by such zone.

(b) As indicated in the Table of Permissible Uses (Section 15-146) a planned industrial development (use classification 30.000) is the only permissible use in a PID zone.

(c) Subject to subdivision (2) of this subsection, and consistent with the restrictions contained in the definition of a planned industrial development [see Subdivision 15-15~~(60)~~], land within a PID zone may be used in a manner that would be permissible if the land were zoned M-1, except that (i) the only permissible uses are those described in the 2.130 and 4.100 classifications and (ii) the performance standards (Article XI, Part I) applicable to 4.100 uses in business zones shall govern uses in a planned industrial development.

Section 15-138 Public Facilities District Established.

There is hereby created a Public Facilities (P-F) zoning district. Within this district, those uses indicated as permissible in the Table of Permissible Uses may be developed, but only if such developments are owned and operated by the United States, the State of North Carolina, Orange County, the Town of Carrboro, or any agency, department, or subdivision of the foregoing governments.

Section 15-139 Planned Unit Development District Established.

(1) There are hereby established sixty different Planned Unit Development (PUD) zoning districts as described in this section. Each PUD zoning district is designed to combine the characteristics of at least two and possibly three zoning districts. **(AMENDED 2/24/87)**

(a) One element of each PUD district shall be the residential element. Here there are six possibilities, each one corresponding to one of the following residential districts identified in Section 15-135: R-20, R-15, R-10, R-7.5, R-3, or R- S.I.R. Within that portion of the PUD zone that is developed for purposes permissible in a residential district, all development must be in accordance with the regulations applicable to the residential zoning district to which the particular PUD zoning district corresponds.

(b) A second element of each PUD district shall be the commercial element. Here there are five possibilities, each one corresponding to either the B-1(g), B-2, B-3, O, or O/A zoning districts established by Section 15-136. Within that portion of a PUD district that is developed for purposes permissible in a commercial district, all development must be in accordance with the regulations applicable to the commercial district to which the PUD district corresponds. **(AMENDED 02/04/97)**

(c) A manufacturing/processing element may be a third element of any PUD district. Here there are two alternatives. The first is that uses permitted within the M-1 district would be permitted within the PUD district. The second alternative is that uses permitted only within the M-1 or M-2 zoning districts would not be permitted. If an M-1 element is included, then within that portion of the PUD district that is developed for purposes permissible in an M-1 district, all development must be in accordance with the regulations applicable to the M-1 district.

The sixty different PUD zoning districts are derived from the various combinations of possible alternatives within each of the three elements -- residential, commercial, manufacturing/processing. For example, there is an R-20/B-1(g)/M-1 district, an R-20/B-2/M-1 district, an R-20/B-2 district, an R-15/B-1(g)/M-1 district, etc. **(AMENDED 02/04/97)**

(2) No area of less than twenty-five contiguous acres may be zoned as a Planned Unit Development district, and then only upon the request of the owner or owners of all of the property intended to be covered by such zone.

(3) As indicated in the Table of Permissible Uses (Section 15-146), a planned unit development (use classification 28.000) is the only permissible use in a PUD zone, and planned unit developments are permissible only in such zones.

Section 15-140 Residential High Density and Commercial Overlay District (AMENDED 2/4/86)

There is hereby created a Residential High Density and Commercial Overlay (RHDC) zoning district. The purpose of this district is to provide for the redevelopment of deteriorating commercial and manufacturing areas in a manner that is consistent with commercial development goals of the town, namely, for compact, compressed town center growth, for a substantial increase in residential opportunities near the town center, and for mixed use development in the downtown. Property that lies within this overlay district may be developed in accordance with either the regulations applicable to the underlying district or the following regulations:

(1) To take advantage of provisions applicable to the RHDC overlay district, lots must contain at least one and one half acres of contiguous land under single ownership.

(2) Uses permissible shall be those permissible within either the R-2 district or the B-1(c) district, or both, except that subdivisions other than architecturally integrated subdivisions shall not be allowed.

(3) Residential density shall be determined as if the property were zoned R-2.

(4) Twenty percent of the lot area shall remain as usable open space (see Section 15-198), except that where the development seeks to provide interior open space or indoor hard court, pool, or other active recreation facilities in excess of the basic requirement set

forth in Article XIII, the permit-issuing authority may reduce the open space requirement to reflect the quality and amount of such facilities. The developer may substitute grassed areas, lawn, gardens, and shrubbed space for wooded space in meeting the requirements of 15-198(b)(3).

(5) Subject to subdivision (6), the amount of floor area set aside or used for purposes not permissible within the R-2 district (i.e, commercial uses) may not exceed ten percent of the floor area used for residential purposes.

(6) Where at least one-third of the total number of parking spaces for the development are provided on a tier or level other than ground level (as with underground parking or a two tier parking garage) and where the open space is increased to 40% of the development tract, the development may either (i) increase the commercial floor area over that allowed in subdivision (5) to 25% of the floor area in residential use, or (ii) increase the density for residential use to 1,500 square feet per dwelling unit.

(7) The maximum building height for the district shall be 50 feet. A building that is over 35 feet shall be set-in and setback 2 additional feet for every additional foot above 35 feet in height.

(8) Commercial space shall be located at ground level or on the top level of a building.

(9) Except as otherwise provided herein, the regulations applicable to land within an R-2 district shall apply to property within a RHDC district.

Section 15-140.1 Office-Residential Mixed Use District (AMENDED 6/20/06)

(a) There is hereby created an Office-Residential Mixed Use (OR-MU) zoning district. The purpose of this district is to provide for mixed use developments, i.e. developments that contain both residential and non-residential elements, within areas that are near the downtown commercial districts.

(b) Any lot within the OR-MU district that exists on the effective date of this section or that is hereafter created may be developed and used for those purposes within the 3.000 classification that are permissible within the B-2 zoning district, subject to the same permitting requirements and other applicable regulations of this chapter, just as if the property were zoned B-2.

(c) Any lot or tract within the OR-MU district may be developed as a mixed use project in accordance with the provisions of this subsection.

(1) Development of property under this subsection requires the issuance of a class A special~~conditional~~ use permit by the Town Council~~Board of Aldermen~~ in accordance with the applicable provisions of this chapter.

(2) A mixed use project approved under this subsection must have both a residential and a nonresidential component.

(3) At least one-half but not more than two-thirds of the gross floor area of the mixed use development shall consist of residential uses listed in use classifications 1.100, 1.200, 1.300, or 1.400, 1.510 (hotels and motels) and 1.520 (tourist homes and other temporary residences), provided that use classifications 1.510 and 1.520 shall not comprise more than one-third of the residential component. However, the residential component of the mixed use development may be increased to ninety percent of the floor area of the mixed use development if the developer donates to a non-profit agency engaged in providing affordable housing at least ten percent of the total acreage within the development and enters into an enforceable agreement with such agency to construct on such land and convey to the agency, at not more than the developer's cost, the number of housing units for which the agency obtains a permit. For purposes of this subsection, the phrase "within the development" means within the area covered by the conditional use permit issued for the mixed use development as well as any adjacent property that is or was owned by the developer of the mixed use project and that is conveyed to a non-profit agency and developed for affordable housing as described herein, even if such other area is not located with the Town of Carrboro.

(4) The permissible residential density within the mixed use development shall be calculated as if the development were zoned R-3, except that the density shall be calculated as if the property were zoned R-2 if the developer conveys at least ten percent of the land within the development to a non-profit agency and constructs on that land affordable housing as described in subsection (c)(3) above. For purposes of this subsection, if land that is not located within the Town of Carrboro is regarded as "within the development" as that phrase is defined in subsection (c)(3) above, then such area shall be considered part of the development for purposes of calculating the permissible residential density under this subsection.

(5) Subject to the other provisions of this subsection, the dimensional and other requirements of this chapter applicable to the R-3 district shall apply to a mixed use development permitted under this section. However, the maximum height of buildings within the mixed use development, shall be four stories, except that a fifth story shall be permitted if the developer conveys at least ten percent of the land within the development to a non-profit agency and constructs on that land of affordable housing as described in subsection (c)(3) above. Notwithstanding other provisions of this chapter, any parking levels that are constructed underneath a building within a mixed use development and that are at least in substantial part constructed below the ground service levels shall not be regarded as "stories" for purposes of the height limitations established herein.

(6) Permissible uses within the commercial component of the mixed use shall be those listed in the following use classifications within the Table of Permissible Uses: (i) use classification 3.100; (i) use classifications 2.110, 2.112, 2.120, 2.130, 2.150, 2.210, 2.220, provided that such uses do not comprise more than fifty percent of the total commercial space within the mixed use development; and (iii) restaurant uses 8.100, 8.200, and 8.500, so long as any one restaurant business does not occupy more than 1,500 square feet of gross floor area and so long as such restaurant uses do not operate during the hours of 2:00 a.m. to 6:00 a.m.

(7) A mixed use development may be constructed in phases as provided in Section 15-61. However, the phasing plan shall ensure that, as buildings are constructed and occupied, the relative mix of residential and commercial floor space remains substantially consistent with the percentages approved in the plans.

(8) If portions of the mixed use development are subdivided, the final plat shall contain notations indicating any limitations on uses or the sequencing of development created as a result of approval of the development as a mixed use under this section.

Section 15-141 Neighborhood Preservation District Established (AMENDED 09/26/89; 11/21/95; 5/27/08)

(a) There are hereby established an Historic District (HD) and a Neighborhood Preservation District (NPD).

(1) **HD HISTORIC DISTRICT.** This district is designed to apply to areas which are deemed to be of special significance in terms of their history, architecture and/or culture, and to possess integrity of design, setting, materials, feeling and association. The historic district is one of Carrboro's most valued and important assets and is established for the following purposes: to protect and conserve the heritage of Carrboro, Orange County and the State of North Carolina; to preserve the social, economic, cultural, political, and architectural history of the district and its individual properties; to promote the education, pleasure and enrichment of residents in the district and Carrboro and Orange County and the State as a whole; to encourage tourism and increased commercial activity; to foster civic beauty; and to stabilize and enhance property values throughout the district as a whole, thus contributing to the improvement of the general health and welfare of Carrboro and any residents of the district.

(2) **NPD NEIGHBORHOOD PRESERVATION DISTRICT**. This district is designed to apply to areas which are deemed to possess form, character, and visual qualities from arrangements or combinations of architectural or appurtenant

features or places of historical or cultural significance that create an image of stability, local identity, and livable atmosphere. This district is established to achieve the same objectives and purposes as those set forth above with respect to the historic district.

(b) The HD and NPD districts are overlay districts, and properties within these districts are subject to the regulations applicable to the underlying district as well as the requirements set forth in Article XXI of this chapter.

Section 15-141.1 Jordan Lake Watershed Districts Established (AMENDED 10/15/96)

(a) There is hereby established an overlay district to be known as the Jordan Lake Watershed Protection District (JLWP). The purpose of this overlay district is to provide for the imposition of regulations applicable to areas within the town's planning jurisdiction that are part of the Jordan Lake WS-IV Watershed in order to comply with the provisions of Article 21, Chapter 143 of the North Carolina General Statutes.

(b) Because the JLWP district is an overlay district, properties within this district are subject to the regulations applicable to the underlying district as well as the requirements of the JLWP district.

Section 15-141.2 Village Mixed Use District Established (AMENDED 05/25/99)

(a) There is hereby established a Village Mixed Use (VMU) district. This district is established to provide for the development of rural new villages at a scale intended to continue Carrboro's small town character as described in its Year 2000 Task Force Report and to promote a traditional concept of villages. The applicant for rezoning to this district must demonstrate that its planning, design and development will achieve, but not necessarily be limited to, all of the following specific objectives:

(1) The preservation of open space, scenic vistas, agricultural lands and natural resources within the Town of Carrboro and its planning jurisdiction and to minimize the potential for conflict between such areas and other land uses;

(2) The creation of a distinct physical settlement surrounded by a protected landscape of generally open land used for agricultural, forest, recreational and environmental protection purposes.

(3) Dwellings, shops, and workplaces generally located in close proximity to each other, the scale of which accommodates and promotes pedestrian travel for trips within the village.

(4) Modestly sized buildings fronting on, and aligned with, streets in a disciplined manner.

(5) A generally rectilinear pattern of streets, alleys and blocks reflecting the street network in existing small villages which provides for a balanced mix of pedestrians and automobiles.

(6) Squares greens, landscaped streets and parks woven into street and block patterns to provide space for social activity, parks and visual enjoyment.

(7) Provision of buildings for civic assembly or for other common purposes that act as visual landmarks and symbols of identity within the community.

(8) A recognizable, functionally diverse, but visually unified village focused on a village green or square.

(9) Development of a size and scale, which accommodates and promotes pedestrian travel rather than motor vehicle trips within the village.

(10) Compliance with the policies embodied in this chapter for the development of a village mixed use.

(b) The VMU district shall be a conditional ~~use~~ district authorized under N.C.G.S. ~~160A-382~~ 160D-703(b). As such, property may be placed within this district only in response to a petition by the owners of all the property to be included.

(b1) Pursuant to N.C.G.S. sections 160D-705(c) and 160D-102(30), any VMU district adopted as a conditional use district, in accordance with this section and Article XX of this chapter, prior to July 1, 2021 shall be deemed a conditional district and the conditional use permit issued concurrently with the establishment of the district shall be deemed a valid class A special use permit.

(c) As indicated in the Table of Permissible Uses, the only permissible use within a VMU district is a village mixed use development, and a village mixed use development is only permissible within a VMU district.

(d) Property may be rezoned to the VMU district only when the property proposed for such rezoning:

(1) Comprises at least fifty, but not more than two hundred, contiguous acres. For purposes of this subsection, acreage is not "contiguous" to other acreage if separated by a public street or connected only at a point less than one hundred feet in width; and

(2) Is so located in relationship to existing or proposed public streets that traffic generated by the development of the tract proposed for rezoning can be accommodated without endangering the public health, safety, or welfare; and

(3) Will be served by OWASA water and sewer lines when developed.

(e) No more than 350 gross acres may be rezoned to the VMU district and no more than three villages may be approved.

(f) Nothing in this section is intended to limit the discretion of the Town Council~~Board of Aldermen~~ to deny an application to rezone property to a VMU district if it determines that the proposed rezoning is not in the public interest.

(g) When a VMU rezoning application is submitted (in accordance with Article XX of this ordinance), the applicant shall simultaneously submit ~~an application for approval of~~ a master plan for the proposed village mixed use development, in accordance with the following provisions.

(1) The master plan shall show, through a combination of graphic means and text (including without limitation proposed conditions to be included in the ~~conditional~~ rezoning ~~use permi~~t for the proposed development):

a. The location, types, and densities of residential uses;

b. The location, types, and maximum floor areas and impervious surface areas for non-residential uses;

c. The location and orientation of buildings, parking areas, recreational facilities, and open spaces;

d. Access and circulation systems for vehicles and pedestrians;

e. How the development proposes to satisfy the objectives of and comply with the regulations applicable to a village mixed use development as set forth in Section 15-176.2 of this chapter;

f. How the development proposes to minimize or mitigate any adverse impacts on neighboring properties and the environment, including without limitation impacts from traffic and stormwater runoff; and

g. How the development proposes to substantially comply with the town's recommended "Village Mixed Use Vernacular Architectural Standards." **(AMENDED 8/22/06).**

(2) The planning board, Northern Transition Advisory Committee, Appearance Commission, Environmental Advisory Board, Transportation Advisory Board (and other advisory boards to which the Town Council~~Board of Aldermen~~ may refer the application) shall review the proposed master plan as part of ~~at the same time it considers~~ the applicant's rezoning request. In response to suggestions made by the planning board (or other advisory boards), the applicant may revise the master plan before it is submitted to the Town Council~~Board of Aldermen~~.

(3) ~~If the applicant submits a proposed master plan with a VMU rezoning application, then:~~

~~a.~~ Applicants for VMU districts that are located within the Transition Area portion of the Carrboro Joint Development Area as defined within the Joint Planning Agreement should meet with Carrboro Town and Orange County Planning staff prior to the formal submittal of an application to informally discuss the preliminary rezoning development plan.

~~b. The rezoning application and master plan proposal shall be reviewed concurrently by the Board of Aldermen according to the same procedures and in accordance with the same standards applicable to other zoning amendments; and~~

~~c. The Board may not approve the VMU rezoning application unless it simultaneously approves the master plan for the development of the property, subject to such reasonable modifications and conditions as the Board may impose in the exercise of its legislative discretion.~~

(4) Approval of a VMU rezoning application with a master plan under this section does not obviate the need to obtain a class A special ~~conditional~~ use permit for the village mixed use development in accordance with the provisions of Section 15-176.2 of this chapter.

a. ~~With respect to VMU applications involving property that is totally or partly within the Transition Area portion of the Carrboro Joint Development Area as defined within the Joint Planning Agreement, i~~In addition to other grounds for denial of a class A special ~~conditional~~ use permit application under this chapter, a class A special ~~conditional~~ use permit for a village mixed use development shall be denied if the application is inconsistent with the approved master plan in any substantial way. Without limiting the generality of the foregoing, an application for a class A special ~~conditional~~ use permit is inconsistent in a substantial way with a previously approved master plan if the plan of development proposed under the conditional use permit application increases the residential density or commercial floor area permissible on the property or decreases or alters the location of open space areas.

~~b. With respect to property that is located totally outside the Transition Area portion of the Carrboro Joint Development Area as defined within the Joint Planning Agreement, in addition to other grounds for denial of a conditional use permit application under this chapter, no conditional use permit for a village mixed use development may be denied on the basis that the application is inconsistent with the approved master plan. However, if the conditional use permit is approved, the Board of Aldermen shall be deemed to have amended~~

~~the master plan to bring it into conformity with the conditional use permit.~~

~~c.~~ No class A special~~conditional~~ use permit for a village neighborhood mixed use development may be denied for reasons set forth in Subsection 15-54(c)(4) if the basis for such denial involves an element or effect of the development that has previously been specifically addressed and approved in the master plan approval process, unless (i) it can be demonstrated that the information presented to the Town Council~~Board of Aldermen~~ at the master plan approval stage was materially false or misleading, (ii) conditions have changed substantially in a manner that could not reasonably have been anticipated, or (iii) a basis for denial for reasons set forth in Subsection 15-54(c)(4) is demonstrated by clear and convincing evidence.

(5) Subject to Subsection 15-141.2(g)(4)b, a master plan approved under this section as a condition of the conditional rezoning may only be amended in accordance with the provisions applicable to a rezoning of the property in question. Notwithstanding the foregoing, the Council may consider as a condition to the rezoning, parameters for future modifications to the master plan. All other requests for modifications shall be considered in accordance with the standards in subsection 15-141.4(f).

Section 15-141.3 Conditional Use Zoning Districts (Repealed).

Pursuant to G.S. sections 160D-705(c),160D-102(30), any 'conditional use zoning district,' adopted in accordance with section 15-141.3 and Article XX of this chapter prior to July 1, 2021, shall automatically be converted to a 'conditional zoning district' and the 'conditional use permit' issued concurrently with the establishment of the district shall be deemed a valid 'class A special use permit.'

(AMENDED 5/25/04; 4/28/15; 10/23/18 AMENDED)

~~(a) The following conditional use zoning districts are hereby established: RR-CU, R-20-CU, R-15-CU, R-10-CU, R-7.5-CU, R-3-CU, R-2-CU, R-S.I.R-CU, R-S.I.R.-2-CU, B-1(c)-CU, B-1(g)-CU, B-2-CU, B-3-CU, B-4-CU, CT-CU, B-3-T-CU, O-CU, M-1-CU, and M-2-CU. A Special Manufacturing Conditional Use (M-3-CU) zoning district is also established. The provisions of this section applicable to these conditional use zoning districts do not affect or apply to the Office/Assembly Conditional Use District, or the Village Mixed Use Conditional Use District.~~

~~(b) The conditional use zoning districts established in this section may be applied to property only in response to a petition signed by all the owners of the property to be included within such district.~~

~~(c) Except as otherwise provided in this subsection, the uses permissible within a conditional use zoning district established herein, and the regulations applicable to property within such a district, shall be those uses that are permissible within and~~

those regulations that are applicable to the general use zoning district to which the conditional use district corresponds. For example, property that is rezoned to a B-2-CU district may be developed in the same manner as property that is zoned B-2, except as provided in this subsection.

(1) Property that is zoned B-4-CU may be developed for use classifications 1.231 (duplex, maximum 20% units > 3 bedrooms/dwelling unit), 1.241 (two family apartment, maximum 20% units > 3 bedrooms/dwelling unit), 1.321 (multi-family residences, maximum 20% units > bedrooms/dwelling unit and 1.331 (multi-family, maximum 20% units > 3 bedrooms/dwelling unit) in addition to other uses permissible in the B-4 district, subject to a conditional use permit and the following: (i) not more than 25% of the total land area covered by the CUP in this district may be developed for such uses; and (ii) the area developed for such uses shall have a minimum of 1,500 square feet per dwelling unit (except that applicable density bonuses shall apply).

(2) (Reserved)

(c1) and other provisions of this section, the uses permissible within a conditional use zoning district established herein, and the regulations applicable to property within such a district, shall be those uses that are permissible within and those regulations that are applicable to the general use zoning district to which the conditional use district corresponds. For example, property that is rezoned to a B-2-CU district may be developed in the same manner as property that is zoned B-2, except as provided in this section.

(c1) Except as otherwise provided in this subsection, the uses that are permissible within a M-3-CU district, and the regulations applicable to property within such a district shall be those uses and those regulations that would be applicable to any property zoned M-1-CU (i.e. excluding specific conditions made applicable to specific property zoned M-1-CU) with the addition of use 3.250.

(1) If the Board concludes that a proposed development of property zoned M-3- CU will contain site and building elements that will create a more vibrant and successful community and provide essential public infrastructure, the Board may approve a conditional use permit that allows up to a specified maximum percentage of the gross floor area of the development to be devoted to any combination of uses 8.100, 8.200, 8.500, 8.600, and 8.700. The specified maximum percentage of the gross floor area of the development that may be devoted to such uses shall be proportional to the extent to which the development provides site and building elements that exceed the basic requirements of this ordinance. Such site and building elements are intended to be selected from the following five areas: stormwater management and water conservation; substantial transportation improvement and alternative transportation enhancement; on-site energy production and energy conservation; creation of new and innovative light

manufacturing operations; and the provision of public art and/or provision of outdoor amenities for public use.

(2) The following relationships between site and building elements and uses are hereby deemed to satisfy the standard set forth in subdivision (1) of this subsection: (i) up to fifteen percent of the gross floor area of a development approved pursuant to this section may be devoted to any combination of uses 8.100, 8.200, 8.500, 8.600, and 8.700 if the development includes at least fifteen percent of the examples of performance measures from the five areas of site and building element categories set forth below; (ii) up to thirty percent of the gross floor area of a development approved pursuant to this section may be devoted to any combination of the foregoing uses if the development includes at least thirty percent of the examples of performance measures from the five areas of site and building element categories set forth below; and (iii) up to forty percent of the gross floor area of a development approved pursuant to this section may be devoted to any combination of the foregoing uses if the development includes at least forty percent of the examples of performance measures from the five areas of site and building element categories set forth below. In addition, the Board may allow up to forty percent of a development approved pursuant to this section to be devoted to any combination of the foregoing uses if it concludes that the development will be making a substantial enough investment in one or more of the performance measures listed below to satisfy the standard set forth in subdivision (1) of this subsection.

Performance Measures

Site and Building Element Categories	**Examples of Performance Measures**
Stormwater management and Water conservation	1) Substantial stormwater retrofits 2) Reduction in nitrogen loading from the site by at least 8 percent from the existing condition, as determined by the Jordan Lake Accounting Tool
Substantial transportation improvement and Alternative transportation enhancement	3) Provision of a safe, convenient, and connected internal street system or vehicle accommodation area designed to meet the needs of the expected number of motor vehicle, bicycle, pedestrian, and transit trips 4) Substantial improvement to public infrastructure, such as enhanced bicycle and pedestrian paths, or access to transit 5) Construction of substantially improved site entrance, intersection

On-site energy production and energy conservation	6) Meets or exceeds standards for LEED Gold certification 7) Installation of active and passive solar features such as sufficient solar arrays to account for 50 percent or more of the electrical usage for the property 8) Use of harvested rainwater for toilet flushing 9) Use of devices that shade at least 30 percent of south-facing and west-facing building elevations 10) Use of low emissivity (low-e^2) windows along south-facing and west-facing building elevations 11) Installation of attic insulation that exceeds the current building code R-value rating by 35 percent or greater 12) Use of geothermal heat system to serve the entire complex 13) Use of LED fixtures for parking and street lights 14) Meets the Architecture 2030 goal of a 50 percent fossil fuel and greenhouse gas emission reduction standard, measured from the regional (or country) average for that building type or the US Conference of Mayors fossil fuel reduction standard for all new buildings to carbon neutral by 2030
Creation of new and innovative light manufacturing operations	15) The development of clean, innovative light manufacturing operation(s) that creates employment for a more than ten workers 16) Incorporates technologies to reduce production waste by 50 percent or more
The provision of public art and/or provision of outdoor amenities for public use	17) Outdoor amenities such as major public art 18) Amphitheatre or outdoor theater, outdoor congregating/gathering area 19) Outdoor eating facilities 20) Outdoor tables with game surfaces, etc.

(3) In approving a conditional use permit for a development of infill property zoned M-3- CU, the Board may allow deviations from the otherwise applicable standards relating to public streets as follows:

a. The Board may approve a curb and gutter street having a right-of-way of not less than 50 feet, travel lanes of not less than 11 feet, divided by a raised con-crete median, with a two foot planting strip and a five foot

sidewalk if the development provides a separate ten-foot wide paved bike path or shared-use path that constitutes a satisfactory alternative to a bike lane with the street right-of-way if the applicant can demonstrate that the proposed road will pro-vide the functional equivalent to the required street classification standard for all modes of travel from the point of origin to the terminus at the property boundaries.

b. The Board may approve a street lighting system consisting of LED lights on 15 foot poles if satisfactory arrangements are made to ensure that all costs associated with the installation, operation, and maintenance of such poles and lights are borne by the developer or the developer's successor, and not the Town.

c. The Board may approve a street tree planting plan that provides for the installation of fewer 6" caliper trees rather than the planting of more numerous 2" caliper trees required by Section 15-316.

(d) Subject to subsection(s) (f) and (g), all uses that are permissible in the conditional use zoning district shall require the issuance of a conditional use permit, regardless of whether a use in the corresponding general use district would ordinarily require (according to the Table of Permissible Uses) a zoning permit, special use permit, or conditional use permit. **(AMENDED 10/23/18)**

(e) When a rezoning petition for a conditional use zoning district is submitted (in accordance with Article XX of this chapter), the applicant shall simultaneously submit a conditional use permit application showing how the applicant proposes to develop the entirety of the property covered in the rezoning petition.

1. The rezoning and conditional use permit applications shall be processed and reviewed concurrently.

2. The Board of Aldermen shall simultaneously conduct a public hearing on the rezoning and conditional use permit applications, in accordance with the procedures applicable to other conditional use permit applications.

3. If the Board concludes in the exercise of its legislative discretion that the proposed rezoning would not be consistent with the public health, safety, or welfare, it may deny the application in accordance with the same procedures applicable to any ordinance amendment request.

4. When a rezoning petition for a conditional use zoning district is submitted (in accordance with Article XX of this chapter), the application shall include a list of proposed conditions (which may be in the form of written statements, graphic illustrations, or any combination thereof) to be incorporated into the conditional use permit issued in conjunction with the rezoning to the requested conditional use zoning district. The list of proposed conditions may be modified by the planning staff, advisory boards, or Board of Aldermen as the rezoning application works its way through the process described in Article XX, but only those conditions mutually approved by the applicant and the Board may be incorporated into the conditional use permit. Conditions and site-

specific standards imposed in this process shall be limited to (i) those that address the conformance of the development and use of the site to the provisions of this chapter or to applicable plans adopted by the Board, and (ii) those that address the impacts reasonably expected to be generated by the development and use of the site.

5. If the conditional use permit is allowed to expire (under Section 15-62), the Board may initiate action to rezone the property to any appropriate general use district classification. In addition, notwithstanding any other provision of this ordinance, the Board shall be under no obligation to consider any major modification of a conditional use permit issued in connection with a conditional use rezoning or any new conditional use permit for property that has been the subject of a conditional use rezoning.

(f) If a conditional use permit issued in connection with a conditional use rezoning authorizes the creation of a residential subdivision containing lots intended for development with not more than four dwelling units each, and the conditional use permit application does not provide sufficient information to authorize a development permit for such lots, then such lots may be developed pursuant to the issuance of a zoning permit (i.e. each lot will not require an amendment to the conditional use permit issued for the overall development).

(g) If a tract is rezoned to a B-4-CU zoning district, the Board of Aldermen may, in connection with that rezoning, approve a conditional use permit that authorizes the tract to be divided into two or more lots, so long as (i) the application for the CUP contains sufficient information to allow the Board of Aldermen to approve (and the Board does approve) such subdivision (including without limitation the street system, stormwater control system, open spaces, and all other common areas and facilities outside the boundaries of the subdivided lots) as well as the development of at least one of the lots within the sub-divided tract, all in accordance with the applicable standards and requirements of this chapter (i.e, the subdivision and development of such lot(s) require no further review by the Board); and (ii) the application specifies (as a proposed condition on the CUP) the use or uses, maximum height, and maximum floor area of any structure(s) allowed on each lot for which the application does not provide sufficient information to allow development approval by the Board. **(AMENDED 10/23/18)**

(1) Notwithstanding the provisions of subsection 15-64(d), with respect to lots for which the application for a CUP for the entire tract does not provide sufficient information to allow development approval of such lots by the Board, the Board shall specify (by way of a condition upon the CUP) whether development approval of such lots shall be regarded as an insignificant deviation or a minor modification, or shall require a new application. In making this determination, the Board shall consider the extent to which the initial CUP imposes limitations on the use and design of each such lot beyond the minimum requirements of this section. The Board's determination as to the type of approval of such lots shall apply only to applications that are consistent with the permit previously approved by the Board. Such applications may be submitted by persons who have an interest (as described in Section 15-48) only in such lots, rather than the developer of the entire tract zoned B-4-CU.

~~(2) Except as provided in subsection (1), the provisions of Section 15-64 and Subsection 15-141.3 shall apply to proposed changes to a CUP issued in connection with a B-4-CU rezoning.~~

Section 15-141.4 Conditional Zoning Districts (AMENDED 5/27/08)

(a) Conditional zoning districts are zoning districts in which the development and use of the property so zoned are governed by the regulations applicable to one of the general use zoning districts listed in the Table of Permissible Uses, as modified by the conditions and restrictions imposed as part of the legislative decision creating the district and applying it to the particular property. Accordingly, the following conditional zoning districts may be established:

R-20-CZ, R-15-CZ, R-10-CZ, R-7.5-CZ, R-3-CZ, R-2-CZ, R-R-CZ, R-S.I.R.-CZ, and R-S.I.R.-2-CZ

B-1(C)-CZ, B-1(G)-CZ, B-2-CZ, B-3-CZ, B-3-T-CZ, B-4-CZ, CT-CZ, O-CZ, OACZ, M-1-CZ, M-2-CZ, M-3-CZ **(AMENDED 4/27/10; 06/23/15; 10/23/18)**

(b) The conditional zoning districts authorized by this section may be applied to property only in response to a petition signed by all the owners of the property to be included within such district.

(c) Subject to the provisions of subsections (k~~f~~) and (l~~g~~), the uses permissible within a conditional zoning district authorized by this section, and the regulations applicable to property within such a district, shall be those uses that are permissible within and those regulations that are applicable to the general use zoning district to which the conditional district corresponds, except as those uses and regulations are limited by conditions imposed pursuant to subsection (d) of this section. For example, property that is rezoned to a B-2-CZ district may be developed in the same manner as property that is zoned B-2, subject to any conditions imposed pursuant to subsection (d). **(AMENDED 10/23/18)**

(1) Notwithstanding the foregoing, p~~P~~roperty that is zoned B-4-CZ may be developed for use classifications 1.231 (duplex, maximum 20% units > 3 bedrooms/dwelling unit), 1.241 (two family apartment, maximum 20% units > 3 bedrooms/dwelling unit), 1.321 (multi-family residences, maximum 20% units > bedrooms/dwelling unit and 1.331 (multi-family, maximum 20% units > 3 bedrooms/dwelling unit) 1 in addition to other uses permissible in the B-4 district, subject to a conditional use permit, and the following: (i) not more than 25% of the total land area covered in this district may be developed for such uses; and (ii) the area developed for such uses shall have a minimum of 1,500 square feet per dwelling unit (except that applicable density bonuses shall apply).

(2) Except as otherwise provided in this section, the uses that are permissible within a M-3-CZ~~U~~ district, and the regulations applicable to property within

such a district shall be those uses and those regulations that would be applicable to any property zoned M-1-CZ~~U~~ (i.e. excluding specific conditions made applicable to specific property zoned M-1-CZ~~U~~) with the addition of use 3.250. (Reserved)**(AMENDED 11/9/11)**

(d) When a rezoning petition for a conditional zoning district is submitted (in accordance with Article XX of this chapter), the application shall include a list of proposed conditions (which may be in the form of written statements, graphic illustrations, or any combination thereof) to be incorporated into the ordinance that rezones the property to the requested conditional zoning district. The rezoning petition for a VMU district, described in subsection 15-141.2(g)(1), shall include a master plan as a condition of the approval. **(AMENDED 10/25/16)**

(e~~d1~~) A rezoning petition may be submitted to allow use classification 3.260 Social Service Provider with Dining within a building of more than two stories or 35 feet in height. **(AMENDED 10/25/16)**

(1) The petition shall include information that demonstrates that, if the project is completed as proposed, it:

a. Will not substantially injure the value of adjoining or abutting property; and

b. Will be in harmony with the area in which it is to be located. The manner in which a project is designed to accommodate additional building height including, but not limited to, scale, architectural detailing, compatibility with the existing built environment and with adopted policy statements in support of vibrant and economically successful and sustainable, mixed-use, core commercial districts shall be among the issues that may be considered to make a finding that a project is or is not in harmony with the area in which it is to be located. The applicant may use a variety of graphic and descriptive means to illustrate these findings; and

c. Will be in general conformity with the Comprehensive Plan, Land Use Plan, long range transportation plans~~Thoroughfare Plan~~, and other plans officially adopted by the Council~~Board~~. **(AMENDED 03/22/16, 10/25/16)**

(2) All relative provisions of the Land Use Ordinance shall apply except to the extent that such provisions are superseded by the provisions of this section or any conditions incorporated into the conditional zoning district described in subsection (d1) above. **(AMENDED 10/25/16)**

(fe) ~~The list of proposed conditions may be modified by the planning staff, advisory boards, or Board of Aldermen as the rezoning application works its way through the process described in Article XX, but only those conditions mutually approved by the applicant and the Board may be incorporated into the conditional zoning district shall be limited to (i) those that address the conformance of the development and use of the site to the provisions of this chapter or to applicable plans adopted by the Board, and (ii) those that address the impacts reasonably expected to be generated by the development or use of the site.~~ **~~(AMENDED 03/22/16, 10/25/16)~~**

Specific conditions may be proposed by the petitioner or the Town and modified by the planning staff, advisory boards or Town Council as the rezoning application works its way through the process described in Article XX, but only those conditions mutually approved by Town and consented to by the petitioner in writing may be incorporated into the zoning regulations. Unless consented to by the petitioner in writing,- the town may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to the requirements of this chapter, applicable plans adopted pursuant to G.S. 160D-501, or the impacts reasonably expected to be generated by the development or use of the site.

(g) Minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments as described in Article XX.

(h) If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved apply only to those properties whose owners petition for the modification.

~~(f) Notwithstanding the foregoing, all uses that are permissible in the B-4-CZ zoning district shall require the issuance of a conditional use permit.~~ **~~(AMENDED 10/23/18)~~**

(ig) All uses that are permissible in the conditional zoning district shall require the issuance of the same type of permit that such use in the corresponding general use district would ordinarily require (according to the Table of Permissible Uses), i.e. a class A special use permit, class B special use permit, or zoning permit~~, special use permit, or conditional use permit~~.

(jf) Notwithstanding the foregoing, all uses that are permissible in the B-4-CZ zoning district and M-3-CZ zoning district shall require the issuance of a conditional use permit.**(AMENDED 10/23/18)**

(k~~h~~) Notwithstanding the foregoing, in approving a rezoning to a B-1(g) – CZ zoning district, the Town Council~~Board of Aldermen~~ may authorize the property so zoned to be developed at a higher level of residential density than that otherwise permissible in B-1(g) zoning districts under Section 15-182 if the rezoning includes conditions that provide for site and building elements that will create a more vibrant and successful community. Site and building elements are intended to be selected from at least three of the following seven areas: stormwater management, water conservation, energy conservation, on-site energy production, alternative transportation, provision of affordable housing, and the provision of public art and/or provision of outdoor amenities for public use. Conditions that may be included to meet the above stated objective include but shall not be limited to the following: **(AMENDED 11/9/11)**

(1) Reduction in nitrogen loading from the site by at least 8% from the existing condition, as determined by the Jordan Lake Accounting Tool.

(2) Energy performance in building requirements to meet one or more of the following.

a. Achieve 40% better than required in the Model Energy Code, which for NC, Commercial is ASHRAE 90.1-2004-2006 IECC equivalent or better, and Residential is IECC 2006, equivalent or better).
b. "Designed to Earn the Energy Star" rating.
c. Architecture 2030 goal of a 50 percent fossil fuel and greenhouse gas emission reduction standard, measured from the regional (or country) average for that building type.
d. AIA goals of integrated, energy performance design, including resource conservation resulting in a minimum 50 percent or greater reduction in the consumption of fossil fuels used to construct and operate buildings.
e. LEED certification to achieve 50% CO2 emission reduction, or LEED silver certification
f. US Conference of Mayors fossil fuel reduction standard for all new buildings to carbon neutral by 2030.
g. Specific energy saving features, including but not limited to the following, are encouraged.

i. Use of shading devices and high performance glass for minimizing heating and cooling loads
ii. Insulation beyond minimum standards;
iii. Use of energy efficient motors/HVAC;
iv. Use of energy efficient lighting;
v. Use of energy efficient appliances
vi. LED or LED/Solar parking lot lighting (50-100% more efficient).
vii. Active and passive solar features.

(3) Provision of onsite facilities (e.g. solar, wind, geothermal) that will provide 5% of electricity demand associated with the project.

(4) Use of harvested rainwater for toilet flushing.

(5) Parking lot meets the standard for a "green" parking lot, per the EPA document Green "Parking Lot Resource Guide."

(6) Inclusion of Low Impact Development features.

(7) Provision of covered bike parking sufficient to provide space for one space per every two residential units.

(8) Provision of a safe, convenient, and connected internal street system or vehicle accommodation area designed to meet the needs of the expected number of motor vehicle, bicycle, pedestrian, and transit trips.

(9) Inclusion of at least one (1) parking space for car sharing vehicles.

(10) Provision of public art and/or outdoor amenities for public use.

(11) Use of surface materials that reflect heat rather than absorb it.

(12) Use of devices that shade at least 30% of south-facing and west-facing building facades.

(13) Provision of affordable housing in accordance with Town policy.

(lh) If a B-1(g) – CZ zoning district is created and, pursuant to subsection (kf) of this section, a higher level of residential density than that otherwise permissible in B-1(g) zoning districts is approved for that district, then it shall be a requirement of such district that at least twenty percent (20%) of the total leasable or saleable floor area within all buildings located within such zoning district shall be designed for non-residential use. Occupancy permits may not be given for residential floor area if doing so would cause the ratio of residential floor area for which an occupancy permit has been issued to non-residential floor area for which an occupancy permit has been issued to exceed four to one (4:1). **(AMENDED 11/9/11)**

(mi) For property that is zoned B-4-CZ, the Town CouncilBoard of Aldermen may approve a class A special conditional use permit that authorizes the tract to be divided into two or more lots, so long as (i) the application for the class A special use permitCUP contains sufficient information to allow the Town CouncilBoard of Aldermen to approve (and the CouncilBoard does approve) such subdivision (including without limitation the street system, stormwater control system, open spaces, and all other common areas and facilities outside the boundaries of the subdivided lots) as well as the development of at least one of the lots within the subdivided tract, all in accordance with the applicable standards and requirements of this chapter (i.e.the subdivision and development of such lot(s) require no further review by the CouncilBoard); and (ii) the

application specifies (as a proposed condition on the CUP) the use or uses, maximum height, and maximum floor area of any structure(s) allowed on each lot for which the application does not provide sufficient information to allow development approval by the Council~~Board~~.(Amended 10/23/18)

(1) Notwithstanding the provisions of subsection 15-64(d), with respect to lots for which the application for a class A special use permit~~CUP~~ for the entire tract does not provide sufficient information to allow development approval of such lots by the Council~~Board~~, the Council~~Board~~ shall specify (by way of a condition upon the class A SUP~~CUP~~) whether development approval of such lots shall be regarded as an insignificant deviation or a minor modification, or shall require a new application. In making this determination, the Council~~Board~~ shall consider the extent to which the initial class A SUP~~CUP~~ imposes limitations on the use and design of each such lot beyond the minimum requirements of this section. The Council~~Board~~'s determination as to the type of approval of such lots shall apply only to applications that are consistent with the permit previously approved by the Council~~Board~~. Such applications may be submitted by persons who have an interest (as described in Section 15-48) only in such lots, rather than the developer of the entire tract zoned B-4-CZ.

(2) Except as provided in subdivision (1) above, the provisions of Section 15-64 and Subsection 15-141.4 shall apply to proposed changes to a class A SUP~~CUP~~ issued in connection with a B-4-CZ rezoning.

(n) For property that is zoned M-3-CZ, pursuant to subsection 15-141.4(c)(2) the following provisions shall apply.

(1) If the Town Council concludes that a proposed development of property zoned M-3- CZ will contain site and building elements that will create a more vibrant and successful community and provide essential public infrastructure, the Council may approve a class A special use permit that allows up to a specified maximum percentage of the gross floor area of the development to be devoted to any combination of uses 8.100, 8.200, 8.500, 8.600, and 8.700. The specified maximum percentage of the gross floor area of the development that may be devoted to such uses shall be proportional to the extent to which the development provides site and building elements that exceed the basic requirements of this ordinance. Such site and building elements are intended to be selected from the following five areas: stormwater management and water conservation; substantial transportation improvement and alternative transportation enhancement; on-site energy production and energy conservation; creation of new and innovative light manufacturing operations; and the provision of public art and/or provision of outdoor amenities for public use.

(2) The following relationships between site and building elements and uses are hereby deemed to satisfy the standard set forth in subdivision (1) of this subsection: (i) up to fifteen percent of the gross floor area of a development approved pursuant to this section may be devoted to any combination of uses 8.100, 8.200, 8.500, 8.600, and 8.700 if the development includes at least fifteen percent of the examples of performance measures from the five areas of site and building element categories set forth below; (ii) up to thirty percent of the gross floor area of a development approved pursuant to this section may be devoted to any combination of the foregoing uses if the development includes at least thirty percent of the examples of performance measures from the five areas of site and building element categories set forth below; and (iii) up to forty percent of the gross floor area of a development approved pursuant to this section may be devoted to any combination of the foregoing uses if the development includes at least forty percent of the examples of performance measures from the five areas of site and building element categories set forth below. In addition, the Council may allow up to forty percent of a development approved pursuant to this section to be devoted to any combination of the foregoing uses if it concludes that the development will be making a substantial enough investment in one or more of the performance measures listed below to satisfy the standard set forth in subdivision (1) of this subsection.

Performance Measures

Site and Building Element Categories	**Examples of Performance Measures**
Stormwater management and Water conservation	1) Substantial stormwater retrofits 2) Reduction in nitrogen loading from the site by at least 8 percent from the existing condition, as determined by the Jordan Lake Accounting Tool
Substantial transportation improvement and Alternative transportation enhancement	3) Provision of a safe, convenient, and connected internal street system or vehicle accommodation area designed to meet the needs of the expected number of motor vehicle, bicycle, pedestrian, and transit trips 4) Substantial improvement to public infrastructure, such as enhanced bicycle and pedestrian paths, or access to transit 5) Construction of substantially improved site entrance, intersection
On-site energy production	6) Meets or exceeds standards for LEED Gold certification

and energy conservation	7) Installation of active and passive solar features such as sufficient solar arrays to account for 50 percent or more of the electrical usage for the property 8) Use of harvested rainwater for toilet flushing 9) Use of devices that shade at least 30 percent of south-facing and west-facing building elevations 10) Use of low emissivity (low-e^2) windows along south-facing and west-facing building elevations 11) Installation of attic insulation that exceeds the current building code R-value rating by 35 percent or greater 12) Use of geothermal heat system to serve the entire complex 13) Use of LED fixtures for parking and street lights 14) Meets the Architecture 2030 goal of a 50 percent fossil fuel and greenhouse gas emission reduction standard, measured from the regional (or country) average for that building type or the US Conference of Mayors fossil fuel reduction standard for all new buildings to carbon neutral by 2030
Creation of new and innovative light manufacturing operations	15) The development of clean, innovative light manufacturing operation(s) that creates employment for a more than ten workers 16) Incorporates technologies to reduce production waste by 50 percent or more
The provision of public art and/or provision of outdoor amenities for public use	17) Outdoor amenities such as major public art 18) Amphitheatre or outdoor theater, outdoor congregating/gathering area 19) Outdoor eating facilities 20) Outdoor tables with game surfaces, etc.

(3) In approving a class A special use permit for a development of infill property zoned M-3-CZ, the Council may allow deviations from the otherwise applicable standards relating to public streets as follows:

a. The Council may approve a curb and gutter street having a right-of way of not less than 50 feet, travel lanes of not less than 11 feet, divided by a raised concrete median, with a two foot planting strip and a five foot sidewalk if the development provides a separate ten-foot wide paved bike path or shared-use path that constitutes a satisfactory

alternative to a bike lane with the street right-of-way if the applicant can demonstrate that the proposed road will pro-vide the functional equivalent to the required street classification standard for all modes of travel from the point of origin to the terminus at the property boundaries.

b. The Council may approve a street lighting system consisting of LED lights on 15 foot poles if satisfactory arrangements are made to ensure that all costs associated with the installation, operation, and maintenance of such poles and lights are borne by the developer or the developer's successor, and not the Town.

c. The Council may approve a street tree planting plan that provides for the installation of fewer 6" caliper trees rather than the planting of more numerous 2" caliper trees required by Section 15-316.

Section 15-141.5 Site Specific, Flexible Zoning District (AMENDED 06/21/16)

(a) A site specific, flexible zoning district (FLX) may be established in accordance with the provisions of this section. The purpose of such a district is to establish detailed standards for alternative possibilities for the development of a specific tract of land, thereby facilitating the development of that property according to the demands of the market, but in a way that is consistent with sound planning and the promotion of the public health, safety, and welfare.

(b) To be considered for FLX zoning, a tract must (i) be at least twenty-five acres in size, (ii) be, as a whole, owned by or under control or option to be purchased by one or more individuals or entities, (iii) be located adjacent to a major arterial such that, when developed, the principal entrance to such development will be from that arterial, (iv) have been the subject of a site specific planning study by the Town to determine the most appropriate potential development options for such tract. As used herein, the term "site specific planning study" shall mean a collaborative programmatic and design study for the site performed either by, or with the participation of the Town and input from one or more workshops, which shall result in a narrative report and conceptual master plan describing in general terms how the site might be developed and how the conceptual master plan corresponds to and addresses applicable components of all town plans for the area, and applicable conditions, and (v) be located in an area that is subject to an adopted small area plan.

(1) If the Town receives a request for FLX zoning for a tract that has not been the subject of a site specific planning study as described in Subsection (b)(iv) above, the Planning Director shall present to the Town Council~~Board of Aldermen~~ a proposal for undertaking such a study before accepting a formal application for the rezoning. If the Town Council~~Board of Aldermen~~ accepts the proposal, the site specific planning study shall proceed as described in the following subsections, or as otherwise directed by the Council~~Board~~.

a. The site specific planning study shall be structured as a charrette of a minimum of one day in duration, or more as determined by the Council~~Board~~.

b. The Town shall contract a design professional, with no ties to the applicant, to conduct the charrette. The Town may also contract with a qualified facilitator to oversee the charrette process and final reports prepared from the charrette process.
c. Participation shall include representatives from advisory boards, neighbors, and members of the public.
d. Notice of the date of the charrette will be mailed to residents and property owners within 1000 feet of the subject property, published in the newspaper as well and any other means the Town deems suitable.

(2) Findings from the site specific planning study report, or narrative, and site plan(s) shall be presented to the Town Council~~Board of Aldermen~~. Subsequent requests for FLX zoning shall demonstrate compliance with the findings from the site specific planning study.

(3) If more than five years have elapsed since the findings from the site specific planning study were presented to the Council~~Board~~ and the circumstances relating to the study have substantially changed, the Council~~Board~~ may request an update to the study before accepting a request for FLX zoning. Examples of substantial changes in circumstances include but are not limited to: annexation, some or all of the tract has been subject to a rezoning, unrelated to the FLX district, that increases residential density or changes the types of uses, (i.e. residential to commercial), development on surrounding properties has changed the character or capacity of existing infrastructure.

(c) A FLX zoning district shall address the following:

(1) The types of uses that are permissible within the FLX district, along with a maximum (and if applicable, a minimum) percentage of the gross land area that will be devoted to each such use. The description of uses may be in reference to the use classification numbers set forth in the Table of Permissible Uses, or the uses may otherwise be described. The district regulations may also establish density or intensity limitations (expressed in terms of a maximum and/or, if applicable, a minimum number of dwelling units or square feet of building floor area, and applicable ratios, if any if different types of uses within the district).

(2) The dimensional restrictions (building height, minimum lot size, setbacks) that shall apply throughout the district. Different restrictions may apply to different portions of the district, depending on the uses located therein. The dimensional restrictions may be described by reference to those applicable within particular zoning districts, or otherwise.

(3) Any limitations on the areas within the district where particular types of uses may be allowed.

(4) Any architectural standards that will apply to all or designated portions of the district.

(5) Any limitations on the timing or sequence of development of various portions of the district.

(6) The location of entrances to and exits from the tract zoned FLX.

(7) The manner in which the development of the property will comply with the stormwater requirements set forth in Article XVI, Part II. All developed lots within the district shall be subject to these standards, regardless of the amount of land disturbance, but the FLX district may allow the necessary stormwater treatment facilities to be constructed to meet these standards on a lot by lot basis, or some other basis that provides effective and efficient treatment for all new construction.

(8) Any limitations on the location or design of parking lots and facilities.

(9) Specifications and standards for the internal circulation system serving vehicular and pedestrian traffic, including a statement as to whether such facilities will be dedicated to the Town.

(10) All infrastructure improvements proposed to be constructed in conjunction with the development of the property zoned FLX (including but not limited to improvements to adjoining streets) together with a schedule that links construction of such improvements to the development of the property.

(10A) A traffic impact analysis of the FLX zone, including a phase plan or schedule of improvements along with a description of thresholds to require improvements.

(11) The extent to which, and the manner in which, development within the tract zoned FLX will be required to meet the goals of Low Impact Design and or exceed the standards for LEED gold certification.

(d) Development of any lot within a FLX zoning district shall require a zoning permit (and a sign permit if applicable), but not a special or conditional use permit.

(e) All relevant provisions of the Land Use Ordinance shall apply except to the extent that such provisions are superseded by the provisions of this section or any FLX district established pursuant to this section. In the case of conflict, the provisions of this ordinance or of the specific FLX district ordinance for the tract shall apply.

(f) A text amendment establishing a FLX district as well as a map amendment applying such district to a particular tract shall be initiated and processed in accordance with the following provisions:

(1) The owner of property who wishes to have such property zoned FLX shall submit a written request to the Town Council~~Board of Aldermen~~, identifying the subject property and explaining why the property is a good candidate for FLX zoning. This written request shall include or attach (i) relevant documents (i.e. narrative, and site plan(s) and a list of proposed conditions which may be in the form of written statements, graphic illustrations, or any combination thereof) that describe the results of the site specific planning process referred to in subsection (b)(iv) above, and (ii) an explanation as to why and how the proposed district is consistent with the Northern Study Area Plan, or if the property is not located within the Northern Study Area, such other plans or policies as may be applicable. The Council~~Board~~ may, in its discretion, summarily deny the request or direct the town attorney and planning staff to work with the property owner to develop an ordinance pursuant to this section that establishes an appropriate FLX district and that applies this district to such property.

(2) Once an ordinance has been drafted as provided in subdivision (f)(1), such ordinance shall be processed in accordance with the provisions of Article XX of this chapter applicable to ordinance amendments initiated by the town administration, except that (i) a preliminary draft of the ordinance, including a concept plan shall be presented to the planning board, Transportation Advisory Board, Environmental Advisory Board, Appearance Commission, Economic Sustainability Commission, and Northern Transition Area Advisory Committee (and other advisory boards to which the Town Council ~~Board of Aldermen~~ may refer the draft) prior to the ordinance being referred to the Town Council~~Board of Aldermen~~ to establish a date for the legally required public hearing on the ordinance; (ii) at the time the Town Council~~Board of Aldermen~~ directs that an ordinance be drafted in accordance with subsection (f)(1) above, the Council~~Board~~ may establish such additional processes as deemed necessary to ensure that the public has an adequate opportunity for input into the proposed FLX district, and (iii) no property shall be rezoned FLX without the consent of the property owner (which consent may be withdrawn at any time before the adoption of the ordinance establishing the FLX district). The text and the map amendment may be processed simultaneously.

(3) Amendments to a FLX district shall be initiated and processed in the same manner as the initial ordinance, except that, if the planning staff determines that a proposed amendment has no substantial impact on neighboring properties, the general public, or those intended to occupy the site zoned FLX, the staff may forward the requested amendment to the Council~~Board~~ as provided in subsection 15-321(c)(2). In such case, the Council~~Board~~ may

(i) decline to call for a public hearing on the proposed amendment, thereby rejecting it; (ii) establish a date for a public hearing on the proposed amendment in accordance with the procedures applicable to any other zoning amendment; or (iii) direct that additional processes be followed to obtain additional public input on the proposal before setting a date for the legally required public hearing.

(g) Property within a FLX district may be subdivided according to the provisions of this chapter applicable to minor subdivisions, even if such subdivision involves the creation of more than a total of four lots or the creation of a new public street.

PART II. ZONING MAP

Section 15-142 Official Zoning Map.

(a) There shall be a map known and designated as the Official Zoning Map, which shall show the boundaries of all zoning districts within the town's planning jurisdiction. This map shall be drawn on acetate or other durable material from which prints can be made, shall be dated, and shall be kept in the planning department.

(b) The Official Zoning Map dated April, 1973 is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with Section 15-143.

(c) Should the Official Zoning Map be lost, destroyed, or damaged, the administrator may have a new map drawn on acetate or other durable material from which prints can be made. No further council~~board~~ authorization or action is required so long as no district boundaries are changed in this process.

Section 15-143 Amendments to Official Zoning Map (AMENDED 4/27/10; 10/26/10); 09/24/13

(a) Amendments to the Official Zoning Map are accomplished using the same procedures that apply to other amendments to this chapter, as set forth in Article XX.

(b) The administrator shall update the Official Zoning Map as soon as possible after amendments to it are adopted by the Town Council~~Board~~. Upon entering any such amendments to the map, the administrator shall change the date of the map to indicate its latest revision. New prints of the updated map may then be issued.

(c) No unauthorized person may alter or modify the Official Zoning Map.

(d) The planning department shall keep copies of superseded prints of the zoning map for historical reference.

Section 15-143.4 Downtown Neighborhood Protection Overlay District (AMENDED 8/23/05)

(a) There is hereby created a Downtown Neighborhood Protection (DNP) Overlay District. The purpose of this district is to establish special height, setback, and design requirements applicable to lots in certain commercially zoned downtown areas where such lots abut or are directly across the street from residentially zoned properties.

(b) Because the DNP district is an overlay district, properties within this district are subject to the regulations applicable to the underlying district except as those regulations are modified or superseded by the requirements of the DNP district. The requirements of the DNP district are set forth in Section 15-185.1 of this chapter.

Section 15-143.5 Lloyd/Broad Overlay District (Amended 06/26/2018)

(a) There is hereby created a Lloyd/Broad Overlay District. The purpose of this District is to protect and preserve the character of the District and to establish special height, setback, mass and parking requirements applicable to lots within the District.

(b) Because the Lloyd/Broad Overlay District is an overlay district, properties within this District are subject to the regulations applicable to the underlying zoning district, except as those regulations are modified or superseded by the requirements of this District which are set forth in Section 15-185.2 of this Chapter.

Section 15-144 through 15-145 Reserved.

Article X

PERMISSIBLE USES

Section 15-146 Table of Permissible Uses.[1]

The following Table of Permissible Uses should be read in close conjunction with the definitions of terms set forth in Section 15-15 and the other interpretative provisions set forth in this article.

[1]The Table of Permissible Uses was amended 05/12/81 to add the R-SIR-2 and W categories.

The Table of Permissible Uses was amended 12/07/83 to delete the W category and to add the C, R-40, R-80, B-5, and WM-3 categories.

The Table of Permissible Uses was amended 02/04/86 to add the R-2, B-1(c), B-1(g), and CT categories; 04/05/88 the B-3T; and 04/16/91 the O and OA zones.

The Table of Permissible Uses of the Carrboro Land Use Ordinance was amended 6/22/04 to modify the permit requirements for the 8.000 uses.

The Table of Permissible Uses was amended 5/24/2005 modifying the use classification 15.800.

The Table of Permissible Uses was amended 5/24/2005 by adding a new classification 17.400 Underground Utility Lines.

The Table of Permissible Uses was amended 3/7/06 by adding the letter "S" opposite use classifications 3.110, 3.120, and 3.130 under the B-3 district column to indicate that these uses are permissible with the special use permit in that district.

The Table of Permissible Uses was amended 3/7/06 by replacing the designation "ZC" opposite use classification 3.150 under the B-3 district column with the designation "S" to indicate that this use is permissible in this district with a special use permit.

The Table of Permissible Uses was amended 6/26/07 to modify the use classification 21.000 Cemetery and Crematorium by creating two new subcategories for this use so that the permit requirements now read as follows: 21.200 All other cemeteries; and 21.300 Crematorium.

The Table of Permissible Uses was amended by deleting the entries for 1.510 Hotels and Motels and 1.530 Bed and Breakfast, renumbering the remaining Temporary Residential use classification that is remaining, 1.520 Tourist Homes and other Temporary Residences Renting Rooms for Relatively Short Periods of Time, from 1.520 to 1.510; and a new use classification 34.000 Temporary Lodging with associated permit requirements.

The Table of Permissible Uses was amended 6/26/07 by changing adding the letter "S" opposite use classification 22.100 under the B-1-C district column to indicate that this use is permissible with a Special Use Permit in that district. The Table of Permissible Uses is further amended by adding the letter "Z" opposite use classification 22.200 under the B-1-C district column to indicate that this use is permissible in this district with a Zoning Permit.

The Table of Permissible Uses was amended 6/26/07 by changing the letter "S" to letter "Z" opposite the classification 22.200 under the B-2, B-4, and CT district column to indicate that this use is now permissible with a Zoning Permit in these districts.

The Table of Permissible Uses was amended 6/26/07 by relabeling use 22.300 as Senior Citizens Day Care, Class A and by changing the letter "S" to letter "Z" opposite the classification 22.300 under the B-2, B-4, and CT district column to indicate that this use is now permissible with a Zoning Permit in these districts.

The Table of Permissible Uses was amended 6/26/07 by adding a new use classification, 22.400, Senior Citizens Day Care, Class B and adding the letter "S" opposite this use classification under the columns for the R-2, R-3 R-7.5, R-10, R-15, R-20, RR B-2, B-4, and CT zoning districts, by adding a "Z" under the columns for the B-1(G), B-1(C**),** B-3, M-1, O, and O/A zoning districts.

The Table of Permissible Uses was amended 11/27/07 by adding the letter "C" opposite use classifications 2.112, 2.120, 2.150, 3.120, and 3.220 under the WM-3 district column to indicate that these uses are permissible with a Conditional Use Permit in that district.

The Table of Permissible Uses was amended 6/24/08 by adding a new use classification 8.700 entitled "Mobile prepared food vendors" and by adding the letter "Z" opposite this use classification under the B-1(C), B-1(G) and M-1 zoning district columns to indicate that this use is permissible in those districts with a zoning permit.

The Table of Permissible Uses was amended 10/28/08 by adding the letter "C" opposite use classifications 2.210, 2.220, 2.230 under the WM-3 district column to indicate that these uses are permissible with a Conditional Use Permit in that district.

The Table of Permissible Uses was amended 11/24/09 by the addition of a "Z(l)" opposite the 5.110 use classification in the column for the B-4 zoning district to indicate that these uses are permissible with a zoning permit in that district, subject to the limitations provided in Section 15-147(m).

The Table of Permissible Uses was amended 6/22/10 to include "electronic gaming operations" as use #classification 6.150 and to add the electronic gaming definition. Electronic gaming operations shall be permitted with a special use permit in the B-4 zoning district, and the Table of Permissible Uses is amended accordingly.

The Table of Permissible Uses was amended on 4/23/13 to change the permit designation "ZS" to "ZC" wherever the former designation appears in the table under the zoning district columns applicable to the commercial and manufacturing districts. No change shall be made with respect to use classification 26.100 (major subdivisions).

The Table of Permissible Uses was amended on 6/24/14 by removing all the letters "S, C, Z" from the M-1 and M-2 district columns opposite the following use classifications to indicate that such uses are not permissible within the Town's planning jurisdiction; 2.140, 2.240, 2.340, 3.230, 6.260, 8.300, 8.400, 16.100.

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The Table of Permissible Uses was amended on 3/24/15 due to an error from amendment on 6/24/14.

The Table of Permissible Uses was amended on 6/23/15 by adding a new classification 15.750 Data Service Provider Facility and adding "ZS" under R-10, R-15 and R-20 districts.

The Table of Permissible Uses was amended on 3/22/16 by adding a new subsection (112) and adding a new use classification 3.260 Social Service Provider with Dining and adding the letter "Z" under B1(g), RR and R-20.

The Tables of Permissible Uses was amended on 6/27/17 to add 17.501, 502 & 503 to the table regarding Solar Array.

The Table of Permissible Uses was amended on 10/23/2018 by adding new use classification 2.250 "High Volume Retail with Outdoor Display and Curb-side Pickup and/or Drive Through Window (service directly to vehicle to pick- up pre-ordered grocery or pharmacy items for off-premises consumption)" and by adding the letter "C" opposite this use classification under the B-4 zoning district columns to indicate that this use is permissible in this district with a conditional use permit.

The Table of Permissible Uses was amended on 10/23/2018 by adding new use classification 3.131 "Office or clinics of physicians or dentists with not more than 30,000 square feet of total building gross floor area." and by adding the letter "C" under the B-4 zoning district columns to indicate that this use is permissible in this district with a conditional use permit.

The Tables of Permissible Uses was amended on 11/27/2018 to add 8.800 "Performing Art Space" to the table with the letters "ZC" for the B-1(g) and B-1(c) zoning districts.

The Table of Permissible Uses, is amended on 12/19/2018 by adding the term "places of worship and spiritual contemplation" to the description of use category 5.200.

The Table of Permissible Uses was amended on 1/22/2019 by adding the letters "ZS" opposite use classification 17.200 "Community or Regional Utility Facilities" under the R-10 Zoning District to indicate that this use is permissible in this district with a zoning permit or Special Use Permit, subject to the supplementary use regulations in Subsection 15-172.1.

The Table of Permissible Uses is amended on 6/18/2019 by adding one new column labelled HR-R with permissible use classifications as shown in the attached Exhibit 'A.' The letters "Z," "S," "C," "SC," and "ZS," and the symbol "*" have the meanings described for all uses as provided in applicable subsections of Section 15-147.

The Table of Permissible Uses) was amended on 10/22/2019 by adding a new use classification 23.300 "Temporary Construction Parking" and by adding the letter "Z (l)" opposite this use classification under the B-1(g), B-1(c) and B-2 zoning district columns to indicate that this use is permissible in these districts with a zoning permit, subject to Subsection 15-147(u).

The Table of Permissible Uses was amended on 6/23/20 by expanding the description of the subcategories of use classification 18.000 "Towers and Related Structures" to read 18.100 "Towers and

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antennas fifty feet tall or less; 18.200 "Towers and antennas that exceed 50 feet in height; substantial modifications, that are not regarded as accessary to residential uses under 15-150(c)(5);" 18.300 "Antennas exceeding 50 feet in height attached to wireless support structures other than towers; substantial modifications (other than accessory uses under 15-150(c)(5);" and 18.400 "Publically-owned towers, wireless support structures and antennas of all sizes that are used in the provision of public safety services."

Table of Permissible Uses was amended on 6/23/20 by adding a new use classification 18.500 "Small and Micro Wireless Facilities; with or without associated Utility Poles or Wireless Support Structures" by adding the letter "Z" opposite this use classification under all zoning district columns to indicate that this use is permissible in all districts with a zoning permit as noted further in section 15-176 Towers, Antennas, and Wireless Facilities, including Small and Micro Wireless Facilities.

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[2]Use classifications amendment/repeal dates are as follows:

1.112 Amended 10-01-85
1.120 Amended 10-01-85
1.420 Amended 05-10-83; 06-22-04
1.480 Amended 04-19-05
1.640 Amended 10-22-85
1.700 (Repealed)
1.800
2.110
2.111 Amended 04-15-81; 12-14-82
2.112 Amended 11-27-07
2.120 Amended 11-27-07
2.140 Amended 06-24-14
2.150 Amended 11-27-07
2.210 Amended 05-28-02; 10-28-08
2.220 Amended 10-28-08
2.230 Amended 05-28-02; 10-28-08
2.240 Amended 06-24-14
2.340 Amended 06-24-14
3.110 Amended 03-07-06
3.120 Amended 03-07-06; 11-27-07
3.130 Amended 03-07-06
3.140 Amended 12-07-83
3.150 Amended 03-07-06
3.220 Amended 11-27-07
3.230 Amended 06-24-14
3.260 Amended 03-22-16
5.110 Amended 11-24-09
5.200 Amended 1219-18
6.150 Amended 06-22-10
6.260 Amended 06-24-14
7.200 Amended 05-10-83
8.100 Amended 06-22-04
8.200 Amended 06-22-04
8.300 Amended 06-24-14
8.400 Amended 06-24-14
8.500 Amended 06-22-04
8.600 Amended 06-22-04
8.700 Amended 06-24-08
9.100 Amended 06-25-02
15.750 Amended 06-23-15
15.800 Amended 05-24-05
16.100 Amended 06-24-14
17.400 Amended 05-24-05
17.410 Amended 03-24-15
17.420 Amended 03-24-15
17.501 Amended 06-27-17
17.502 Amended 06-27-17
17.503 Amended 06-27-17
18.200 Amended 06-23-20
18.300 Amended 06-23-20
18.400 Amended 06-23-20
18.500 Amended 06-23-20
19.100 Amended 05-12-81
19.200 Amended 05-12-81
21.000 Amended 06-20-06
21.100 Amended 06-20-06
21.200 Amended 06-20-06
21.300 Amended 06-20-06
22.100 Amended 06-26-07
22.200 Amended 06-26-07
22.300 Amended 06-26-07
23.300 Amended 10-22-19
26.100 Amended 04-23-13
34.000 Amended 11-28-06
34.100 Amended 11-28-06
34.200 Amended 11-28-06

Pages 6-12 left intentionally blank for the Table of Permissible Uses.

Section 15-147 Use of the Designations A,B,Z,~~S,C~~ in Table of Permissible Uses (AMENDED 11/18/03; 6/22/04; 10/25/05; 11/22/05; 6/26/07; 11/27/07; 10/28/08, 11/24/09. REWRITTEN 4/23/09)

(a) Subject to Section 15-148, and subsection (h) of this section, when used in connection with a particular use in the Table of Permissible Uses (Section 15-146), the letter "Z" means that the use is permissible in the indicated zone with a zoning permit issued by the administrator (except that, in connection with use classification 26.200, minor subdivisions, the letter "Z" means that final plat approval shall be granted by the Planning Director). The letter "B~~S~~" means a class B special use permit must be obtained from the board of adjustment, and the letter "A~~C~~" means a class A special ~~conditional~~ use permit must be obtained from the Town Council~~Board of Aldermen~~. **(AMENDED 1/22/85; 11/18/03)**

(b) When used in connection with single-family, two-family and multi-family residences (use classifications 1.100, 1.200 and 1.300) outside the watershed districts, the designation "ZBA"~~"ZSC"~~ or "BA"~~"SC"~~ means that tracts developed with four dwelling units or less require a zoning permit, tracts developed with between five and twelve dwelling units require a class B special use permit, and tracts developed with more than twelve dwelling units require a class A special ~~conditional~~ use permit. When used in connection with single-family, two-family, and multi-family residences in the watershed districts, the designation "ZA" ~~"ZC"~~ means that tracts developed with one dwelling unit shall require a zoning permit and tracts developed with two or more dwelling units shall require a class A special~~conditional~~ use permit. **(AMENDED 1/22/85; 2/24/87; 12/15/87)**

(c) When used in connection with major subdivisions (use classification 26.100) outside the watershed districts, the designation "BA"~~"SC"~~ means that subdivisions containing between five and twelve lots shall require a class B special use permit, and subdivisions containing thirteen or more lots shall require a class A special ~~conditional~~ use permit. **(AMENDED 7/21/87; 12/15/87)**

(d) Subject to Section 15-148, use of the designation "ZA"~~"ZC"~~ (which designation appears only under the zoning district columns applicable to the commercial and manufacturing districts) means that a class A special~~conditional~~ use permit must be obtained if the development involves the construction of more than 3,000 square feet of new building gross floor area *or* the development is located on a lot of more than one acre, and a zoning permit must be obtained if the development involves the construction of 3,000 square feet or less of new building gross floor area *and* the development is located on a lot of one acre or less. **(AMENDED 11/14/88) (REWRITTEN 4/23/13)**

(e) Subject to Section 15-148, use of the designation "ZB"~~"ZS"~~ means that a zoning permit must be obtained if the development is located on a lot of two acres or less while a class B special use permit must be obtained for developments in excess of two acres.

(f) Use of the designation "Z,B,A" ~~Z,S,C,~~ for combination uses is explained in Section 15-154.

(g) When used in connection with use classification 18.400 (publicly-owned towers and antennas of all sizes that are used in the provisions of public safety services), the designation "ZA"~~"ZC"~~ means that the development of such towers that are fifty feet tall or less shall require a zoning permit, and the development of such towers that are more than fifty feet tall shall require a class A special ~~conditional~~ use permit. **(AMENDED 10/04/88, 02/18/97)**

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(h) Whenever any 1.000 classification use is proposed for a lot in the R-2, R-3, R-7.5, and R-10 zoning districts and such use would otherwise require the issuance of a zoning permit under the provisions of this section, a class B special use permit shall nevertheless be required if:

(1) The use involves (i) construction of an addition to an existing dwelling, or (ii) construction of an additional dwelling on a lot where at least one dwelling already exists, or (iii) construction of a dwelling on a lot from which a previously existing dwelling has been removed within a period of three years prior to the application for a permit under this chapter, and

(2) The gross floor area of any one dwelling unit exceeds 3,500 square feet, or the gross floor area of all dwellings covered by the proposed permit exceeds 5,500 square feet.

(3) This requirement shall not apply if at least one of the dwelling units is an affordable housing unit as defined in Section 15-182.4(a).

(4) This requirement shall not apply with respect to a proposed one-time addition to a dwelling that has been in existence for a period of at least twenty years if such one-time addition results in less than a 25 percent increase in the gross floor area of such dwelling and less than a 15 percent increase in the gross floor area of all dwellings covered by the proposed permit.

(i) When used in connection with 8.100, 8.200, 8.500 and 8.600 uses, the designation "ZA(1)"~~"ZC(l)"~~ means that a zoning permit must be obtained if the total area within a development to be used for this purpose does not exceed 1,500 square feet and the use is to take place in a building in existence on the effective date of this subsection while a class A special~~conditional~~ use permit must be obtained whenever the total area to be used for this purpose is equal to or exceeds 1,500 square feet**.**

(j) Notwithstanding the other provisions of this section, whenever a building of more than two stories or 35 feet in height is proposed within the B-1(g), B-1(c), B-2, CT or M-1 zoning districts, a class A special~~conditional~~ use permit must be obtained from the Town Council~~Board of Aldermen~~. **(AMENDED 10/25/05)**

(k) Notwithstanding the foregoing, Uses 22.200 Child Day Care Facilities serving nine to fifteen children, and 22.300 Senior Citizen Day Care, Class A, serving four to sixteen seniors, that are located on collector or arterial streets are permissible with a Zoning Permit issued by the Administrator. For the purposes of this section, collector streets are those streets whose function and design meet the current town standards for classification as collector streets; and arterial streets are those listed in subsection 15-210.

Art. X PERMISSIBLE USES (con't)

l) Notwithstanding the foregoing, if a use within use classifications 2.112, 2.120, 2.150, 2.220, 2.230, 3.120, or 3.220 is proposed for an existing building within the WM-3 zoning district, and no other changes to the site are proposed that would require the issuance of a new permit under Section 15-46, then such use shall be permissible with a zoning permit. **(AMENDED 10/28/08)**

m) Notwithstanding the foregoing, 5.110 uses may be permitted within the B-4 zoning district only when proposed within an existing building and when no other changes to the site are proposed that would require the issuance of a new permit under Section 15-46. **(AMENDED 11/24/09)**

n) Notwithstanding the foregoing, the permit requirement for use classification 15.750 data service provider facilities shall be determined by the supplementary use regulations in Section 15-176.6. **(AMENDED 06/23/15)**

o) Notwithstanding the foregoing, the designation "Z" opposite use classification 3.260 is subject to the qualification that use classification 3.260 may only be allowed with a zoning permit in conjunction with the conditional rezoning of a property and demonstration of compliance with all applicable Land Use Ordinance provisions, including supplementary use regulations in section 15-~~.~~176.7. **(AMENDED 03/22/16)**

p) Notwithstanding the foregoing, use classifications 1.231, 1.241, 1.321 and 1.331 may only be permitted in the ~~B-4-CU district, subject to subsection 15-141.3(c) and in the~~ B-4-CZ zoning district, subject to a class A special~~conditional~~ use permit and subsection 15-141.4(c).**(AMENDED 10/23/18)**

q) Notwithstanding the foregoing, use classifications 2.250 and 3.131 may only be permitted ~~in the B-4-CU district and~~ in the B-4-CZ district subject to a class A special~~conditional~~ use permit.**(AMENDED 10/23/18)**

r) When used in conjunction with 8.800 uses, the designation "Z, A"~~"Z, C"~~ means that a zoning permit must be obtained if the performing arts space development is located on a property located in that portion of the B-1(g) or B-1(c) zoning districts and is located 150 feet or more from the nearest building containing a residential use. A class A special ~~conditional~~ use permit must be obtained if the development is located on a property that is located within portions of the B-1(g) or B-1(c) zoning districts. The measurement is made from the building containing the main performance space to the nearest existing off-site building containing a residential use. **(AMENDED 11/27/2018)**

s) Notwithstanding the foregoing, the permit requirement for use classification 17.200 "Community or Regional Utility Facilities" in the R-10 Zoning District shall be determined by the supplementary use regulations in Section 15-172.1. **(AMENDED 1/22/2019)**

(t) For use classification 18.500 small and micro wireless facilities; with or without associated utility poles or wireless support structures see Section 15-176(d) for application and development standards and Article II of Chapter 7 for encroachment agreements. **(AMENDED 06/23/20)**

(u) Existing lots containing parking spaces may be used for temporary parking for construction workers employed on construction projects in downtown commercial districts so long as such parking spaces: (i) are not required by existing permits, (ii) are not part of any satellite parking agreement for an existing permit, or (iii) have not been created by the removal of an existing building.

Temporary construction parking shall be limited to vehicular parking and shall not include staging areas, or material or equipment storage. Upon completion of the construction project, the zoning permit shall become null and void. **(AMENDED 10/22/2019)**

Section 15-148 Board of Adjustment Jurisdiction Over Uses Otherwise Permissible With a Zoning Permit.

(a) Notwithstanding any other provisions of this article, whenever the Table of Permissible Uses (interpreted in the light of Section 15-147 and the other provisions of this article) provides that a use is permissible with a zoning permit, (i) a class A special ~~conditional~~ use permit shall nevertheless be required if the administrator finds that the proposed use is located within the University Lake Watershed (i.e., the C, B-5, and WM-3 districts) and would have a substantial impact on neighboring properties or the general public, and (ii) a class A special ~~conditional~~ use permit shall nevertheless be required if the administrator finds that the proposed use is located in the B-1(c), B-1(g), B-2, or CT zoning districts, the use is shown as permissible in those districts with a "ZA"~~"ZC"~~ designation in the Table of Permissible Uses, and the proposed use would have a substantial impact on neighboring properties or the general public; (iii) otherwise, a class B special use permit shall nevertheless be required if the administrator finds that the proposed use would have a substantial impact on neighboring properties or the general public. **(AMENDED 01/22/85; 12/15/87; 02/25/92)**

(b) A class B special use permit shall be required for any use that is otherwise permissible with a zoning permit if the administrator concludes that, given the impact of the proposed use on neighboring properties, the vested right conferred upon the permit recipient pursuant to Section 15-128.2 should not be conferred without an opportunity for public input. A class A special ~~conditional~~ use permit shall be required for any use that is otherwise permissible with a zoning permit if the administrator concludes that, given the impact of the proposed use on the general public, the vested right conferred upon the permit recipient pursuant to Section 15-128.2 should not be conferred without an opportunity for public input. However, if the zoning administrator makes this determination, the permit applicant may require that the application be returned to the zoning permit process by submitting to the administrator a written waiver of the vested right normally acquired under Section 15-128.2 upon the issuance of a zoning permit. **(AMENDED 10/01/91; 02/25/92)**

Section 15-149 Permissible Uses and Specific Exclusions (AMENDED 6/24/08)

(a) The presumption established by this chapter is that all legitimate uses of land are permissible within at least one zoning district in the town's planning jurisdiction. Therefore, because the list of permissible uses set forth in Section 15-146 (Table of Permissible Uses) cannot be all-inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.

Art. X PERMISSIBLE USES (con't)

(b) Notwithstanding subsection (a), all uses that are not listed in Section 15-146 (Table of Permissible Uses), even given the liberal interpretation mandated by subsection (a), are prohibited. Nor shall Section 15-146 (Table of Permissible Uses) be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

(c) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

(1) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the fire prevention code adopted by reference in Section 12-11 of the Town Code.

(2) Stockyards, slaughterhouses, rendering plants.

(3) Use of a travel trailer as a residence, temporary or permanent.

(4) The use of any motor vehicle (as defined in Section 6-1 of the Town Code), parked on a lot, as a structure in which, out of which, or from which any goods are sold or stored, any services performed, or other businesses conducted (as defined in Section 8-1 of the Town Code), except that the following shall not be prohibited by this subdivision: (i) retail sales of goods and food products manufactured, created or produced by the seller, (ii) the sale of food products on town property by persons authorized or acting on behalf of the town; (iii) the sale of prepared food by mobile prepared food vendors to the extent authorized in the Table of Permissible Uses and Section 15-176.5; and (iv) use of a motor vehicle in connection with an aluminum recycling operation to the extent authorized in the Table of Permissible Uses and other provisions of this chapter. Notwithstanding any other provision of this chapter, situations that exist on the effective date of this provision that are in violation thereof shall not be regarded as lawful, nonconforming situations thirty days after the effective date of this subdivision. **(AMENDED 11/10/81; 6/22/82; 6/28/83; 6/24/08)**

(5) Construction by the developer of a major residential subdivision of an opaque fence, wall, or berm more than three feet in height around any portion of the periphery of such subdivision, except where such fence, wall or berm is designed to shield the residents of such subdivision from the adverse effects of any adjoining nonresidential use other than a street. Notwithstanding the foregoing, a berm of more than three but less than four feet in height shall be allowed under the foregoing circumstances where (i) the side slopes of the berm are constructed at a steepness ratio of 4:1 to 6:1 and (ii) the average height of the berm does not exceed three feet. For purposes of this subsection, the term "developer" includes any entity that is under the control of the developer, including a homeowners

association that is under the developer's control. **(AMENDED 05/19/98, 08/24/99)**

(6) Construction of gates that prevent access to private roads serving five or more lots or dwelling units. **(AMENDED 05/25/99)**

Section 15-150 Accessory Uses.

(a) The Table of Permissible Uses (Section 15-146) classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use (i) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (ii) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a service station (use classification 9.200) is permissible in a B-3 district; car washes (9.500) are not. However, many service stations have facilities for washing cars. If such car washing activities are incidental to the principal use, then they may be regarded as accessory to the principal use and a service station with such facilities would be permissible in a B-3 district. However, if the car washing operations are substantial (e.g., if separate from the main building or if there are two or more bays used principally or solely for car washing), then the total operation would be considered a combination use consisting of a service station principal use and a car wash principal use. This combination use would not be permitted within a B-3 district. As another example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed (as use classification 6.210 or 6.220) apart from a residential development, would require a class A special use permit or class B special use permit ~~or conditional use permit~~. **(AMENDED 02/02/88)**

(b) For purposes of interpreting subsection (a):

(1) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use;

(2) To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

(c) Without limiting the generality of subsections (a) and (b), the following activities are specifically regarded as accessory to residential principal uses so long as they satisfy the general criteria set forth above:

(1) Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or

artistic activities of a commercial nature, so long as such activities do not fall within the definition of a home occupation.

(2) Hobbies or recreational activities of a noncommercial nature.

(3) The renting out of one or two rooms within a single-family residence (which one or two rooms do not themselves constitute a separate dwelling unit) to not more than two persons who are not part of the family that resides in the single-family dwelling.

(4) Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any 90-day period. **(AMENDED 4/27/82)**

(5) Towers and antennas constructed on residential property, as long as:

a. Such towers are intended for the personal and noncommercial use of the residents of the property where located; and

b. Such towers and antennas comply with the setback requirements of Subsection 15-176(a)(2) and are installed only in rear or side yards; and

c. No more than one such tower or antenna may be regarded as an accessory use on a single lot; and

d. The owner must be able to demonstrate compliance with Federal Communications Commission regulations, 47 C.F.R. Part 97, Subpart 97.15, Sections (a) through (e), inclusive; and
(REPEALED & AMENDED 02/18/97)

(5) Child day care arrangements for one or two children who do not reside with the provider. **(AMENDED 02/04/97; 6/26/07)**

(d) Without limiting the generality of subsections (a) and (b), the following activities are regarded as accessory to residential and commercial principal uses so long as they satisfy the general criteria set forth above. **(AMENDED 06/27/17)**

(1) Solar Arrays, and solar water heaters, providing energy for the principal use on the property, in any zoning district.

(2) The applicant must be able to demonstrate ownership of the subject property or permission by the owner to install the solar device.

(3) The applicant must prepare and submit a site plan or sketch plan showing the following:

a. Installation of the array(s) shall not negatively affect compliance, or any condition of compliance of an existing land use permit or building permit.

b. The panels are designed, positioned, and oriented such that concentrated solar radiation or glare shall not be directed onto nearby properties or road rights-of-way, or shall otherwise create a safety hazard.

c. All on-site utility lines shall be placed underground.

d. The top of any roof mounted devices, located on the principal structure or any accessory structure, shall not exceed the maximum building height for the district in accordance with Section 15-185.

e. Ground mounted systems shall not exceed a maximum height of 15 feet from finished grade to the top of the device.

1. The installation of the solar device and associated mechanical equipment shall not affect tree screening or buffer requirements outlined in Article XIX.

2. Mechanical equipment, including batteries or other similar storage devices, shall be located within the required building setbacks as provided for in Section 15-184, and shall be shielded to avoid damage.

3. All solar devices and mechanical equipment, including batteries or other similar storage devices, shall be located outside of the designated open space, well/septic system areas as identified by Orange County Environmental Health, utility easements, water quality buffers as identified in Section 15-269.5 and Special Flood Hazard Areas. **(AMENDED 06/27/17)**

(e) Without listing the generality of subsections (a) and (b), the following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts:

(1) Parking outside a substantially enclosed structure of more than four motor vehicles between the front building line of the principal building and the street on any lot used for purposes that fall within the following principal use classifications: 1.100, 1.200, 1.420, or 1.430.

(f) Satellite dishes shall be regarded as accessory uses to any residential or non-residential principal use. However, as set forth in the Table of Permissible Uses, Cable Television Satellite stations shall be regarded as a separate principal use (use classification 17.300). **(AMENDED 02/18/97)**

(g) On property that is residentially zoned (See Section 15-135), a temporary family health care structure shall be regarded as an accessory use to a single-family detached dwelling to the extent authorized and in accordance with the provisions of G.S. 160D-915~~160A-383.5 (S.L. 2014-94)~~. **(AMENDED 03/24/15)**

Section 15-151 Permissible Uses Not Requiring Permits (AMENDED 06/06/89)

(a) Notwithstanding any other provisions of this chapter, no zoning, class B special use, or class A special ~~conditional~~ use permit is necessary for the following uses:

(1) Electric power, telephone, telegraph, cable television, gas, water and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.

(2) Neighborhood utility facilities located within a public right-of-way with the permission of the owner (state or town) of the right-of-way, so long as such facilities do not exceed five feet in height, five feet in width, or five feet in depth. **(AMENDED 05/26/81)**

(3) Bus shelters erected by or under the direction of the town. **(AMENDED 01/22/85)**

(4) Space occupied by the Town of Carrboro police department within pre-existing buildings for purposes of allowing police officers to spend time periodically within such buildings or portions thereof conducting official business, including without limitation the completion of paperwork or meeting with neighborhood residents. Such uses shall be permitted in all zoning districts, and no additional parking or screening shall be required when property is used in this fashion. **(AMENDED 04/18/95)**

(b) As described in Section 15-84(b), construction plans for new electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way shall be submitted to and approved by the public works director before construction of such facilities may commence. **(AMENDED 06/06/89)**

Section 15-152 Change in Use.

(a) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:

(1) The change involves a change from one principal use category to another.

(2) If the original use is a combination use (27.000) or planned unit development (28.000), the relative proportion of space devoted to the individual principal uses

that comprise the combination use or planned unit development use changes to such an extent that the parking requirements for the overall use are altered.

(3) If the original use is a combination use or planned unit development use, the mixture of types of individual principal uses that comprise the combination use or planned unit development use changes.

(4) **(DELETED 10/22/91)**

(b) A mere change in the status of property from unoccupied to occupied or vice-versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during with the property may have been unoccupied, unless the property has remained unoccupied for more than twelve consecutive months. **(AMENDED 06/18/91)**

(c) A mere change in ownership of a business or enterprise shall not be regarded as a change in use.

Section 15-153 Developments in the B-3 Zoning District.

The 2.000, 3.000, and 4.000 classifications in the Table of Permissible Uses are written in very broad terms. However, it is the intention of this chapter that uses described in those classifications are permissible in an area zoned B-3 only when the particular use is in accordance with the objectives of the B- 3 zoning district set forth in Section 15-136. **(AMENDED 5/26/81)**

Section 15-154 Combination Uses.

(a) When a combination use comprises two or more principal uses that require different types of permits (zoning, class A or class B special use~~, or conditional use~~), then the permit authorizing the combination use shall be:

(1) A class A special ~~conditional~~ use permit if any of the principal uses combined requires a class A special ~~conditional~~ use permit.

(2) A class B special use permit if any of the principal uses combined requires a class B special use permit but none requires a class A special ~~conditional~~ use permit.

(3) A zoning permit in all other cases.

This is indicated in the Table of Permissible Uses by the designation "Z,B,A" ~~"Z,S,C"~~ in each of the columns adjacent to the 27.000 classification.

(b) Subject to subsection (c), when a combination use consists of a residential subdivision and a multi-family development the total density permissible on the developer's tract shall be determined by

having the developer indicate on the plans the portion of the total tract that will be developed for each purpose and calculating the density for each portion as if it were a separate lot. **(AMENDED 11/26/85)**

(c) Notwithstanding Subsection 15-182(b), whenever (i) a combination use consists of a standard residential subdivision and a multi-family development and (ii) the subdivided portion of the tract contains lots that exceed the minimum lot size requirements set forth in Section 15-181, but that do not exceed an average of 30,000 square feet, then the density of the portion of the tract developed for multi-family purposes may be increased beyond the permissible density calculated in accordance with subsection (b). The increase in density shall be determined as follows: **(AMENDED 11/26/85)**

(1) The minimum lot size requirement for the applicable zoning district shall be subtracted from each lot that exceeds the minimum lot size, and the remainders totaled.

(2) The sum derived from the calculation in subdivision (1) shall be divided by the minimum lot size requirements. Fractions shall be rounded to the nearest whole number.

(3) The result of the calculation in subdivision (2) shall yield the number of additional multi-family dwelling units that may be located within the portion of the tract developed for multi-family purposes.

(d) When a residential use is combined with a non-residential use in a business district, the lot must have at least the minimum square footage required for the residential use alone. For example, in a B-1 zone, if two dwelling units are combined with a retail store in one building, the lot must have at least 6,000 square feet.

(e) When two principal uses are combined, the total amount of parking required for the combination use shall be determined by cumulating the amount of parking required for each individual principal use according to the relative amount of space occupied by that use.

Section 15-155 Planned Unit Developments.

(a) In a planned unit development the developer may make use of the land for any purpose authorized in the particular PUD zoning district in which the land is located, subject to the provisions of this chapter. Section 15-139 describes the various types of PUD zoning districts.

(b) Within any lot developed as a planned unit development, not more than ten percent of the total lot area may be developed for purposes that are permissible only in a B-1(g), B-2, or B-3 zoning district (whichever corresponds to the PUD zoning district in question), and not more than five percent of the total lot area may be developed for uses permissible only in the M-1 zoning district (assuming the PUD zoning district allows such uses at all).

(c) The plans for the proposed planned unit development shall indicate the particular portions of the lot that the developer intends to develop for purposes permissible in a residential district (as applicable), purposes permissible in a business district (as applicable), and purposes permissible only in an M-1 district (as applicable). For purposes of determining the substantive regulations that apply to the planned unit development, each portion of the lot so designated shall then be treated as if it were a separate district, zoned to permit, respectively, residential, business or M-1 uses. However, only one permit--a planned unit development permit--shall be issued for the entire development.

(d) The nonresidential portions of any planned unit development may not be occupied until all of the residential portions of the development are completed or their completion is assured by any of the mechanisms provided in Article IV to guarantee completion. The purpose and intent of this provision is to ensure that the planned unit development procedure is not used, intentionally or unintentionally, to create nonresidential uses in areas generally zoned for residential uses except as part of an integrated and well-planned, primarily residential, development.

Section 15-156 More Specific Use Controls.

Whenever a development could fall within more than one use classification in the Table of Permissible Uses (Section 15-146), the classification that most closely and most specifically describes the development controls. For example, a small doctor's office or clinic clearly falls within the 3.110 classification (office and service operations conducted entirely indoors and designed to attract customers or clients to the premises). However, classification 3.130 "Physicians and dentists offices and clinics occupying not more than 10,000 square feet of gross floor area" more specifically covers this use and therefore is controlling.

Section 15-157 Residential Uses in Conservation Districts.

The Table of Permissible uses indicates that single family residences are permissible in the conservation district. However, this shall be true only if and to the extent a residence is used in conjunction with another permitted use, e.g., a caretaker's house. **(AMENDED 12/7/83)**

Section 15-158 Hazardous Substances in B-5 and WM-3 Districts (AMENDED 12/7/83)

(a) Subject to subsection (b), no use involving the possession, storage, maintenance, or use of any quantity of hazardous substance shall be permissible on any lot within the B- 5 or WM-3 zoning districts. **(AMENDED 06/21/88)**

(b) Subsection (a) shall not apply to commercial or industrial enterprises which:

(1) use, possess, store, or maintain gasoline, kerosene, diesel fuel, and other petroleum products where such products are held solely for the purpose of on-premises sales to retail customers; however, storage tanks for such products must be emptied within sixty days after sale of the products stored is discontinued;

(2) use, possess, store, or maintain hazardous substances contained in consumer products packaged and held for retail sale to the general public;

(3) use, possess, store, or maintain hazardous substances contained in commercial products used for janitorial or maintenance purposes on the premises where stored.

(4) are in possession, on June 21, 1988 of a Hazardous Substances Authorization Certificate issued under the prior subsection (c) of this section; to the extent that such enterprises use, possession, storage, or maintenance of hazardous chemicals is substantially the same as was the case on the date of issuance of such Certificate. This exemption is transferable with the transfer of the enterprise in question only to the extent that the new enterprise will operate substantially the same operation at the same location as that for which the Certificate was issued. **(AMENDED 06/21/88)**

(c) Notwithstanding the provision of Article VIII of this chapter, situations that exist on the effective date of this section that are made non-conforming by this section shall not be allowed to continue beyond sixty days after the effective date of this section.

Section 15-159 Mobile Home Type Structures Prohibited In Business Districts (AMENDED 10/1/85)

Notwithstanding any other provision of this ordinance, no building that (i) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported on its own chassis, and (ii) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, may be located in any of the commercial districts established in Section 15-136.

Section 15-160 Outside Display of Goods in B-1(c) and B-1(g), and WM-3 Districts (AMENDED 2/4/86; 10/28/08)

(a) As indicated in the Table of Permissible Uses, outside display of goods for sale or rent, but not outside storage, is permitted in the B-1(c), B-1(g) and WM-3 zoning districts. However, such outside display shall only be allowed if and to the extent that:

(1) Such display is conducted in furtherance of a business operated on such the lot where the display is located, by the person operating such business; and

(2) Such display is conducted on a lot on which is located a principal building that houses the businesses referenced in subdivision (1); and

(3) For lots located within the B-1(c) and B-1(g) districts, the area of such display does not exceed 25% of the gross floor area of the principal building referenced as subdivision (2) that is occupied by the business referenced in subdivision (1). For lots located within the WM-3 district the total area of such display does not exceed

5% of the gross floor area of the principal building, the display must be located outside of all required setbacks and areas landscaped to meet screening and shading requirements, and the display must be removed or adequately secured when the business operating on the lot is closed.

(b) For purposes of this section, the term "lot" shall include all contiguous land as well as land immediately on the opposite side of a bisecting street that is in the possession or under the control of the person operating the business referenced in subdivision (a)(1). **(AMENDED 10/28/08)**

Section 15-160.1 Residential Uses in B-1(c) Districts (AMENDED 2/4/86; 6/2/20)

(a) Residential uses are not allowed on the ground floor of property within a B-1(c) district.

(b) Notwithstanding the foregoing, residential uses are allowed on the ground floor in the B-1(c) district when (i) the property is less than 10,000 square feet, (ii) the preexisting land use is residential, (iii) the development creates no more than four dwelling units, and (iv) every dwelling unit is an affordable housing unit pursuant to Subsection 15-182.4(b) of this chapter. Residential developments permitted by this section, shall not be eligible for a density bonus for providing affordable units under 15-182.4(i). **(AMENDED 6/02/2020)**

Section 15-160.2 Permissible Uses in the Historic District (HD) (AMENDED 11/21/95)

Notwithstanding the provisions of 15-146 (Table of Permissible Uses), only single-family residences (uses classification 1.100) are permitted in the Historic District (HD) on properties with the following underlying zoning district designations: R-20, R-15, R-10, R-7.5, R-3, R-2, R-R, R-40, R-SIR, and R-SIR-2.

ARTICLE XI

SUPPLEMENTARY USE REGULATIONS

PART I. NON-RESIDENTIAL PERFORMANCE STANDARDS

Section 15-161 "Good Neighbor" Performance Standards for Non-Residential Uses. (AMENDED 10/20/92; 04/15/97, 05/25/99)

The provisions of this part are designed to provide performance standards by which applications for non-residential development will be evaluated by the town and by which the actual performance of those operations and uses will be monitored by the town for compliance. The purposes of these performance standards are to protect the town in general, and abutting and neighboring landowners in particular, from any potential negative impacts that new nonresidential uses may have on the physical environment and on the quality of life currently enjoyed by the residents of Carrboro's planning jurisdiction.

Section 15-162 Smoke, Dust, Fumes, Vapors, Gases, and Odors (AMENDED 05/25/99)

(a) Emission of smoke, dust, dirt, fly ash, or other particulate matter, or of noxious, toxic or corrosive fumes, vapors, or gases in such quantities as to be evident or perceptible at the property line of any lot on which a use is conducted, or which could be injurious to human health, animals, or vegetation, or which could be detrimental to the enjoyment of adjoining or nearby properties, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission shall be prohibited.

(b) No use shall be permitted to produce harmful, offensive, or bothersome odors, scents, or aromas (such as, but not limited to, those produced by manufacturing processes, food preparation, food processing, fish sales, rendering, fermentation processes, decaying organic matter, and incinerators) perceptible beyond the property line of the lot where such use is located either at ground level or any habitable elevation.

(c) The location and vertical height of all exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke, fumes, gases, vapors, odors, scents or aromas shall be shown on the application plans, with a description of the source materials.

Section 15-163 Noise (AMENDED 6/22/04)

(a) No 4.000, 9.400, or 2.150 classification use in any permissible business or PID district may generate noise that tends to have an annoying or disruptive effect upon (i) uses located outside the immediate space occupied by the 4.000 or 9.400 use if that use is one of several located on a lot, or (ii) uses located on adjacent lots. Noises that exceed the levels set forth below shall be deemed annoying or disruptive. Low frequency noises shall be considered annoying and disruptive if they exceed the decibel levels set forth below when measured without using an A-weighted filter, or if such noises generate a perceptible vibration within structures located beyond the boundaries referenced above. **(AMENDED 6/22/82; 10/20/92; 05/25/99)**

(b) Except as provided in subsection (f), the table set forth in subsection (e) establishes the maximum permissible noise levels for 4.000 classification uses in the M-1 and M-2 districts. Measurements shall be taken at the boundary line of the lot where the 4.000 classification use is located, and, as indicated, the maximum permissible noise levels vary according to the zoning of the lot adjacent to the lot on which the 4.000 classification use is located.

(c) A decibel is a measure of a unit of sound pressure. Since sound waves having the same decibel level "sound" louder or softer to the human ear depending upon the frequency of the sound wave in cycles per second (i.e., whether the pitch of the sound is high or low) an A-weighted filter constructed in accordance with the specifications of the American National Standards Institute, which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter taking measurements required by this section. And accordingly, all measurements are expressed in dB(A) to reflect the use of this A-weighted filter.

(d) The standards established in the table set forth in subsection (e) are expressed in terms of the Equivalent Sound Level (Leq), which must be calculated by taking 100 instantaneous A-weighted sound levels at ten second intervals (see Appendix F-1) and computing the Leq in accordance with the table set forth in Appendix F-2.

(e) **Table 1**: Maximum Permitted Sound Levels, dB(A), for 4.000 Uses **(AMENDED 10/20/92)**

	ZONING OF ADJACENT LOT (re: 0.0002 Microbar)				
Zoning of Lot Where 4.000 Use is Located	**Residential**	**PUD**	**B-1-G, B2, B-1-C, B3 B4, PF**	**M1**	**M2**
TIME OF DAY OF OPERATIONS	**7:00 AM-7:00 PM**	**7:00 PM-7:00 AM**	**ANYTIME**	**ANYTIME**	**ANYTIME**
M-1	**50**	**45**	**55**	**60**	**65**
M-2	**50**	**45**	**60**	**65**	**70**
O/A	**50**	**45**	**55**	**60**	**65**

Table 2: Maximum Permitted Sound Levels, dB(A), for 9.400 Uses **(AMENDED 10/20/92)**

	ZONING OF ADJACENT LOT (re: 0.0002 Microbar)			
ZONING OF LOT WHERE 9.400 USE IS LOCATED	**RESIDENTIAL OR PUD**	**B-1-C, B2, CT, B-1-G, B3, B4, O, O/A**	**M1**	**M2**
B-1-G, B4 or B-3-T	**50**	**55**	**60**	**70**
M-1	**50**	**55**	**60**	**70**
M-2	**50**	**60**	**65**	**70**

Table 3: Maximum Permitted Sound Levels, dB(A), for 2.150 Uses **(AMENDED 04/15/97)**

	ZONING OF ADJACENT LOT (re: 0.0002 Microbar)			
ZONING OF LOT WHERE 2.150 USE IS LOCATED	RESIDENTIAL OR PUD	B-1-C, B2, CT, B-1-G, B3, B4, O, O/A, PF	M1	M2
B-1-C	**50**	**55**	**60**	**70**

(f) Impact noises are sounds that occur intermittently rather than continuously. Impact noises generated by sources that do not operate more than one minute in any one hour period are permissible up to a level of 10 dbA in excess of the figure listed in subsection (e), except that this higher level of permissible noise shall not apply from 7:00 P.M. to 7:00 A.M. when the adjacent lot is zoned residential. The impact noise shall be measured using the fast response of the sound level meter.

(g) Noise resulting from temporary construction activity that occurs between 7:00 A.M. and 7:00 P.M. shall be exempt from the requirements of this section.

(h) The operation of dry cleaning machinery in the B-3 zoning district, including but not limited to steam boilers, vacuum units, steamers, dry cleaning machines, pressing machines and air compressors, shall not be permissible outside of the hours between 7:00 a.m. and 6:00 p.m. Monday through Friday, 12:00 noon and 5: 00 p.m. on Saturday, if and to the extent that such operation results in noise that is audible at the property line of the lot on which the business operating such machinery is located. Any business that is not in compliance with this provision shall be required to bring their dry cleaning operations into compliance within 90 days of the effective date of this ordinance.

Section 15-164 Vibration.

(a) No 4.000, 9.400, or 2.150 classification use in any permissible business or PID district may generate any ground transmitted vibration that is perceptible to the human sense of touch measured at (i) the outside boundary of the immediate space occupied by the enterprise generating the vibration if the enterprise is one of several located on a lot, or (ii) the lot line if the enterprise generating the vibration is the only enterprise located on the lot. **(AMENDED 6/22/82; 10/20/92; 05/15/97)**

(b) No 4.000 classification use in an M-1 or M-2 district may generate any ground-transmitted vibration in excess of the limits set forth in subsection (e). Vibration shall be measured at any adjacent lot line or residential district line as indicated in the table set forth in subsection (d).

(c) The instrument used to measure vibration shall be a three component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions.

(d) The vibration maximums set forth in subsection (e) are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

P.V. = 6.28 F x D
P.V. = Particle velocity, inches per second
F = Vibration frequency, cycles per second
D = Single amplitude displacement of the vibration, inches

The maximum velocity shall be the vector sum of the three components recorded.

(e) Table of Maximum Ground Transmitted Vibration.

PARTICLE VELOCITY, INCHES PER SECOND		
ZONING DISTRICT	ADJACENT LOT LINE	RESIDENTIAL DISTRICT
M-1	**0.10**	**0.02**
M-2	**0.20**	**0.02**

(f) The values stated in subsection (e) may be multiplied by two for impact vibrations, i.e., discrete vibration pulsations not exceeding one second between pulses.

(g) Vibrations resulting from temporary construction activity that occurs between 7:00 A.M. and 7:00 P.M. shall be exempt from the requirements of this section.

Section 15-165 Ground Water Supply (REPEALED & AMENDED 05/25/99)

(a) All outdoor storage facilities for fuel, chemical, or industrial wasters, and potentially harmful raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike high enough to contain the total volume of liquid kept in the storage area, plus the accumulated rainfall of a fifty (50) year storm. This requirement is intended to prevent harmful materials from spilling and seeping into the ground, contaminating the groundwater.

(b) Non-corrosive storage tanks for heating oil and diesel fuel, not exceeding two hundred seventy five (275) gallons in size, may be exempted from the requirements of this section provided that there is no seasonal high water table within four (4) feet of the surface, and that rapidly permeable sandy soils are not present.

Section 15-166 Air Pollution.

(a) Any 4.000, 9.400, or 2.150 classification use that emits any "air contaminant" (as defined in G.S. 143-213) shall comply with applicable State standards concerning air pollution, as set forth in Article 21B of Chapter 143 of the North Carolina General Statutes. **(AMENDED 10/20/92; 05/15/97)**

(b) No zoning, class B~~special use~~, or class A special~~conditional~~ use permit may be issued with respect to any development covered by subsection (a) until the State Division of Environmental Management has certified to the permit-issuing authority that the appropriate State permits have been received by the developer (as provided in G.S. 143-215.108) or that the developer will be eligible to receive such permits, and that the development is otherwise in compliance with applicable pollution laws.

Section 15-167 Disposal of Liquid Waste.

(a) No 4.000, 9.400, or 2.150 classification use in any district may discharge any waste contrary to the provisions of G.S. 143-214.2.
(AMENDED 10/20/92; 05/15/97)

(b) No 4.000, 9.400, or 2.150 classification use in any district may discharge into the OWASA sewage treatment facilities any waste that cannot be adequately treated by biological means.
(AMENDED 10/20/92; 05/15/97)

Section 15-168 Water Consumption.

No 4.000, 9.000, or 2.150 use classification use that requires for its operations a daily average of more than 200 gallons of water per employee is permissible in any district. **(AMENDED 05/15/97)**

Section 15-169 Electrical Disturbance or Interference (AMENDED 10/20/92)

No 4.000, 9.400, or 2.150 classification use may: **(AMENDED 05/15/97)**

(1) Create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance; or

(2) Otherwise cause, create, or contribute to the interference with electronic signals (including television, and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

Sections 15-170 through 15-171 Reserved.

PART II. MISCELLANEOUS SUPPLEMENTARY USE PROVISIONS

Section 15-172 Neighborhood Utility Facilities.

(a) As provided in Section 15-151(3), neighborhood utility facilities located within a public right-of-way with the permission of the owner of the right-of-way (state or town) do not require a zoning, special use, or conditional use permit.

(b) Neighborhood utility facilities may be located on any size lot without regard to the minimum lot size requirements set forth in Article XII. However, if a substandard size lot is created after the effective date of this chapter to accommodate neighborhood utility facilities, then such a lot shall not thereafter be regarded as a legitimate nonconforming lot for purposes of Section 15-123. The plat creating such a substandard lot shall bear a notation indicating that use of the substandard lot is restricted to utility purposes by this subsection.

(c) Neighborhood public facilities shall be permissible in any district only if such facilities:

(1) Do not exceed six feet in height; and

(2) Do not generate any noise, smoke, odor, vibration, electrical interference, or other disturbance that is perceptible beyond the boundaries of the lot where such facilities are located or that adversely affects the use of adjoining or neighboring properties.

Section 15-172.1 Community or Regional Utility Facilities (AMENDED 1/22/2019)

(a) Community or regional utility facilities that: i) support the production of a finished water supply, ii) are within 200 feet of a raw water source, and iii) are no larger than 2000 square feet in building area and no taller than 25 feet in height are allowed in the R-10 zoning district with a zoning permit, provided that such facility otherwise satisfies the requirements of the Carrboro Land Use Ordinance, including the outdoor lighting requirements in Section 15-242.5.

(b) A community or regional utility facility that supports the production of a finished water supply that is larger or taller than the maximums stated above, or that cannot meet one or more of the provisions below, may be allowed in the R-10 Zoning District with a class B special use permit issued by the Board of Adjustment upon satisfaction of the considerations required by section 15-54.

(c) At least one on-site parking space, shall be provided, with additional spaces as needed to accommodate the number of vehicles likely to be present at the facility on a regular basis.

(d) The facility shall be surrounded by a Type A screen on all sides unless: i) the facility is located more than 500 feet from any property boundary line, or ii) existing trees satisfy

the definition of a Type A screen, in which case such trees shall be identified on the site plan and shall be maintained in order to comply with this requirement.

(e) A community or regional utility shall not generate any noise, smoke, odor, vibration, electrical interference, or other disturbance that is perceptible beyond the boundaries of the lot where the facility is located or that adversely affects the use of adjoining or neighboring properties.

(f) No outdoor storage shall be permissible.

(g) Any community or regional utility facility shall have signage identifying the operator of the facility and providing a telephone number or other contact information for the operator.

Section 15-173 Horticultural Sales With Outdoor Display.

Notwithstanding any other provisions of this chapter, if a 19.200 use (horticultural sales with outdoor display) is proposed for any lot less than 5,000 square feet in an area that was in existence on the effective date of this section, then on-site parking shall not be required if the permit-issuing authority determines that on-site parking is not feasible or practical or is undesirable from the standpoint of traffic safety. **(AMENDED 5/12/81)**

Section 15-174 Signs on Historic Buildings.

(a) Notwithstanding the other provisions of this article, whenever: (i) a sign is, on the effective date of this section, attached, painted over, or otherwise affixed to a building that has been included in the National Register of Historic Places; (ii) removal of such sign cannot be accomplished without resort to techniques (such as sandblasting) that would tend to damage, weaken, disfigure, blemish, or deface the portion of such building where the sign is located or otherwise interfere with the historic integrity of such building; (iii) the area of such sign exceeds the maximum surface area permissible under this article; and (iv) the owner or occupant of the historic building wishes to change the message of such pre-existing sign to correspond to a new use of such building, then a new sign may be painted or placed over the pre-existing sign without regard to the maximum sign area restrictions set forth in Section 15-276, if such sign is approved in accordance with the remaining provisions of this section. **(AMENDED 7/28/81)**

(b) The type of sign described in subsection (a) shall be permissible in any non-residential district with a class B special use permit and shall be regarded as a separate principal use for purposes of determining (under Section 15-154) whether an application to install such sign is actually considered by the board of adjustment or the Town Council~~Board of Aldermen~~.

(c) In approving a sign pursuant to this section, the permit-issuing authority may attach such conditions to this approval as are necessary to ensure that the new sign is compatible with the historic character of the property. Without limiting the foregoing, the permit-issuing authority may

require that the actual lettering or message of the sign (as opposed to the background) be not larger than the sign surface area that would be permissible apart from the special provisions of this section.

Section 15-175 Special Events.

(a) In deciding whether a permit for a special event should be denied for any reason specified in Subdivision 15-154(c)(4), or in deciding what additional conditions to impose under section 15-59, the Town Council~~board~~ shall ensure that, (if the special event is conducted at all): (**AMENDED 10/13/81)**

(1) The hours of operation allowed shall be compatible with the uses adjacent to the activity.

(2) The amount of noise generated shall not disrupt the activities of adjacent land uses.

(3) The applicants shall guarantee that all litter generated by the special event be removed at no expense to the Town.

(4) The council~~board~~ shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

(b) In cases where it is deemed necessary, the council~~board~~ may require the applicant to post a bond to ensure compliance with the conditions of the class A special ~~conditional~~ use permit.

(c) If the permit applicant requests the town to provide extraordinary services or equipment or if the town manager otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the town a fee sufficient to reimburse the town for costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

Section 15-175.1 Density Restrictions on 7.200 Uses.

In all residential districts in which 7.200 uses (nursing care, intermediate care, handicapped or infirm, and child care institutions) are permissible, the gross floor area of all buildings on a lot used for such purposes shall not exceed the total square footage derived by multiplying the number of multi-family dwelling units that would be permitted on such lot by 600 square feet. **(AMENDED 3/22/83)**

Section 15-175.2 Recycling Operations.

The person conducting an operation collecting materials for recycling, including but not limited to glass, aluminum, or paper (as authorized in use classification 15.500 of the Table of

Permissible Uses) shall be responsible for ensuring that all materials intended for recycling are kept within an enclosed structure and that the immediate site of the collection facility is kept in good order and free from all debris associated with use of the site for the collection of materials for recycling. **(AMENDED 6/28/83)**

Section 15-175.3 Seasonal Christmas Tree or Pumpkin Sales (AMENDED 10/22/85)

(a) Notwithstanding any other provision of this chapter, but subject to the remaining provisions of this section, seasonal Christmas tree or pumpkin sales shall be permissible with a zoning permit not only in those districts specified in Section 15-146 (Table of Permissible Uses) but also on lots within other zoning districts where a commercial nonconforming use exists on the date the permit to use the property for this purpose is applied for.

(b) A zoning permit authorizing seasonal Christmas tree or pumpkin sales shall enable the permit recipient to conduct Christmas tree sales annually during the period of December 1st through December 31st and pumpkin sales annually during the period of October 1st through October 31st. The permit need not be renewed annually.

(c) A permit for use classification 19.300 may be issued only if the zoning administrator finds that sufficient on-street or off-street parking is available to patrons of the Christmas tree sales operation so that the operation does not substantially interfere with the safe and convenient flow of vehicular and pedestrian traffic and that the proposed use complies with other applicable provisions of this chapter.

Section 15-175.4 Temporary Homes for Homeless and Overnight Shelters for Homeless (AMENDED 10/22/85)

In addition to Subsection 182(d) and other applicable provisions, temporary homes for the homeless and overnight shelters for the homeless shall be subject to the following:

(a) There shall be on-site supervision at all times by persons employed by or volunteers trained by the non- profit agency operating the shelter.

(b) Rules of conduct shall be established and enforced by the agency operating the shelter. These rules shall prohibit the use or possession of drugs, alcohol or weapons as well as disorderly conduct.

Section 15-175.5 Veterinarian Offices (**AMENDED 2/24/87**)

All portions of a veterinarian's office or clinic where animals are kept shall be constructed in such a manner that the noise associated with such a facility remains inside the facility. In making this determination, the board of adjustment shall be guided by recommendations promulgated by the American Animal Hospital Association Hospital Standards regarding the soundproofing of such facilities.

Section 15-175.6 Temporary Structures and Parking Facilities (AMENDED 11/28/89)

(a) Temporary structures and parking facilities (use classification 23.000) are intended to be allowed for a period not to exceed (i) two years from the date the permit for the structure or facility is issued or (ii) thirty days after the primary construction related to such temporary structure or parking facilities receives an occupancy permit, whichever occurs first. Extensions of the use of temporary structures and parking facilities may be expanded for a reasonable period beyond the two-year deadline (i) by the board of adjustment by issuing a class B special use permit in the case of temporary structures originally authorized by a zoning permit, or (ii) by the Town Council~~Board of Aldermen~~ by amending the original class A special~~conditional~~ use permit in the case of temporary structures or facilities originally authorized by a class A special~~conditional~~ use permit. In deciding whether to allow the extension, the board shall weigh the benefits of the extension to the applicant against any detrimental effects of the extension on neighboring property owners, residents, or the general public.

(b) Paved parking shall not be required, but temporary parking facilities shall meet the standards set forth in Section 15-296 for improved parking areas.

(c) No clearing of any trees in excess of two inches in diameter shall be allowed in order to construct temporary parking facilities.

(d) Within ten months following the expiration of the temporary parking facilities use, the area so used shall, if not paved or graveled prior to being so used, be restored by the permit recipient to its original condition by removing such gravel or paving. This requirement may be waived by the board of adjustment if the board concludes that the cost of such removal clearly outweighs the benefits of such restoration.

Section 15-175.7 Automobile Repair Shop or Body Shop (9.400) Uses (AMENDED 10/20/92)

(a) 9.400 uses in the B-1-G district shall locate buildings forward towards the street and locate parking and vehicle storage areas to the rear of the lot whenever possible. Applicable setbacks must be observed.

(b) 9.400 uses in the B-1-G district shall be required to place and maintain a Type A screen between the 9.400 use and all surrounding uses. Screening standards found in Section 15-308, Table of Screening Requirements, would apply to 9.400 uses in zoning districts other than B-1-G.

(c) Hazardous materials and byproducts associated with 9.400 uses in all zoning districts such as fuel, lubricants, antifreeze (ethylene glycol), asbestos, freon, carbon monoxide, automobile batteries, and solvents must be registered, stored, handled, and disposed of in accordance with all state and federal regulations.

(d) 9.400 uses in all zoning districts are subject to the performance standards listed in Sections 15-162 through 15-169.

(e) Any vehicle stored on a lot where a 9.400 use occurs must have a valid registration.

Section 15-175.8 Access for 8.500 and 8.600 Restaurant Uses in the B-1(g)

All exits and entrances as well as all traffic using such exits and entrances for 8.500 and 8.600 restaurant uses, shall access only onto arterial streets (whether state or non-state maintained) in the B-1(g) zoning district.

Section 15.175.9 Senior Citizen Residential Complex (AMENDED 11/28/95)

(a) The Council~~Board~~ may grant a class A special~~conditional~~ use permit authorizing the development of a-senior citizen residential complex (use classification 1.660) only if it finds (in addition to other findings required by this chapter) that the lot proposed for this development borders an arterial street listed in Subsection 15-210(a)(6).

(b) The number of two-family or multi-family dwelling units permissible within the senior citizen residential complex shall be determined in accordance with the provisions of Section 15-182. The number of bedrooms or persons that may be housed within the intermediate care facility portion of the complex shall be determined in accordance with the definition set forth in Subsection 15-15.

(c) If a tract for which an applicant seeks a permit under this section meets the standards for issuance of a class A special ~~conditional~~ use permit authorizing the construction of a senior citizen residential complex:

(1) The applicant may seek and the Council~~Board~~ may grant a class A special~~conditional~~ use permit authorizing a combination use on this tract, the combination use consisting of a senior citizen residential complex and any other use related to senior citizens that is permissible in the zoning district where the tract is located, so long as all applicable provisions of this chapter are satisfied.

(2) In approving the class A special~~conditional~~ use permit for the senior citizen residential complex, or a combination use consisting in part of a senior citizen residential complex, the Council~~Board~~ may authorize the tract for which such permit is issued to be subdivided without complying with any of the substantive (as opposed to procedural) standards of this chapter that would otherwise be applicable solely by reason of the fact that the tract is being subdivided, subject to the following requirements:

a. This subsection applies only when the subdivision is necessary to comply with the requirements of a governmental agency that is involved with the financing or approval of all or a portion of the senior citizen residential complex; and

b. So long as any portion of the tract that is subdivided under this section is used for purposes authorized by a permit issued hereunder, the entirety of the tract remains subject to the permit and can only

be used in conformity therewith (see Section 15-63) unless an amendment to the permit is authorized in accordance with Section 56-64. **(AMENDED 05/14/96)**

(d) The tract developed for use as a senior citizen residential complex shall comply with the recreational facilities and open space provisions of Article XIII of this chapter. Open space shall be calculated by applying the percentage ratio to the entire tract (before any subdivision takes place). Recreational points shall be calculated by treating each bedroom in the 7.200 component of the senior citizen residential complex as a one bedroom multi-family residence. **(AMENDED 05/14/96)**

Section 15-175.10. Flag Lots in the Historic District (AMENDED 11/21/95)

In the Historic District (HD):

(a) The street frontage of every lot shall be a minimum of twenty-four (24) feet.

(b) No portion of any new dwelling unit on a flag lot may be located any closer than fifteen (15) feet from any property line or any closer than thirty (30) feet from any existing dwelling unit located on the lot from which the flag lot was created.

(c) Every flag lot shall provide a Type B screen (as described in Section 15-307(1)) between the flag lot and adjacent property.

Section 15-175.11. Solar Arrays (AMENDED 06/27/17)

(a) In addition to other applicable provisions of this chapter, use classifications 17.501 (Solar Array Level 1 Facility) and 17.502 (Solar Array Level 2 Facility) shall be subject to the following requirements:

(1) Installation of the array(s) shall (i) not negatively affect compliance, or any condition of compliance of an existing land use permit or building permit, or (ii) be subject to the modification of the subject permit.

(2) The panels are designed, positioned, and oriented such that concentrated solar radiation or glare shall not be directed onto nearby properties or road rights-of-way, or shall otherwise create a safety hazard.

(3) All on-site utility and transmission lines shall, to the extent feasible, be placed underground.

(4) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

(5) The height of the array and supporting structures shall not exceed the height requirements of the underlying zoning district where the property is located as described in Section 15-185.

(6) Mechanical equipment, including batteries or other similar storage devices, shall be located within the required building setbacks as provided for in Section 15-184, and shall be shielded to avoid damage.

(7) All mechanical equipment, including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate, and provided with a Type A-Screen.

(8) All solar devices and mechanical equipment, including batteries or other similar storage devices, shall be located outside of the designated open space, well/septic system areas as identified by Orange County Environmental Health, utility easements, water quality buffers as identified in Section 15-269.5 and Special Flood Hazard Areas.

(9) The facility shall have sufficient parking on site to accommodate the number of vehicles likely to be present on a regular basis.

(10) The applicant shall submit proof of liability insurance covering bodily injury and property damage demonstrating a minimum coverage limit of $500,000.00 per occurrence.

(b) In addition to other applicable provisions of this chapter, use classifications 17.503 (Solar Array Level 3 Facility) shall be subject to all of the requirements of use classifications 17.501 and 17.502 above as well as the following requirements:

(1) A soils report denoting the types of soil on the property including detail on the compaction necessary to support the proposed development.

(2) Demonstration of compliance with the decommissioning protocol, described below in paragraphs (a. through f) should the device become damaged, or removed from service.

a. The owner/operator of the facility is required to notify the Town Planning Director in writing 60 days prior to the planned cessation or abandonment of the facility for any reason. This notice shall provide the exact date when the use of the facility will cease.

b. Documentation shall be provided indicating that the public utility purchasing the power has been made aware of the decision.

c. The facility shall be removed within 12 months from the date the

applicant ceases use of the facility.

d. Once the infrastructure is removed from the property, the owner shall obtain the necessary Erosion Control permits to re-stabilize the property. The time frame for completion shall be determined by the Orange County Erosion Control Officer.

e. The owner shall provide financial security in form and amount acceptable to the County to secure the expense of dismantling and removing said structures.

f. Upon removal of the facility, the Planning Department shall cause a notice to be recorded with the Orange County Registrar of Deeds office indicating that the class A special use permit~~Conditional Use Permit~~ has been revoked.

Section 15-176 Towers and Antennas, and Wireless Facilities including Small and Micro Wireless Facilities (AMENDED 02/18/97; REPEALED & AMENDED 11/19/13; AMENDED 6/23/20)

(a) Towers and antennas, and wireless facilities are subject to the regulations outlined in this section, pursuant to the definition of each facility described in Article II of this chapter. The term "tower" includes wireless support structures.

In addition to other applicable provisions of this chapter, towers, antennas attached thereto that exceed 50 feet in height (use classification 18.200) shall be subject to the requirements in subsections (a), and (b) and (c) below. Additional standards applicable to small and micro-wireless facilities (use classification 18.500) are provided in subsection (d). **(AMENDED 11/19/13)**

(1) A tower may not be located within 1,500 feet of another tower (measured in a straight line and not by street distance).

(2) As set forth in subsection 15-184(q), the base of the tower shall be set back from a street right-of-way line and every lot boundary line a distance that is not less than the height of the tower.

(3) Lighting shall not exceed the Federal Aviation Administration (FAA) minimum if lighting is required by the FAA. To the extent allowed by the FAA, strobes shall not be used for nighttime lighting. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements. Prior to issuance of a building permit, the applicant shall be required to submit documentation from the FAA that the lighting is the minimum lighting required by the FAA.

(4) Towers and antennas shall be constructed and operated so as not to disturb or interfere with the use or operation on adjoining or nearby properties of radios, televisions, telephones, or similar equipment.

(5) Commercial messages may not be displayed on any tower.

(6) The output from the tower may not exceed federally approved levels for exposure to electronic magnetic force (EMF). The applicant shall be required to submit documentation with the application verifying compliance with this standard.

(7) If the tower is up to 180 feet in height, the tower shall be engineered and constructed to accommodate at least one additional telecommunication user. If the tower exceeds 180 feet, the tower shall be engineered and constructed to accommodate at least two additional telecommunication users. Furthermore, the site plan must show locations for accessory buildings necessary to accommodate a minimum of two users, even if the tower is proposed for a single user.

(8) The base of the tower and each guy anchor shall be surrounded by a fence or wall at least eight feet in height and constructed of material that cannot be easily climbed or penetrated, unless the tower and all guy wires are mounted entirely on a building at least eight feet in height.

(9) The base of the tower, any guy wires, and any associated structures, walls, or fences shall be surrounded by a Type A screening. The site developer shall have the option of (i) providing the screening around the tower base and associated items individually, or (ii) providing the screening around the perimeter of the entire site.

(10) Outdoor storage shall not be permissible on tower sites.

(11) In addition to other information that must be submitted with the application, the application for a tower must contain the following information:

a. Identification of the intended user(s) of the tower.

b. Documentation provided by a registered engineer that the tower has sufficient structural integrity to accommodate more than one user.

c. Documentation by the applicant that no suitable existing facilities within the coverage area are available to the applicant. Documentation may include maps, letters from adjacent tower owners, or calculations. Facilities include other towers, or other buildings or structures.

d. A statement indicating the owner's intent to allow shared use of the tower and how may other users can be accommodated.

(12) The recipient of a permit for a tower shall be required as a continuing condition on the validity of the permit, to submit to the Zoning Administrator by January 31st of each year documentation, including but not limited to an FCC license, that the tower is being utilized. Towers which are not used for a period of 6 months or more shall be removed by the owner within 90 days thereafter. A statement of financial responsibility and performance security shall be posted for each tower to guarantee compliance with this requirement.

(13) In any residential zone, associated buildings or other buildings located on the same lot and owned or used by the applicant, its associates, or any co-users shall not be used as an employment center for any worker. This subsection does not prohibit the periodic maintenance or periodic monitoring of instruments and equipment.

(14) The tower shall be constructed with a grounding system that provides adequate protection from destruction or damage by lighting.

(15) **REPEALED (11/19/13)**

(16) In addition to the considerations for class A or class B ~~conditional or~~ special use permits found in Section 15-54 of this ordinance, the approving bodies in determining whether a tower is in harmony with the area of a tower on the value of adjoining or abutting properties may consider the aesthetic effects of the tower as well as mitigating factors concerning aesthetics, and may disapprove a tower on the grounds that such aesthetic effects are unacceptable. Factors relevant to aesthetic effects are the protection of the view in sensitive or particularly scenic areas and areas specially designated in adopted plans such as unique natural features, scenic roadways and historic sites; the concentration of towers in the proposed areas; and whether the height, design, placement or other characteristics of the proposed tower could be modified to have a less intrusive impact.

(b) A request for a modification of an existing cell tower, base station or wireless support structure that involves the collocation of new transmission equipment or the removal or replacement of transmission equipment but that does not substantially change the physical dimensions of the cell tower or base station shall be approved by the administrator as an insignificant deviation (see Section 15-64). For purposes of this section, a substantial change in physical dimensions would occur if: **(AMENDED 11/19/13)**

(1) The proposal is a "substantial modification" as defined in Article II of this chapter. Substantial modifications include:

a. The proposed change would increase the existing height of the tower

by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater (may exceed these size limits if necessary to avoid interference with existing antennas);

b. The proposed change would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the antenna from inclement weather or connect the antenna to the tower via cable); or

c. The proposed change would enlarge the square footage of the existing equipment compound by more than 2,500 square feet; or

d. The proposed change would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

e. The proposed change would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

(2) Applications for substantial modifications shall be considered pursuant to the requirements in Article X.

(c) The Town shall have 45 days within which to determine the completeness of an application for a collocation or eligible facilities request, and then 45 days from the date that the application is determined to be complete within which to make its decision. An application is deemed to be complete 45 days after it is submitted unless the Town determines and notifies the applicant in writing within 45 days of submission, that (and how) the application is deficient. For other types of applications relating to wireless support structures, towers or substantial modifications, the Town shall have 90 days to determine if an application is complete and 150 days within which to decide, not including small and micro wireless facilities. This provision shall not apply to small wireless facilities located within the public right-of-way, which shall be governed by Section 15-52(f). **(AMENDED 11/19/13; 6/23/20)**

(d) Small or micro wireless facilities (use classification 18.500), defined in Article II, and the height requirements in Table 1 and Table 2 below, are subject to the regulations outlined in this subsection.

Table 1. Height Requirements for Small Facilities in Public Rights-of-Way (Read top row left to right, then left-hand column.)

If a Small Wireless Facility is proposed in the following Zoning District(s):	New, modified or replacement utility power Height of Utility Pole	Small wireless facility above utility pole, wireless support structure or Town utility pole	Total Height
All	50 feet above ground level	10 feet	60 feet
EXCEPTION for residential zoning districts where utilities are located underground. (The residential zoning districts are R-2, R-3, R-7.5, R-10, R-15, R-20, RR, R-SIR, R-SIR2, PUD, VMU, WR, HD, NPD	40 feet above ground level	10 feet	50 feet

Table 2. Height Requirements for Small Facilities outside of Public Rights-of-Way

If a Small Wireless Facility is proposed in the following Zoning District (s)	New, modified or replacement utility power Height of Utility Pole	Small wireless facility above utility pole, wireless support structure or Tow utility pole	Total Height
B-1(c), B-1(g), B-2, B-3, B-3T, M-1, M-2, CT, O, ORMU	50 feet above ground level	10 feet	60 feet

(1) Small wireless facilities may also be attached to existing structures including poles, provided that the height of the wireless support structure and antennae together increase the height of the existing structure by not more than ten (10) feet.

(2) All small and micro wireless facilities shall meet the provisions of 15-176(a)(10), (11), (12) and (14), above.

(3) Small wireless facilities shall be collocated on existing or replacement poles or wireless support structures to the extent feasible. If new poles or wireless support structures are requested by an applicant, the applicant shall comply with the Town's design criteria for such new poles and wireless support structures and shall consider, if feasible, a design that could accommodate collocations of other wireless facilities.

(4) New small wireless support structures may be built no closer than 200 feet from an existing wireless support structure or utility pole. The Town may consider a deviation from this standard upon request of the user if no feasible alternative in the public right-of-way exists.

(5) Unless otherwise required by the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), or the Town, the

composition of new poles or wireless support structures shall be in accordance with the provisions below.

a. New small cell facilities must use camouflage design techniques that blend the facility with the natural and built environment. Where a new pole is proposed or a new pole is replacing an existing pole, a new metal pole shall be designed and constructed to match the existing pole or existing surrounding poles, that is, in brown, dark green, black or silver, unless such pole is located in an area subject to other design standards.

b. Installations shall be on non-conductive poles.

c. Concrete or reinforced concrete shall not be used except for pole foundations.

d. Upon request of the applicant, public or the Town, the Town may accept and approve (at its reasonable discretion), new wireless support structure designs submitted by the applicant, which shall be designated for use in specific design overlay districts, historic districts, residential districts or other areas of the Town as may be preferred and so designated by the Town. The consideration of alternative designs shall be part of a separate review process prior to the submittal of an application for a new pole or wireless support structure, and therefore not subject to the review process described in 15-52(f).

(6) Wireless installations shall be on poles that meet or exceed current National Electric Safety Code (NESC) standards and wind and ice loading requirements of ANSI 222 Version G for essential services.

(7) No exterior lights are permitted on any small or micro facilities unless required by the Federal Communications Commission (FCC) or the wireless support structure is designed and permitted as a street light.

(8) Small wireless facilities and their wireless support structures shall utilize a concealed design, including all cabling being inside the support structure or "concealed" behind a fairing cabinet or other masking device.

(9) All radios, network equipment and batteries will be enclosed in a pedestal cabinet near the pole, or in a concealed pole-mounted cabinet.

(10) The total cumulative volume of all accessory equipment, cabinets, or shelters used to house equipment to support the operation of a small wireless facility cannot exceed 28 cubic feet. Any equipment not used in direct support of such operation shall not be stored on the site.

(11) Signs on any portion of a small wireless facility shall be prohibited unless required by the Federal Communications Commission (FCC), state of North Carolina or other government agency. A sign permit is required whenever a sign is allowed.

(12) Equipment compounds are not permitted in the public right-of-way.

(13) Unless proved unfeasible by clear and convincing evidence, in lieu of installing new poles, any wireless installation in the public right-of-way shall replace a pre-existing distributed pole, secondary pole or streetlight. Any work involving public rights-of-way shall comply with the standards in Article II of Chapter 7 of the Town Code.

(14) Outside of the public right-of-way in all districts, the administrator shall have the authority to impose reasonable landscaping requirements surround the equipment compound or accessory equipment cabinet. Required landscaping shall be consistent and surrounding vegetation and shall be maintained by the facility owner. The administrator may choose to not require landscaping for sites that are not visible from the public rights-of-way or adjacent property or in instances where landscaping is not appropriate or necessary.

(15) All small wireless facilities located outside the public rights-of-way shall comply with the provisions of Section 15-176(a)(2), (9) and (13). The base of any pole or tower for a small or micro facility shall be set back from a street right-of-way line and every lot boundary line a distance that is not less than the height of the pole or tower.

(16) No pole or tower intended for small or micro wireless facilities may be constructed, substantially modified, including modifications relating to collocations, except in accordance with and pursuant to a zoning permit as provided for in Article IV, Part I. of this chapter and, if applicable, to an encroachment permit in accordance to Article II, of Chapter 7.

a. Subject to the application requirements and approval process outlined in Section 15-52, construction shall begin no later than six months from the date the permit is issued.

b. Small wireless facilities shall be activated for their intended use in no more than one year from the date a permit is issued, and shall be subject to the renewal requirements of subsection (b)(12) above. Permits shall automatically expire if these deadlines are not met.

c. If a small wireless facility ceases to transmit a signal for at least 180 days, or the permittee announces that it intends to cease transmitting

signals, the facility shall be deemed abandoned on the earlier of the two dates.

1. If the owner/provider does not remove the facility in 180 days from the date of abandonment, the Town may remove the facility and bill the owner for the costs of removal.

2. The provider of the facility may receive an extension if the provider provides reasonable evidence that the provider is diligently working to return the facility to service.

d. Substantial modifications are subject to the provisions of Section 15-176(b) above.

Section 15-176.1 Businesses with Drive-In Windows (AMENDED 06/09/98)

In addition to other applicable provisions of this chapter, use classifications 2.140, 2.240, 3.230, 3.250, 8.300, 8.400, and 16.100 shall be subject to the following requirements:

(1) The entrance/exit doors of such uses shall be located in such a manner that a person entering/exiting such business is not required immediately to cross a drive-in window exit lane.

(2) Drive-in windows shall be located in such a fashion that vehicles using or waiting to use such drive-in or drive-through facilities do not interfere with vehicles seeking to enter or leave parking areas.

(3) Where it is necessary for patrons wishing to park and enter such businesses to cross a drive-in window lane, crosswalks leading from parking areas to building entrances shall be clearly marked.

(4) The vehicular entrances or exits of such uses shall not be located within 300 feet of the intersection of the centerlines of intersecting streets.

(5) A building housing an 8.400 classification use may not be located closer than 1,000 feet to the nearest point of another building housing an 8.400 classification.

(6) A Type B screen shall be erected, on the exterior border, from the service window to the entrance of the stacking lane.

Section 15-176.2 Village Mixed Use Developments (AMENDED 05/25/99; 05/28/02)

(a) In a village mixed use development, a maximum of ten percent of the total gross acreage of the tract, or five acres, whichever is less, may be used for purposes permissible in the B-3T or OA districts, subject to any conditions or limitations (including limitations on the types of permissible uses) contained in the remaining provisions of this section, the Master Plan, or the class

A special ~~conditional~~ use permit that authorizes the development in question.

(1) Within the portion of the tract developed for commercial purposes, the regulations (other than use regulations, which are governed by the provisions immediately above) applicable to property zoned B-3T shall apply except as otherwise provided in this section or as otherwise allowed by the Town Council~~Board of Aldermen~~ in the approval of the Master Plan for the conditional zoning or the class A special ~~conditional~~ use permit for the development.

(2) The commercial portions of the village mixed use development shall be contained within a "storefront use area." This area shall be designed to provide a variety of retail shops and services to support the day-to-day needs of village residents and other local residents, complemented by other compatible business, civic and residential uses in commercial-type buildings in a manner consistent with a small downtown of or central market place in the community.

(3) Storefront use areas shall be located so they are easily accessible by pedestrians from as much of the residential areas as possible (preferably within 1,500 feet – a five-minute walk). Nonresidential uses that are intended or expected to serve an area beyond the development itself shall be located to the extent practicable to permit vehicular access from outside the development without passing through residential streets.

(4) Storefront use areas shall be located at least 200 feet from an arterial street and at least one-half mile from the nearest edge of another commercial center.

(5) Parking areas that serve commercial facilities shall be screened with a Type A screen from the view of public streets located outside the development.

(6) If and to the extent that dwelling units are constructed above commercial uses in commercial areas, the additional vehicle accommodation area required to accommodate such residential uses shall not be treated as commercial area for purposes of the "cap" on commercial areas established by this section.

(7) Commercial areas shall surround or be located adjacent to or across the street from a public park, green, or square, which area may be credited as part of the open space required of the development.

(8) Within the commercial areas authorized under this section, buildings shall be designed and constructed so that each individual enterprise occupies (whether as tenant or owner occupant) an area of not more than 6,000 square feet per floor.

(b) Portions of the tract not developed in accordance with the provisions of subsection (a) above may be developed in accordance with the provisions of this chapter applicable to property that is zoned R-10, except as those provisions are modified by the provisions of this section or the Master Plan or conditions imposed by the Town Council~~Board of Aldermen~~ in the issuance of the class A special~~conditional~~ use permit.

(1) The number of dwelling units permissible within the entire tract shall be determined in accordance with the provisions of Section 15-182.3 (as adjusted by density bonuses awarded for providing affordable housing under Section 15-182.4), subject to the following:

a. Areas used for commercial purposes shall *not* be subtracted from the adjusted tract acreage before determining permissible density.

b. All dwelling units constructed above commercial uses in commercial areas (e.g. a second story apartment located above a first floor retail store or office) shall be permissible *in addition* to the number of dwelling units otherwise authorized under this section.

c. When a lot is developed as a primary residence with an accessory detached dwelling, the accessory dwelling shall be permissible in addition to the number of dwelling units otherwise authorized under this section.

(2) The residential portions of the development shall contain a mixture of housing types that are generally reflective of the housing types in Carrboro and ownership/rental options so that the development provides housing opportunities for persons within as broad a range of income levels as is feasible. Different housing types and price ranges shall be intermixed rather than segregated.

a. The development shall contain an area known as a "townhouse use area." This area shall be designed to provide for a variety of housing opportunities, including residential buildings such as townhouses and/or apartments in close proximity to the storefront area, and to provide for the flexible use of such buildings to accommodate compatible business and civic uses which supplement the storefront area. The townhouse use area shall be a designated geographic unit generally located along neighborhood streets and adjacent to the storefront area. In approving a class A special~~conditional~~ use permit for a Village Mixed Use Development, the Council~~Board~~ may approve the following uses not generally authorized in an area zoned R-10, subject to such restrictions and conditions relating to locations, use classifications, and other matters as the Council~~Board~~ may provide:

1. Personal or business services
2. Office

3. Private club
4. Restaurant
5. Artist studio
6. A maximum of 4 guestrooms for lodging
7. Medical clinic or facility
8. Retail sales, if in conjunction and on the same lot as a home occupation

b. The development shall also contain a "single-family detached residential use area" designed to provide for single-family detached homes in a residential neighborhood environment. In approving a class A special ~~conditional~~ use permit for a Village Mixed Use Development, the Council~~Board~~ may approve the following uses not generally authorized in a single family detached residential area zoned R-10, subject to such restrictions and conditions relating to locations, use classifications, and other matters as the Council~~Board~~ may provide:

1. Office, as an accessory use, or for not more than 2 full-time employee equivalents.

(c) In addition to other applicable use regulations as provided above, lots within the following areas may not be used for the purposes indicated below:

(1) Storefront use areas:
a. drive-in or through windows
b. uses requiring loading or unloading during non-daylight hours.

(d) In approving a class A special~~conditional~~ use permit for a village mixed use development, the Town Council~~Board of Aldermen~~ shall ensure, by approval of a condition, phasing schedule, or otherwise, that the nonresidential portions of the development are occupied only in accordance with a schedule that relates occupancy of such nonresidential portions of the development to the completion of a specified percentage or specified number of phases or sections of the residential portions of the development. The purpose and intent of this provision is to ensure that the approval process for a village mixed use development is not used, intentionally or unintentionally, to create nonresidential uses in areas generally zoned for residential uses except as part of an integrated and well-planned primarily residential development.

(e) The open space provided within a village mixed use development pursuant to Section 15-198 shall include areas known as "village conservancy use areas " and "greens, parks, and squares."

(1) Conservancy use areas are areas designed to create a visual and physical distinction between the development, the surrounding countryside, and any neighboring developments.

(2) Greens, parks and squares are spatially defined and distributed open spaces within the village mixed use development designed to serve a variety of outdoor leisure and assembly needs of village residents and to enhance the form and appearance of the development.

(3) There shall be a main village green, which shall be centrally located in close proximity to the storefront area as described in subsection (a)(2). Other, smaller greens shall be dispersed throughout the remainder of the village center in such a way that no lot is more than a walking distance of 1,320 feet from a green, square or park. The main village green shall be designed to a pedestrian scale and shall be no less than 30,000 square feet in size, while the other, smaller greens, squares and parks shall be no less than 10,000 square feet in size.

(4) Open space areas set aside in accordance with this section may be used to satisfy the forty percent requirement of subsection 15-198(c). If the areas the developer is required to set aside as open space under Section 15-198 together with the areas required to be set aside under this subsection exceed forty percent of the mixed use development, then the Town Council~~Board of Aldermen~~ shall allow the developer to set aside less than the one or more of the categories of open space otherwise required under Section 15-198 or this subsection so that the developer is not required to preserve as open space more than forty percent of the development tract.

(f) Village Mixed Use Developments shall meet the following objectives with regard to land use arrangement and design criteria:

(1) Overall Form.

a. Open space should be designed to follow the natural features whenever possible and to provide for an agricultural, forest and undeveloped character of the land.

b. The core of the village shall be distinguished from the peripheral, contiguous open space by a well-defined "hard edge" of dwellings in contrast with the open, largely agricultural, forest and undeveloped character of the open space.

c. The village should be sited so as to best preserve natural vistas and the existing topography.

d. The village should be designed in a generally rectilinear pattern of blocks and interconnecting streets and alleys, defined by buildings, street furniture, landscaping, pedestrian ways and sidewalks.

(2) Spatial Relationships of Various Use Areas and Open Space.

a. The common, peripheral open space shall surround the village unless explicitly modified upon a finding that unique topographical or other natural features or preexisting boundary conditions require an alternative arrangement.

b. Village storefront use and townhouse use areas shall be surrounded by the residential use area or, where applicable, by a combination of residential and civic use areas.

c. Higher density residential lots should be generally located between the designated commercial area and lower density residential lots.

d. The transition between uses shall be blended to avoid a distinct visual segregation.

(3) Block Design

a. Blocks of a generally rectangular shape should be the main organizing feature of the village. While topography, existing vegetation, hydrology and design intentions should influence block shape and size, the maximum length for a block is to be four hundred and eighty (480) feet with an allowance for blocks up to six hundred (600) feet when mid-block pedestrian paths or ways are provided. No less than one eight-foot pedestrian alley or way must be provided for every two-hundred (200) feet of road frontage in the storefront use area.

b. The blocks of the village may be subdivided into lots, having frontage on a street, whose generally rectangular shape should respond to environmental factors, the proposed use and design intentions.

c. Village lots should minimize front and side yards, garage aprons and entrances and blank walls, and should generally have as narrow a width as is practical to encourage pedestrian movement.

d. Each block which includes storefront and narrow frontage townhouse lots shall be designed to include an alley or small clusters of parking, with service access in the rear. Blocks of wide frontage townhouse lots need not be designed to include an alley and rear parking.

e. Similar land use types shall generally front one another while dissimilar land use types shall generally abut along alleys or rear parking.

f. Lot layout, path and sidewalk design shall ensure pedestrian access to each lot.

g. The build-up line specifies a cornice height that establishes the prominent visual dimension of a building and defines its proportion in relation to the street. It should vary, with no more than sixty (60) consecutive feet of the build-up line having a similar cornice or roofline, and be between one and three and one-half stories in height. A two-story build-up line can range from 20 to 25 feet above average ground level. A three-story build-up line can range from 30 to 35 feet above average ground level. **(AMENDED 5/28/02)**

(4) Storefront and Townhouse use Area Design Components

a. New multi-family and commercial buildings in storefront and townhouse use areas shall be subject to a maximum front setback (the "build-to" line) in order to maintain a strong sense of streetscape. Such buildings shall generally be of two-story construction (to the so-called "build-up" line) and shall be designed in accordance with the design standards of this chapter and any other applicable standards. To create a defined edge to the village's public space, new multi-family or commercial buildings should conform to a consistent setback from the street. Porches for multi-family or townhouse construction can extend beyond the build-to line. In addition, building faces, as well as a majority of the roof ridgelines should be parallel to the street.

b. Maximum height regulations are 49 feet and three and a half stories.

c. Minimum street frontage is 25 feet.

d. Setback regulations are as follows: Front = no minimum required; maximum is 15 feet; Rear = 20 feet minimum; Side = Zero minimum lot lines are allowed, except at block ends or adjacent to alleys or pedestrian walks as required under block design requirements.

e. Parking within this area shall be subject to the other parking requirements of this chapter as well as the following:

1. Non-residential off-street parking shall generally be to the side or the rear, or located within internal parking areas not visible from the street.

2. The permit-issuing authority may allow on-street parking spaces along the front property line (except where there are driveway cuts) to be counted toward the minimum number of parking spaces required for the use on that lot.

3. On-street parking space shall be designed as either parallel to the curb on both sides of the street, or diagonal to the street on the storefront side with landscaped breaks serving the pedestrian alleyways.

4. Off–street parking may be located within 100 feet (measured along a publicly accessible route) from the lot containing the use to which the parking is accessory, if the lot containing the parking is owned or leased to the owner of the principal use, or if the lot containing the parking is dedicated to parking for as long as the use to which it is accessory shall continue, and it is owned by an entity capable of assuring its maintenance as accessory parking.

5. The permit-issuing authority may allow shared use of parking.

f. All public sidewalks and walkways shall:

1. Be constructed of brick or concrete with brick borders in such a way that they do not impede accessibility**.**

2. Be no less than six feet in width; and

3. Create a completely interconnected network of pedestrian walkways throughout the storefront use and townhouse use areas.

g. All storefront and townhouse use areas shall contain the following:

1. At least one trash can and one recycling receptacle of approved design in each block;

2. Public benches of approved design at bus stops, green spaces, and at intervals of no greater than 200 feet along both sides of each block and at lesser intervals and/or in required clusters, as appropriate (i.e. high-activity areas due to the nature of surrounding uses).; and

3. At least one bike rack on each block.

h. All new construction shall be of similar scale and massing to small-scale, historic buildings in downtown Carrboro.

i. All roofs shall be topped with low-pitched roofs with articulated parapets and cornices, or pitched roofs where fascias are emphasized and any roof dormers are functional.

j. Storefront buildings shall:

1. Include show windows on the ground level. Storefront windows are to be large and traditional in appearance and are to include low sills and high lintels.

2. Articulate the line between the ground and upper levels with a cornice, canopy, balcony, arcade, or other visual device.

3. Include lighting in show windows, which is in conformance with other lighting regulations, herein;

4. Project lighting on the sidewalk from about eight feet in conformance with other lighting regulations herein;

5. Present the principal entrance to the sidewalk. Alternatively, if the principle entrance faces onto an interior courtyard, the entrance to the courtyard must be presented to the sidewalk.

k. The facade of storefront buildings may be separated from the sidewalk surface by a landscaped strip of no greater than three feet, except as necessary to accommodate open-air, food service establishments.

l. The construction of open colonnades over a sidewalk adjoining storefront buildings may be permitted subject to an appropriate easement over the public right-of-way.

m. Materials in the exterior of buildings surrounding the greens shall be limited to a diversity of brick. Wood, stucco, masonry and other siding materials are subject to the review of the Appearance Commission and the approval of the permit-issuing authority.

n. All signage shall:

1. Be affixed to building façade, canopy, or arcade;

2. Be located within the first story limit;

3. Be visible to both pedestrians and drivers;

4. Contain visual street numbers for each building; and

5. Utilize lighting conforming to applicable regulations.

o. Storefront buildings shall have at least 60 percent of their front facade parallel to the street.

p. The principal entrance shall be from the front sidewalk.

q. Storefront buildings fronting on the same street and located on the same block shall be attached, except as necessary to accommodate pedestrian ways.

r. The street treescape shall require:

1. The planting of species which branch above 8 feet to facilitate viewing of storefronts and signage.

2. The planting of trees every 30 feet to 50 feet depending on size so as to create a regular pattern of street trees through the area.

(5) Residential uses within the single family detached residential use area shall conform to the following requirements:

a. Lots shall generally be located along local streets and around the perimeter of the combined storefront and townhouse areas and between those areas and the village conservancy district.

b. The minimum lot width at the building line shall be 40 feet unless the Town Council~~Board of Aldermen~~ has also approved the development as an architecturally integrated subdivision a described in Section 15-187.

c. Variations in the principal building position and orientation shall be encouraged, but the following minimum standards shall be observed: Front yard: 15 feet minimum (but 8 feet to front porches or steps) and 25 feet maximum; Rear yard: 30 feet minimum for principal buildings and 5 feet for accessory buildings; Side yard: 20-foot separation for principal buildings, with no side yard less than 5 feet unless the Town Council~~Board of Aldermen~~ has also approved the development as an architecturally integrated subdivision a described in Section 15-187.

d. The total impervious coverage shall be 50 percent for all of the lots in this use area except for those approved to include 22.000 uses. Allocation to each lot shall be indicated on the conditional use permit plans and must be finalized at the time a final plat is recorded. For multi-phase projects, the final allocation shall be by phase. No further reallocation of impervious surface coverage for lots in this use area shall be allowed after the final plat has been recorded, unless a class A special~~conditional~~ use permit is modified to allow 22.000 uses. Any such 22.000 uses shall be subject to stormwater management

requirements as specified in Section 15-263 (c) (3). **(AMENDED 10/28/08)**

e. The maximum height of buildings shall be 35 feet.

f. Residential structures shall be designed to reflect Carrboro's vernacular building tradition in accordance with the design standards described in Section 15-141.2 of this chapter.

g. Accessory Detached Dwellings (ADD) shall be architecturally integrated as follows:

1. Accessory Detached Dwellings or outbuildings shall be designed to harmonize with the Carrboro vernacular architecture described above.

2. There shall be a maximum of one accessory dwelling unit (ADD) per lot of less than ten (10) acres.

3. The gross floor area in the ADD shall not exceed 750 square feet.

4. Exterior fire-exit stairs are prohibited on any side of Accessory Detached Dwellings except at their rear, except in cases when the ADD is located above a garage.

5. All off-street parking for Accessory Detached Dwellings shall be located to the side or rear as viewed from the street.

(6) Roads and Streets.

a. Street patterns within the village mixed use shall be a rectilinear network of streets, interconnected with clear, direct, understandable patterns, with variations as needed for topographic and environment and other valid design consideration.

b. Streets shall be designed generally to:

1. Parallel and preserve existing fence lines, tree lines, hedgerows and stone walls.

2. Minimize alteration of natural site features.

3. Secure the view to prominent natural vistas.

4. Minimize the area devoted to vehicle travel.

5. Promote pedestrian movement so that it is generally more convenient to walk short distances than to drive.

6. Be aligned so that the "terminal vista" is of open space features, either man-made (greens, commons), natural (meadows, large trees in distance), or a community structure of significance.

c. With the exception of loop roads, all neighborhood and local streets shall terminate at other streets within the village proper and shall provide connections to existing or proposed through streets or collectors outside the village proper where practical. Loop roads, as defined in this chapter, are specifically allowed.

d. Sidewalks shall be provided as required in Article XIV of this chapter.

e. Sidewalk widths shall be at least six feet in retail/commercial areas, and at least five feet in residential, as well as townhouse, areas.

f. A plan for sidewalks and footpaths shall be designed to connect all houses with any of the village's greens and parks.

(7) Parking.

a. Off-street parking lots and areas shall generally be located at the rear of buildings.

b. No off-street parking shall be permitted in the front yards of buildings located in the storefront or townhouse use areas, nor shall off street parking be the principal use of corner lots in these areas.

c. Any off street parking space or parking lot in a storefront, townhouse, or civic area which abuts a street right-of-way shall be buffered from the right-of-way by a landscaped area no less than 4 feet wide in which is located a continuous row of shrubs no less than 3 1/2 feet high, or by a wall no less than 4 feet and no more than 6 feet high.

d. Off street parking in the storefront and narrow frontage townhouse areas shall generally be accessible from an alley only.

e. The permit-issuing authority may allow on-street parking spaces along the front property line (except where there are driveway cuts) to be counted toward the minimum number of parking spaces required for the use on that lot.

(8) Landscaping

a. The applicant shall submit a comprehensive landscape master plan for all areas of the village, and village conservancy areas, identifying the location and size of both existing vegetation to be retained and proposed new vegetation, typical planting materials, the phasing of landscape installation and planting methods.

b. Shade trees shall be provided along each side of all streets, public or private, existing or proposed. Shade trees shall also be massed at critical points, such as at focal points along a curve in the roadway. In locations where healthy and mature shade trees currently exist, the requirements or new trees may be waived or modified. Section 15-315 of this Chapter notwithstanding, the developer shall either plant or retain sufficient trees so that, between the paved portion of the street and a line running parallel to and twenty- five feet from the center line of the street, there is for every forty feet of street frontage at least an average of one deciduous tree that has or will have when fully mature a trunk at least twelve inches in diameter. Trees may be placed uniformly.

c. Parking lots larger than 19 spaces and/or 6,000 square feet in size shall have internal landscaping as well as buffering landscaping on the edge of the lot.

d. Trees and other plants should be chosen with reference to the list set forth in Appendix E.

e. Trees and other public landscaping shall be protected by means of suitable barriers.

f. The method and means for providing quality street trees and other community landscaping such as in village greens, parks, and squares shall be addressed.

g. The developer shall be required to post a suitable performance bond to ensure that any tree that dies within eighteen (18) months of planting shall be replaced with the same species and size, and that any tree shall be well maintained, i.e., irrigated and fertilized, for a total of thirty-six (36) months from time of planting. If trees are removed, they shall be replaced with trees of similar size and function.

Section 15-176.3 Reserved for Transfer of Development Rights (AMENDED 05/25/99)

Section 15-176.4 Vehicle Sales in the B-1(g) Zoning District (AMENDED 06/25/02)

(a) In addition to the other applicable provisions of this chapter, vehicles sales operations (use classification 9.100) located in the B-1(g) Zoning District shall be subject to the following requirements:

(1) A vehicle sales operation may not be located within 2,000 feet of another vehicle sales operation (measured in a straight line and not by street distance) in the B-1(g) or M-1 zoning districts.

(2) A vehicle sales operation is permitted only on lots containing no more than 26,000 square feet.

(3) A vehicle sales operation is permitted only on lots that are bordered on at least one side by an arterial street.

(4) Outdoor storage areas for vehicles in the process of repair or dealer preparation may only be located behind the principal building and/or its accessory buildings.

(5) All vehicle repairs and preparation for sale are to be conducted within fully enclosed structures.

(6) Multiple driveway cuts and outdoor storage/display areas in the front portion of the lot shall be permitted to the extent that they do not impede the installation of the type "C" screen.

(7) Vehicle sales operations are subject to the non-residential performance standards applicable to 9.400 uses as specified in Sections 15-163 through 15-169.

(8) Each vehicle is allocated one (1) square foot of sign area to be displayed on the interior of a side window of the vehicle only.

(9) A vehicle sales operation must be an annex of a pre-existing vehicle sales business located within 800 feet.

(10) A vehicle sales operation is allowed in those portions of the B-1(g) district that are not adjacent to residentially zoned property (primary zoning classification only).

Section 15-176.5 Mobile Prepared Food Vendors (AMENDED 6/24/08)

(a) Mobile prepared food vendors shall be located on lots where an existing non-residential use operates in a permanent building.

(b) As set forth in the Table of Permissible Uses, mobile prepared food vendors are permissible in the B-1(C), B-1(G) and M-1 districts (subject to the other provisions of this section). In addition, mobile prepared food vendors shall also be permissible on lots in the R-10 district where (and so long as) there exists a nonconforming retail business located in a permanent building.

(c) Notwithstanding the provisions of Section 15-154 (Combination Uses), a zoning permit may be issued for a mobile prepared food vendor, and in issuing the permit, the zoning administrator shall take into consideration only this use and not the other use or uses made of the lot where the mobile prepared food vendor is located [except that this use must comply with subsection (a)].

(d) Mobile prepared food vendors shall be subject to the building setback requirements of Section 15-184 but shall not be subject to the other provisions of Article XII or to the provisions of Articles XIII through XIX of this chapter. Notwithstanding the foregoing, no signage for these uses shall be allowed other than signs permanently attached to the motor vehicle.

(e) Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.

(f) Mobile prepared food vendors may not be located in any portion of a vehicle accommodation area where such location would prevent the use of required parking spaces during the regular hours of operation of the primary business on the lot, or otherwise interfere in a significant way with the movement of motor vehicles using such area.

(g) Mobile prepared food vendors shall not operate as a drive-through.

(h) A zoning permit issued for this use may be revoked not only for the reasons specified in Section 15-115 but also if the zoning administrator determines that the mobile prepared food vendor's operations are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or that such use is otherwise creating a danger to the public health or safety.

Section 15-176.6 Data Service Provider Facilities (AMENDED 06/23/15)

(a) Data service provider facilities up to 500 square feet in building area, and no taller than 15 feet in height are allowed in the R-10, R-15 and R-20 zoning districts with a zoning permit, provided that such facility otherwise satisfies the requirements of the Carrboro Land Use Ordinance.

(b) A data service provider facility larger or taller than the maximums stated above, or that cannot meet one or more of the provisions in Section 15-176.6(c) through 15-176.6(l) below may be allowed with a special use permit issued by the Board of Adjustment upon satisfaction of the considerations required by section 15-54.

(c) All data service provider facilities shall be set back at least twice the otherwise applicable front, side and rear yard setback requirements for the zoning district in which the facility is located.

(d) A data service provider facility shall have sufficient parking on site to accommodate the number of vehicles likely to be present at the facility on a regular basis.

(e) A data service provider facility shall be surrounded by a fence or wall at least 8 feet in height and constructed of material that cannot be easily climbed or penetrated.

(f) All data service provider facilities shall be surrounded by a Type A buffer on all sides.

(g) No data service provider facility may generate any smoke, odor, electrical interference that is perceptible beyond the boundaries of the lot where the facility is located or that affect the use of adjoining or neighboring properties.

(h) The maximum permitted sound level for all data service provider facilities is 50 dB(A) measured at (i) the outside boundary of the leased area occupied by the facility, or (ii) the lot line if the facility is the only use located on the lot.

(i) No 15.750 classification use in any district may generate any ground transmitted vibration that is perceptible to the human sense of touch measured at (i) the outside boundary of the leased area occupied by the facility, or (ii) the lot line if the facility is the only use located on the lot.

(j) No outdoor storage shall be permissible at data service provider facilities.

(k) Commercial messages may not be displayed on any data service provider facility, provided that such facility shall have a single sign no larger than 4 square feet in area, identifying the operator of the facility and providing a telephone number or other contact information for the operator.

(l) All data service provider facilities shall meet the applicable lighting requirements established in section 15-242.5.

(m) The recipient of the permit for data service provider facilities shall submit to the Zoning Administrator written verification that the facility is being utilized within thirty (30) days of receipt of a written request for such verification. Data service provider facilities which are not used for a period of 6 months or more shall be removed by the recipient of the permit or subsequent permit holder within 90 days thereafter.

Section 15-176.7 Social Service Provider with Dining (AMENDED 03/22/16)

(a) An application for a zoning permit to allow a Social Service Provider with Dining use shall include documentation of all appropriate licensing for the type of services provided at the particular site and any required training for staff and volunteers.

(b) A Social Service Provider with Dining must be located within a half block of a public transit service stop.

(c) All facilities shall be designed to provide an on-site, sheltered location with sufficient queuing space for patrons to enter and exit the facility in an orderly manner and without disrupting traffic within public rights of way.

Section 15-176.8 Performing Arts Space (AMENDED 11/27/18)

(a) Performing arts spaces shall be located on lots where an existing permanent structure or structures fifty years of age or older is available for adaptive reuse and such preservation and reuse will provide for the continued vibrancy of the Town's commercial and industrial building fabric and associated heritage.

(b) As set forth in the Table of Permissible Uses, performing arts spaces are permissible only in the B-1(g) and B-1(c) districts, subject to the permit requirements specified in Section 15-147 (r) and the other provisions of this section.

(c) Performing arts spaces must demonstrate at least three of the following criteria relating to the building facilities and venue operation:

1) Defined performance space and defined audience space;

2) Specialty equipment associated with live performances, such as: light mixing desk, public address system, lighting rig, back line equipment;

3) Applies cover charge to some performances through ticketing or front door entrance fee;

4) Marketing of specific acts through published advertisements or listings;

5) Hours of operation for principle use associated with performance times; and

6) Produces live performances at least three days a week.

(d) Performing arts spaces may include the following related and accessory uses: restaurants (indoor and outside service and consumption), mobile prepared food vendors, office, research, and service, billiards and pool halls, electronic gaming operations, temporary residences, multifamily residences, museums, art galleries and art centers, open air markets and sales and rental of goods, so long as the performing arts spaces is the predominant use and development. The area allocated for such related and accessory uses may be greater than fifty percent with a class A special ~~conditional~~ use permit.

(e) All occupancy provisions for the principle performance uses, and for the accessory and related other uses, shall be in accordance with the State Building Code.

(f) Performing arts spaces shall not impede normal traffic patterns on adjacent public streets. Mobile prepared food vendors associated with a performance art venue must confine their operations to the lot on which the performance art venue is located.

(g) Up to six special performances may be programmed each year, provided that the event sponsor submits for the Town's prior approval a plan for traffic and parking which demonstrates that arrangements have been made to satisfy the required use of parking areas for the primary business on the lot during its regular hours of operation, and will not otherwise interfere in a significant way with the movement of motor vehicles using such area, unless such parking spaces are otherwise provided for.

(h) Mobile prepared food vendor business associated with this use shall not operate between the hours of 2:30 a.m. and 6:00 a.m.

(i) Density of accessory residential units shall be determined in accordance with Section 15-182. Up to four residential units may be allowed in conjunction with a performing arts space permitted with a zoning permit. More than four residential may be allowed in conjunction with a performing arts space permitted with a class A special~~conditional~~ use permit.

(j) A zoning permit issued for this use may be revoked for the reasons specified in Section 15-115 or if the zoning administrator determines that the performing arts space's operations are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or that such use is otherwise creating a danger to the public health or safety, or is in repeated violation of the Town Code, Chapter 5, General Offenses, Article II Sections 5-11, 5-12, 5-16 and 5-18.

Section 15-176.9 Special Standards for Historic Rogers Road District. (ADDED 10/22/19)

(a) All applicable provisions of the Carrboro Land Use Ordinance not specifically exempted or modified by this section shall apply to the HR-R district.

(b) In the HR-R district, the maximum size of any single-family dwelling constructed after the effective date of this section shall be 2,000 square feet of heated floor area; the maximum size of any duplex or triplex dwelling unit constructed after the effective date of this section shall be 1,200 square feet of heated floor area. Any dwelling unit in existence on the effective date of this subsection containing 2,000 square feet or greater of heated floor area may be increased by a maximum of 25% of the existing heated floor area or 500 square feet whichever is greater, but with a maximum size of 2,500 square feet at any time. Any dwelling unit in existence on the effective date of this subsection containing less than 2,000 square feet of heated floor area may be expanded up to a maximum size of 2,000 square feet of heated floor area or 25% whichever is greater.

(c) As set forth in the Table of Permissible Uses, Major Home Occupations are permissible only in the HR-R district, subject to the following standards:

(1) Must be conducted by a person who resides on the same lot.

(2) Major Home Occupations shall only be located on lots a minimum of one acre in size.

(3) No more than 50% of the heated square footage of the home shall be used for business purposes. This calculation does not include accessory structures in the total square footage calculation for the home; such structures shall be limited to a maximum size of 150% of the home, but in no case shall exceed 2,000 gross square feet.

(4) The maximum number of trips per day to or from the business shall not exceed 50.

(5) The on-premises sale and delivery of goods which are not produced on the premises is prohibited, except in the case of the delivery and sale of goods incidental to the provision of a service.

(6) No more than three business-associated vehicles shall be parked on-site.

(7) Business-associated vehicles shall be limited to vehicles allowed under a Class C license.

(8) Parking for vehicles associated with the business, including employee and visitor vehicles shall be provided on-site, pursuant to the requirements in Section 15-291.

(9) If more than three parking spaces are provided for business-associated vehicles and / or employees and visitors, then the additional spaces above three must be screened by a Type A buffer.

(10) All business activities shall be a minimum of 60 feet from all lot lines or within a fully enclosed building.

(11) All noise, dust, vibration, odor, light, and glare-producing activities shall be located a minimum of 60 feet from all lot lines, and any activity that results in noise, vibration, dust, odor, light, or glare shall only occur between the hours of 8 AM and 6 PM.

(12) Any outdoor storage of materials, supplies, products, or machinery (excluding functional vehicles associated with the business) shall be screened with a Type A screen as described in LUO Section 15-307.

Section 15-177 Architectural Standards for Subdivisions Containing Four or More Single-Family Detached Residences (AMENDED 5/25/99; REWRITTEN 8/22/06)

(a) Intent. The intent of the provisions of this section is to ensure that developers of major subdivisions who are responsible for the construction of homes within those subdivisions pay as much attention to the site design and architectural features of their developments as they do to engineering considerations, so that the town's newest neighborhoods will reflect a high standard of design and enhance Carrboro's unique appeal. These provisions of this section are not intended to dampen architectural creativity or diversity but rather to ensure that important architectural and design considerations are addressed.

(b) Applicability. The provisions of this section shall apply to subdivisions containing four or more single family detached residences, where the developer of the subdivision is not merely selling lots within the subdivision to independent builders or individuals, but is also the builder of the homes or otherwise controls the construction of homes and is therefore in a position to comply with the requirements of this section at the time the subdivision is approved. Notwithstanding the foregoing, housing developed by nonprofit organizations intended for first-time homebuyers earning less than 80% of the annual median income level for a family of four in the Raleigh-Durham-Chapel Hill Metropolitan Statistical Area is exempt from the provisions of this section.

(c) Definitions. The following terms shall have the meaning indicated when used in this section:

(1) Contemporary Architecture: describes a building that is derived from current ideas of architectural form, construction and detailing.

(2) Context: the surrounding buildings and land forms, the social and the built history of the location.

(3) Massing: the relationship of solids to voids, and the relationship of major components of the building such as roof, wall planes, and porches to one another, to surrounding buildings, and to the landscape in general.

(4) Proportion: the relationship between the vertical and horizontal elements of the building.

(5) Scale: the relationship of the size of the building, its components, and its architectural details to people as users and observers.

(6) Vernacular: a building style that is historical and typical of a region and surrounding area. The predominant residential vernacular style in Carrboro and the surrounding area is the mill-era housing.

(d) General Design Standards. The developer of every major subdivision covered by this section shall, in the process of designing the proposed subdivision, address each of the design considerations set forth in this section. The developer's plans submitted with the application for a

class A or class B special ~~or conditional~~ use permit shall reflect that each of the following design considerations have been addressed, and the application shall contain a written narrative explaining how each of these design considerations have been addressed. The design considerations are divided into three categories: landscape and site, context, and building.

(1) Landscape and site.

a. Site buildings in a manner sensitive to the existing natural environment and land forms. Minimize clearing and alteration of existing topography.

b. Site buildings or provide screening to avoid the visibility of buildings' rear facades from public streets.

c. Avoid monolithic and unarticulated walls and buildings facing the public realm.

d. Mechanical, communication, and electrical equipment shall be screened from neighbors and public ways through the use of landscaping or by fences/screens made of materials that complement the design of the house.

e. Garage entries should not visually dominate the house's primary entrance, and shall have visual separation from the main façade.

f. Locate and specify exterior and street lighting to minimize the impact on neighbors. Fixtures shall not project light above the horizontal plane.

g. Address the transition between street and primary entrance through pathways that consider changes of light, sound, direction, surface, or grade level, i.e. through the use of benches, fencing, or low walls connected to the building.

h. Use variable setbacks and modulate the streetscape.

(2) Context.

a. Address the overall plan of the subdivision in terms of rhythm, building heights, patterns, spacing, form, scale, massing, materials, and proportion.

b. Address the placement of buildings in relationship to one another; their height, orientation, and spacing.

c. Address the vertical-to-horizontal proportions of the elements of each individual house, and the relationship of these proportions from one house to another.

d. Address the relationship of the roof of one building to the next in rhythm, form, texture, detail, and shelter, with attention to color, materials, and pitch and to

features such as soffits, rafter ends, vaults, overhangs, dormers, cornices, vents, fascias, gutters, and eaves.

e. Provide human scale in massing and building elements.

(3) Building design elements.

a. Provide a minimum of four significantly different sets of elevations if the subdivision contains five or six houses, five sets if seven or eight houses, six sets if nine or ten houses and seven sets if eleven or twelve houses, and eight sets if thirteen or fourteen houses, to ensure variability of design. Subdivisions of fifteen or more houses must have a minimum of nine differing elevations.

b. Create recognizable primary entrances, using, for example, entry placement, front and side porches, trellises, hedges, fences, and walls.

c. Address the architectural rhythm of solids to voids in front façades, exterior walls, buildings on the streets, and entrance and/or porch projection.

d. Address façade relief as provided by corner trim, porch trim, window and door trim, door panels, transoms, frames, surrounds, shutters, muntins, moldings, corbelling, cornices, gables, columns, casings, vents, fabric awnings, and roofs. Specify materials and dimensions.

e. Specify the design of doors and windows, and their spacing, placement, proportion, scale, orientation, and size.

f. Address the design and character of all exterior walls and foundations, including their functional and decorative features, materials, details, and proportions in relation to the entire building.

g. The design of auxiliary buildings, fences, and privacy screens, and the materials used in their construction, should complement the design of the primary structure.

(e) Building Architectural Styles. As set forth in (d)(3) above, the developer shall submit elevations that address the general design standards set forth therein.

(1) Vernacular Architectural Standards. Developers are encouraged to consider complying with the provisions of Section 15-177 (d)(3) by using Vernacular Architectural Standards (VAS) as described in this subsection. The goal of the VAS approach is to maintain and enhance Carrboro's historic mill-era architecture, which distinguishes it and is a primary element in defining Carrboro's unique sense of place. New subdivisions using the VAS approach should recognize and reflect the local architectural vernacular. This approach notes the defining elements of the vernacular and requires that those elements

be used in conjunction with appropriate scale, proportion, massing, and texture. Proposed plans need not be copies of historic Carrboro houses; successful contextual design combines current design ideas with sensitivity and reference to the defining architecture of the locale.

a. Following is a list of the minimum criteria necessary to meet the Vernacular Architectural Standards and its goal of maintaining an architectural connection to Carrboro's past.

- Roof characteristics: 10-12 /12 upper roofs, 3/12 lower roofs, 16-24" eaves at all roof edges.

- Porches with a minimum depth of 6', across at least 80% of the primary street façade.

- Windows must be rectangular; at least 90% must have a minimum vertical-to-horizontal proportion of two-to-one.

- Clapboard or shingle siding with 4½" reveal.

- Paired 4" corner boards.

- Garage, if any, to be detached and located behind the house's rear façade

- Chimney, if any, to be faced with brick or stone, interior to the building or located exterior, on a gable end

- Details such as columns, trim, vents, dormers, and eaves reflective of the character of the vernacular (see building types, below)

b. Four building types display most of the primary architectural elements characteristic of residences built in Carrboro's mill era. All photos are from Carrboro's Historic Inventory.

One-story Mill House

The one-story mill house is modest in scale, with simple massing defined by a one-room deep "L"-shaped plan, gable roof, generous front porch, and moderate roof overhangs. It is characterized by symmetry in the gable ends and front and has windows of a vertical proportion placed singly in the wall plane. The exterior details generally consist of a false dormer, clapboard siding, 4" trim and corner boards, diamond gable vents, plain square porch posts with simple brackets, and simple pickets in porch rails. Garages were single-car gable-roofed buildings set behind the house.

Two-story "I" House

The two-story "I" house is defined by its moderate massing, a one-room deep plan, two-story front and one-story "L", gable roof, generous front porch, and moderate roof overhangs. It is symmetrical in its front elevation and gable ends and has windows of a vertical proportion placed singly in the wall plane. The

exterior details generally consist of a false dormer, clapboard siding, 4" trim and corner boards, diamond gable vents, plain square porch posts with simple brackets, and simple pickets in the porch rail. Garages were single-car, gable-roofed, and set behind the house.

The Bungalow

The bungalow style house is a medium scale building with a solid massing defined by its square floor plan, gable roof, generous front porch, moderate roof overhangs, and large dormers. It is characterized by large articulated gable ends, windows of a vertical proportion spaced doubly or triply in the wall plane, and a porch roof contiguous with the main roof. The exterior details generally consist of clapboard siding or shakes, 4" trim and corner boards, generous two-part square porch posts, and large gable end brackets, rake, and eave boards.

The Four-Square House

This is another medium-scale building type with a solid straight-forward massing defined by its square two-room deep plan, hip roof, moderate roof overhangs, dormers, and generous front porch. The defining characteristics are a symmetrical front elevation, windows of a vertical proportion placed singly in the wall plane, and a porch roof that is distinct from the main roof. The

exterior details generally consist of clapboard siding, 4' trim and corner boards, modest brackets, and simple square porch pickets.

(2) Alternative Architectural Standards. Developers may also comply with the provisions of this section by using Alternative Architectural Standards (AAS). The AAS approach recognizes that architecture is constantly evolving and that changing needs, tastes, and technologies generate new styles. Carrboro welcomes new and varied architecture but does not want to open the door to developments that neglect thoughtful design. Applicants may therefore choose to submit plans in accordance with this section using Alternative Architectural Standards. As with the Vernacular Architectural Standards, plans must be in compliance with the General Design Standards.

(f) Glossary of Architectural Terms. The following glossary of terms is made available for use by architects and developers in their interpretation of the provisions of this section.

(1) Accent block. A masonry element, usually square or diamond shaped, used as a decorative element in Craftsman-style domestic and commercial architecture.

(2) Arch. A curved structural element that spans an opening. There are many varieties, which take their basic form from the arc of a circle.

(3) Awnings. Usually of fabric, can also be plastic or metal. Used primarily to give shade to windows. Usually adjustable.

(4) Balance. Achieved by the assembly of separate elements to create the whole.

(5) Balcony. A narrow platform projecting from and supported by the face of a building above ground.

(6) Bay. A division of the elevation of a building. For example, a house with a front door flanked by two windows would be described as having a three-bay façade.

(7) Box construction. A form of building that uses vertical wood boards or planks instead of studs for both structure and enclosure.

(8) Breezeway. A short open-air passageway connecting a house to an area that may house an automobile, it is usually roofed.

(9) Brick. A clay (or shale) masonry unit, solid or partly hollow, that is formed in a mold and fired until hard. When laid in a wall so its long side is visible, referred to as a Stretcher Brick. When laid so that its short end is visible, referred to as a Header Brick. A closer brick is a partial brick used at the end of a course to even it up. A Gauged Brick is a brick is a brick that has been shaped to form part of a jack arch. (Gauged and Closer bricks are associated with early brick work.) The coursing or pattern of bricks in a wall is referred to as the Bond, and the divisions between bricks

and courses are referred to as Mortar Joints. Stretcher bond is composed of Stretcher Bricks exclusively. Flemish bond is composed of alternating Stretcher and Header Bricks and is associated with early and COLONIAL REVIVAL brickwork. English Bond is composed of courses of Stretcher Bricks alternating with courses of Header Bricks. A Soldier Course is formed by Stretcher Bricks standing on end and lined up over a window or parapet. Basketweave refers to Stretcher Brick laid horizontally and vertically to form a checkerboard pattern. Houndstooth refers to bricks set at an angle, creating a sawtooth appearance. Paving refers to bricks used like pavers to cover the sloped shoulders of early chimneys. Tumbling refers to bricks laid in diagonal courses to form chimney shoulders or edge of a gable; it associated with decorative mid 1800's chimneys' and with the Tudor Revival style. Penciling refers to the painting of a line (usually white) along mortar joints.

(10) Bungalow. A one-story or story-and-a-half house detailed in the CRAFTMAN Style.

(11) Capital. The top section of a column, often decorative. See also Order.

(12) CAS. Contemporary Architectural Standards.

(13) Chamfer. The beveled edge or corner of a beam or post.

(14) Classical Revival Style. An Architectural style characterized by use of classic Greek and Roman forms and ornament, especially monumental porticos. See also under Order.

(15) Colonial Revival Style. An architectural style most popular from about 1920 to the present. Characterized by the use of classical forms and detailing (or, in more academic examples, allusions to Colonial - or Early National - Period American architecture) and symmetrical composition. Also referred to as the Georgian Revival style.

(16) Columns. An upright supporting part, which may be structural or purely for decorative effects.

(17) Corbelling. A block of masonry or material such as brick or wood, which projects from a wall and supports a beam or other feature.

(18) Corner Block. A decorative block-like element used to define the corner of a door or window surround.

(19) Cornice Returns. Sections of cornice appearing in a gable or on the end of a building.

(20) Cornice. A projecting horizontal part that crowns an architectural feature.

(21) Cottage. A small frame one-family house.

(22) Course. A horizontal row of bricks, tiles, stone, building blocks, etc.

(23) Craftsman. An architectural style most popular from about 1910 to 1950. Characterized by the use of broad, spreading forms; low-pitched gable roofs, often with gable and eaves brackets, decorative windows and other details. The bungalow house form is associated with this style. A Craftsman porch is usually supported by tapered wood columns on brick bases.

(24) Crown Molding. A molding used at the top of an architectural element such as a porch post or wall.

(25) Cupola. A small structure built on top of a roof. It may be purely decorative or may be the base for a weathervane or antenna.

(26) Detail. Paying particular attention to all elements of a specific project.

(27) Doors. Front - usually the primary entry to a house. Door-Jamb - the upright piece forming the vertical surround of the door's opening.

(28) Dormers. A window that projects from a sloping roof.

(29) Eaves. The lowest part of a roof, overhanging the top of the wall.

(30) Elevation. 1) The external faces or a building, e.g. front, side and back elevations. 2) Also a drawing of one side of a building, usually drawn to a specific scale. Also drawn in projection on a vertical plane.

(31) Engaged. Attached to or embedded in a wall (a pilaster is an engaged column), or embraced by another architectural element (as the front porch of a Cottage or Craftsman Bungalow is enclosed under the roof of the house.

(32) Entablature. In classical architecture, the section of the building elevation above columns or piers or at the top of a wall. Also used to describe the crowning element of a door or window.

(33) Entrance. See Door.

(34) Façade. Usually the front or street side of a building.

(35) Fanlight. A window above the head of a door. In some styles of architecture the panes are divided into a fan-like appearance, thus the name.

(36) Fascia Board. Horizontal board (s) covering the joint between the top of a wall and the projecting eaves.

(37) Federal Style. An architectural style occurring during the early nineteenth century.

(38) Flashing. Material, usually metal used as a protective covering to joints between the roof finish and chimneys, dormers, gable walls, etc.

(39) Fluting. Vertical concave indentations along the length of a column, giving the surface of the column a rippled or scalloped appearance. Usually occurring as straight-edged groves on the surface of a door or window surround.

(40) Form. To take a definitive shape or arrangement, which may be based on custom, rules or invention.

(41) Frames. A structural element that gives strength or a decorative appearance to doors or windows.

(42) Gable. The triangle of wall surface formed by the meeting of two-sloping roof lines, at the end of a ridged roof.

(43) GDS General Design Standards

(44) Georgian Style. An architectural style dating to the 18th century (1700 to 1800 A.D.) from the reign of King George I (1711) to the American Revolution. Characterized by the use of classical forms and detailing and symmetrical compositions.

(45) Girder. A supporting part which spans an opening and carries a load, which is subjected to transverse stress.

(46) Gothic Revival Style. An architectural style characterized by allusions to medieval Gothic architecture: lancet arched openings, peaked mantel frieze profiles, vertical detailing and composition.

(47) Greek Revival Style. An architectural style characterized that emulated the simplicity and purity of classical Greek architecture, as typified by the Greek temple. Characterized by symmetrical composition and columnar or trabeated detailing, seen in corner pilasters. Two-panel doors and pilaster-and-frieze mantels.

(48) Gutter Board. See Fascia Board.
(49) Gutter. A small trough fixed under the eaves of a roof, to carry off rain water.
(50) Hip. The external angle formed by the meeting of two sloping roof surfaces.
(51) Lintel. A horizontal part supported at each end, and carrying weight.
(52) Modernist. An architectural style most popular from the late 1930's to the present. Characterized by the use of simple, geometric forms, modern materials (concrete, aluminum, plate glass), and a general absence of ornament. The Craftsman, Art Deco, and Prairie styles may be considered precursors to Modernist architecture.
(53) Molding. Continuous projections or incisions used as a decorative band.
(54) Monolithic. A massive structure.
(55) Mullion. The upright part dividing the lights of a window.
(56) Muntins. The central vertical part of a door, dividing the panels above and below the middle rail.
(57) Order. In classical architecture, the style or system of proportion and detail of a column and related elements. There are three principal orders of classical Greek and Roman architecture. The Doric Order is characterized by simplicity, with a molded column Capital. The Ionic Order has capitals with dominant spiraled volutes. The Corinthian Order, the most ornate, is characterized by delicate leaflike ornament and small volutes. Vernacular compositions based on the orders are used in local Greek Revival architecture.
(58) Outrigger. A structural or ornamental element in a gable that supports or appears to support a roof.
(59) Overhang. Term used when a sloping roof is carried out beyond the top of the wall, forming an overhang.
(60) Pediment. In classical architecture, the triangular end of a gable roof, defined by cornices. Used as a decorative element above a door or window opening in Colonial Revival architecture, sometimes broken and/or scrolled at the center.
(61) Pitch. The angle at which a roof slopes.
(62) Plat. Drawing based on a Surveyors staking out a lot(s). A scale drawing of a specific piece of property.
(63) Porch. The covered entrance to a building. Front - a covered area in the front of a house, which may share a common roof with the house of have a roof of its own. Also see Wraparound Porch.
(64) Prarie Style. An architectural style derived from the work of Frank Lloyd Wright and others, characterized by spreading forms, low-pitched hip roofs and geometric ornament.
(65) Prism Glass. Small squares of textured and often tinted glass used to form a transom over a store front.
(66) Purlin. A horizontal roof member, either one that spans between the gables or one that spans between the gables or one supported by rafters. Also used historically to describe a horizontal member in a crib.
(67) Rafter Ends. Covering for the parallel beams that support the roof.
(68) Retaining Wall. A wall which supports and retains a mass of earth or water.
(69) Reveal. Part of a vertical surface, or jamb of a window, or door opening, which is not covered by the frame.
(70) Rhythm. An ordered recurrent order or flow of related elements.

(71) Roof. Flat - having a pitch of less than 20 degrees. Hipped - a roof in which the end is formed by a sloping surface face enclosed by hips. Lean to Roof - having one sloping surface only, built against the side of another building.

(72) Rosette. A circular ornament

(73) Rustic Style. An architectural style popular from the 1920's to the present. Characterized by the use of traditional, "pioneer;" or natural forms, materials, and building techniques such as log construction, rubble masonry, and unfinished surfaces.

(74) Rusticated. Used to describe horizontally banded masonry.

(75) Scale. 1) As the building or project under consideration relates to neighboring buildings and/or the area around it. 2) in the drawing of plans, reducing measurements to fit on paper capable of viewing. E.g. 1/8 inch = 1 foot. Written as 1/8" = 1'.

(76) Sense of Shelter. An awareness of belonging, a home that feels and looks right, and is welcoming.

(77) Shoulder. The point at which the body of a chimney narrows, usually at the level of the eaves. Most chimney shoulders are stepped, some paved. Some early chimneys are double-shouldered, with shoulders above the fireplaces at the first and second-story levels.

(78) Shutters. A covering for an external window, can be made of various materials, and may be purely non-functioning as decoration.

(79) Sidings. The material used to forming the outside wall of framed buildings. Usually so pitched as to throw off rainwater.

(80) Soffit. The under surface of a building feature, such as roof, cornice, window of door head.

(81) Specification. A statement containing exact details of and precise instructions for carrying out a piece of building work.

(82) Splayed. Having sloped or canted surfaces. The sides of door or window openings are sometimes splayed to emphasize the thickness of the wall penetrated by the opening.

(83) Stucco. Material of cement or a plastic compound applied to an exterior wall, to provide a smooth or rustic surface, which may be painted.

(84) Style. A term used to define a whole body of work with certain common characteristics

(85) Surrounds. Encircling trims, decorative or structural.

(86) Texture. Visual or tactile surface characteristics.

(87) Transom. The window over a door, usually the front door, which may or may not be functional. See Fanlight

(88) Trellis. A frame of lattice used generally as a screen or to support climbing plants.

(89) Trim. Materials used for ornament that may also be used for minor structural supports.

(90) Unarticulated. Not carefully planned, reasoned or analyzed.

(91) VAS. Vernacular Architectural Standards.

(92) Vault. An arched structure

(93) Vent. An opening (usually covered by a grid) which allows the escape of gases or hot air for example.

(94) Vernacular. 1) Relating to a common building style. 2) Relating to a common phraseology (jargon).

(95) Victorian. Used to describe buildings constructed during the late 1800s and early 1900s that usually exhibit combinations of the following: asymmetrical composition, complex massing and roof lines, architectural details that distantly reflect medieval prototypes, and the liberal use of machined ornament. Typical Victorian features include hip-and-gable roofs, bay windows, porches supported by chamfered or turned posts with sawn brackets, wood-shingle sheathing, decorative roof vents, and intricate mantles. The Queen Anne style is a form of Victorian styling. Masonry commercial buildings that are Victorian in inspiration often feature decorative parapet brickwork and segmental-arched windows.

(96) Weathering. A canted surface on a buttress wall, or chimney shoulder designed to shed water.

(97) Window. An opening in a building to admit light and/or air that may be opened and closed. Various architectural styles include Bay, Bow, Casement (window hinged vertically, which may open inward or outward), Double-hung and etc.

(98) Wraparound Porch. A porch that extends to two or more sides of a building.

Section 15-178 Architectural Standards for Downtown Development. (AMENDED 6/20/06; 6/2/20)

(a) The Council~~Board~~ has established a policy that encourages the evolution of a downtown district that embodies the Town's character and includes medium-rise buildings that are appropriately sited with adequate public access in keeping with downtown design guidelines. High-quality building design and construction are considered primary elements of the built environment in downtown Carrboro. Creativity is encouraged to the extent that new architectural design is harmonious and complementary with existing buildings and with the community as a whole. Standards have been developed to add consistency and predictability to the permit review process. The following provisions shall apply to new construction within the B-1(c), B-1(g), CT, M-1, and B-2 zoning districts. All projects must conform with the following requirements to the extent practicable, except as otherwise provided in subsection (b):

(1) A primary entrance shall be oriented toward the right of way and shall be articulated either by a recess or by a detachable awning.

(2) With respect to any side of a building that faces the street adjacent to the lot where the building is located and is visible from such street right-of-way, a minimum of 40 percent of the elevation of such side shall consist of a glass surface, and a minimum of 60 percent of the elevation of the ground level of such façade shall consist of a glass surface.

(3) Buildings taller than 40 feet shall maintain a 20-percent shade free area within the public right of way between two lines extended north from the easternmost and westernmost points of the building at the street right of way as measured at noon on September 21.

(4) Parking or utility areas shall be substantially shielded from the view of adjoining streets by habitable space. For the purposes of this subsection, the term habitable shall mean partially or fully enclosed space within a building that is actively used or occupied by the residents of the building. The active use of these spaces is characterized by the routine and regular presence of the building's residents rather than the routine and regular presence of stored goods, equipment, or other materials.

(5) A building more than 45 feet in width shall be divided into increments of no more than 45 feet through articulation of the façade achieved through the following techniques:

(a) Divisions or breaks in materials

(b) Window bays

(c) Separate entrances and entry treatments

(d) Variation in roof line

(e) Building setbacks

(6) The following exterior materials are prohibited: metal siding with exposed fasteners, vinyl siding, and processed wood panel products (e.g. hardboard).

(b) Notwithstanding the foregoing, applicants for projects that do not comply with the standards specified above may voluntarily participate in an alternative design review process that involves input from or a decision by the Appearance Commission as follows: **(AMENDED 2/23/10).**

(1) If the project requires the issuance of a zoning permit and the Appearance Commission certifies to the zoning administrator that the alternative design substantially achieves the purpose (as spelled out in subsection (a) of this section) of the architectural standards for downtown development, then the development shall not be required to comply with the standards set forth in subsection (a).

(2) If the project requires a class A or class B special use ~~or conditional use~~ permit, then the Appearance Commission shall review the alternative design and make a recommendation to the permit-issuing authority as to whether that design substantially achieves the purpose (as spelled out in subsection (a) of this section) of the architectural standards for downtown development. If the permit issuing authority concludes that the alternative design substantially achieves the purpose of these architectural standards, then the development shall not be required to comply with the standards set forth in subsection (a).

(c) Residential projects in the B-2 district, or the B-1(c) and B-1(g) districts subject to the DNP Overlay District in Section 15-185.1, where every dwelling unit is an affordable unit, as defined in Section 15-182.4(b), may volunteer to adhere to the Village Mixed Use & Affordable Housing Vernacular Standards in Appendix L. **(Amended 06/02/20)**

Section 15-179 Child Day Care Homes and Child Day Care Facilities (AMENDED 6/26/07)

(a) Where outdoor play areas associated with a child day care home or child day care facility are within 25 feet of a neighboring residential structure, outdoor play shall not commence until 8:30 a.m. Where outdoor play areas associated with a child day care home or facility are within 300 feet of a neighboring residential structure, outdoor play shall not commence until noon on Sundays.

(b) For all day care homes and facilities, adequate vehicular turnaround area must be provided on-site or within nearby public-right-of-way, so that use of nearby private property may be avoided. Notwithstanding the foregoing provision, for day care facilities located on collector or arterial streets, the day care operator must demonstrate, at time of permit application, that sufficient parking spaces are provided on site, and that appropriate driveway access and configuration are provided such that site ingress and egress present no additional hazards in the street right-of-way, such as cars queuing up in the street, or cars backing into the street.

(c) A neighborhood meeting is required, inviting neighbors and property owners living or owning property within 500 feet of the boundaries of the subject property, with the purpose of the day care owner explaining the daycare proposal and receiving suggestions from neighbors as to ways to limit negative impact on the neighborhood.

(d) Yards associated with child day care homes and facilities shall be maintained free of refuse and garbage.

15-179.1 Day Care Uses Within Village Mixed Use Developments (AMENDED 6/26/12)

All 22.000 (Day Care) uses that are located within the single family residential use areas of a village mixed use development shall install and maintain site development and/or building features to ensure that the environmental impact, including but not limited to storm water volume, nutrient loading, water use or greenhouse gas emissions, contributed by the development activity is managed and/or reduced through a combination of features and practices that will result in an overall reduction in environmental impact from that which otherwise could reasonably be expected to occur in association with development of the 22.000 use. Specific performance measures that will be evaluated to determine whether the intent of this subsection has been met are as follows:

(1) Open space, if practicable, is dedicated to either the homeowners association or the town, and

(2) Storm water best management practices (BMPs) and associated grading and stabilization occur outside any primary conservation areas, and all runoff from the

BMPs is discharged in a diffuse manner that insures that erosional rills will not be created as runoff enters and flows through conservation areas; and

(3) Roof drainage is captured in sufficient quantity and in appropriately sized and sited devices to provide at a minimum for all on-site plantings, including but not be limited to screenings, vehicle accommodation areas, foundation plantings, garden beds, trees, shrubs, flowers, groundcover, and turf, and

(4) Nutrient load requirements may be met (i) by storm water management structures or devices on the development site itself and/or (ii) the retrofitting of existing or construction of new BMPs elsewhere in the VMU development, and

(5) Educational materials including, but not limited to on-site signage, brochures, and web postings on stormwater management practices are prepared and/or installed, and Low Impact Development techniques are used to the extent practicable.

Section 15-180 Electronic Gaming Operations (AMENDED 6/22/10)

In addition to the regulations provided for elsewhere in this chapter, electronic gaming operations shall be subject to the following requirements:

(a) Hours of Operation. Electronic gaming operations may operate from 8:00 a.m. until 10:00 p.m., seven (7) days per week, but not at other times;

(b) Spacing Requirements.

(1) Each electronic gaming operation must be a minimum of 500 feet from any building being used as a dwelling.

(2) Each electronic gaming operation must be a minimum of 1,000 feet from any other electronic gaming operation.

(3) For the purposes of this subsection, the distance shall be measured in a straight line from the closest point between the building housing the electronic gaming operation and the building housing the dwelling or other electronic gaming operation;

(c) All applicable State and local permits and business licenses must be issued to the applicant prior to the opening of the business; and

(d) If food and/or beverages are served, the establishment must meet any State requirements and the requirements of the Orange County Health Department.

ARTICLE XII

DENSITY AND DIMENSIONAL REGULATIONS

Section 15-181 Minimum Lot Size Requirements.

(a) Subject to the provisions of Sections 15-186 (Cluster Subdivisions) and 15-187 (Architecturally Integrated Subdivisions), all lots in the following zones shall have at least the amount of square footage indicated in the following table: **(AMENDED 5/12/81; 12/7/83; 2/4/86; 11/14/88; 05/15/90; 04/16/91; 10/22/19)**

ZONE	MINIMUM SQUARE FEET
R-2	4,000 except that the size may be reduced to 2,000 square feet in an architecturally integrated subdivision on a tract of at least 40,000 square feet.
R-3	3,000
R-7.5	7,500
R-10	10,000
R-S.I.R.	10,000
R-15	15,000
R-20	20,000
RR	43,560 (one acre)
WR	217,800 (subject to subsection (b))
C	No Minimum
B-1(c)	None
B-1(g)	3,000 for residential; otherwise no minimum
B-2	7,500
B-3	7,500 if used for residential purposes; otherwise no minimum
B-3-T	7,500 if used for residential purposes, but no minimum lot size for other permitted uses.
B-4	Same as B-1(g)
B-5	43,560 (1 acre)
M-1	No Minimum
M-2	No Minimum
WM-3	40,000
CT	40,000
O	7,500
O/A	7,500
HR-R	14,520

(b) Within the WR district, not more than five lots containing a minimum of two acres each may be created out of any lot that existed on the effective data of this section (05/15/90). **(AMENDED 05/15/90)**

(c) Lots within the JLWP overlay district (see Section 15-141.1) shall be subject to the limitations set forth in Subsections 15-266(e) and (f). **(AMENDED 10/15/96)**

(d) The minimum lot size requirement within the R-2 Conditional district (R-2-CZ), may be reduced to 1,500 square feet in an architecturally integrated subdivision (AIS) on a tract containing at least 20,000 square feet. **(AMENDED 06/28/16)**

Section 15-182 Residential Density.

(a) Subject to the other provisions of this section and the provisions of Section 15-186 (Cluster Subdivisions), 15-187 (Architecturally Integrated Subdivisions) and 15-182.1 (Density in R-SIR Zoning), every lot developed for residential purposes shall have the number of square feet per dwelling unit indicated in the following table. In determining the number of dwelling units permissible on a tract of land (by dividing the total number of square feet the tract contains by the minimum per dwelling unit), fractions shall be dropped. **(AMENDED 4/24/84; 1/22/85; 2/4/86; 11/14/88; 05/15/90; 04/26/91; 10/22/19)**

ZONE	MINIMUM SQUARE FEET PER DWELLING UNIT, MULTI-FAMILY AND DUPLEX
R-2	2,000
R-3	3,000
R-7.5	7,500
R-10	10,000
R-S.I.R.	10,000
R-15	15,000
R-20	20,000
RR	43,560 (one acre)
B-1(c)	None
B-1(g)	3,000
B-2	7,500
B-3	7,500
B-3-T	7,500
CT	7,500
O	7,500
O/A	7,500
HR-R	14,520

(b) Two-family conversions and primary residences with an accessory apartment, and primary residences with an accessory detached dwelling, shall be allowed only on lots having at least 150% of the minimum square footage required [under subsection (a)] for one dwelling unit on a lot in such district. With respect to multi-family conversions into three or four dwelling units, the minimum lot size shall be 200% and 250% respectively of the minimum required [under subsection (a)] for one dwelling unit. **(AMENDED 4/24/84; 5/28/02)**

(c) Within the zoning districts named below, lots that were created before the effective date of this section and that are less than one acre in size may be developed for two-family and multi-family residential purposes at a density such that the lot contains at least the following number of square feet for each dwelling unit constructed thereon. In determining the number of dwelling units permissible on a tract of land (by dividing the total number of square feet the tract contains by the minimum per dwelling unit), fractions shall be dropped. **(AMENDED 4/24/84; 1/22/85; 11/14/88)**

ZONE	MINIMUM SQUARE FEET PER DWELLING UNIT
R-7.5	5,625
R-10, R-SIR	7,500
R-15	11,250
R-20	15,000

(d) In any district where such use is permitted, a use that falls within the 1.400, 1.520, or 1.600 classifications and is designed to accommodate not more than seven residents is permissible on a lot having at least the minimum number of square feet for a lot in that district (see Section 15-181). If a lot is larger than the minimum lot size required for that particular district, then, subject to the definitional limitations, the number of residents that any of the foregoing uses may have on such lot is seven plus the number derived from the following formula: **(AMENDED 4/24/84)**

$$\frac{\textbf{(amount of square footage in lot) - (minimum lot size for that district)}}{\textbf{(.5) } x \textbf{ (Minimum square feet per dwelling unit for multi-family development in that district)}}$$

Fractions shall be rounded to the nearest whole number.

(e) Notwithstanding any other provisions of this chapter, if a class A special~~conditional~~ use permit authorizing the construction of a phased residential development was issued after July 1, 1980 and, as of April 24, 1984 one or more but less than all of the phases of such project had been completed and the permit to complete the remaining phase or phases has expired under Section 15-62, then the land within the remaining phases or phases may be developed for two-family or multi-family residential purposes at a density such that such area contains at least the following number of square feet for each dwelling unit constructed thereon: **(AMENDED 4/9/85; 11/14/88)**

Zone	Minimum Square Feet Per Dwelling Unit
R-7.5	5,625
R-10, R-SIR	7,500
R-15	11,250
R-20	15,000

(f) The table set forth in subsection (a) contains no reference to the WR (watershed residential) zoning district because only single-family detached residences are

permitted within this district, and therefore residential density is established by the minimum lot size requirements in Section 15- 181. **(AMENDED 05/15/90)**

(g) Lots within the JLWP overlay district (see Section 15-141.1) shall be subject to the limitations set forth in subsections 15-266(e) and (f). **(AMENDED 10/15/96)**

(h) Notwithstanding the foregoing, the minimum square feet per dwelling unit required for any residential development consisting solely of single-room occupancy units shall be 500 square feet in the B-1(g) and R-2 districts. **(AMENDED 10/10/00)**

(i) Notwithstanding the foregoing, density in the B-1(g) – CZ district may be determined in accordance with the provisions of Section 15-141.4(k~~f~~). **(AMENDED 11/09/11)**

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Section 15-182.1 Residential Density in R-SIR Zoning.

(a) Land that is zoned R-SIR may be developed in the same manner and at the same density as land within an R-10 zoning district. However, the provisions of this section are designed to encourage development that furthers the town's housing goals by offering density bonuses for such development.

(b) A major housing goal of the town is to obtain in the community a sufficient number of housing units by type, style and price to afford residents a suitable dwelling of their choice. To the degree that a development meets one or more of the performance criteria set forth below, it helps to further this housing goal and therefore should be entitled to a density bonus determined in accordance with subsection (c).

(1) The development consists of at least thirty but less than eighty percent ownership units. Each undeveloped lot in a residential subdivision as well as each single-family residence shall be considered an ownership unit. Condominiums shall also be considered ownership units.

(2) The development offers at least three different number-of-bedroom options, with each type comprising at least ten percent of the total number of dwelling units. Lots intended for sale in their undeveloped state shall not be considered for purposes of this performance criterion.

(3) The development offers a variety of the following six residential building styles: (i) single-family on lots 7,500 square feet or greater, (ii) single- family on lots smaller than 7,500 square feet, (iii) one-story multi-family or duplex, (iv) two or three-story multi-family or duplex, each unit having a separate ground level entrance, (v) two or three-story multi-family or duplex, each unit not having a separate ground level entrance, and (vi) multi-family high rise

(i.e., four or more stories). This performance criteria may be satisfied at the following three levels:

a. Two building styles (thirty percent minimum, each style).

b. Three building styles (twenty five percent minimum, each style).

c. Four or more building styles (fifteen percent minimum for each of at least four styles).

(c) Residential development in the R-SIR zoning district that meet one or more of the performance criteria described in subsection (b) may be developed according to the density set forth below. Notwithstanding subsection 15-154(b), the total density of the development shall be determined by dividing the total area of the lot to be developed by the appropriate figure of square feet per dwelling unit, and rounding off to the nearest whole number.

MINIMUM SQUARE FEET PER DWELLING UNIT				
	No *(b)(3)* Criteria Met	***(b)(3)(a)* met**	**(*b)(3)(b*) met**	***(b)(3)(c)* met**
Neither *(b)(1)* nor *(b)(2)* met		6,500 sq. ft.	5,000 sq. ft.	3,500 sq. ft.
(*b)(1)* or *(b)(2)* met	7,000 sq. ft	6,000 sq. ft.	4,000 sq. ft.	3,000 sq. ft

(d) When a developer takes advantage of the density bonuses offered in this section and part of the development consists of a single-family residential subdivision, the 10,000 square foot minimum lot size may be reduced pursuant to Sections 15-186 (cluster subdivisions) and 15-187 (Architecturally Integrated Subdivisions).

(e) Land that is zoned R-S.I.R.-2 may be developed in the same manner as that which is zoned R-S.I.R. except that the minimum square feet per dwelling unit shall in no case be less than 6,000 square feet. **(AMENDED 5/12/81)**

Section 15-182.2 Effect of Public Acquisition of Property On Density, Setback and Height Requirements, (AMENDED 4/2/02;5/28/02;4/8/03)

(a) Subject to other provisions of this section, if (i) any portion of a lot lies within an area designated on any officially adopted town plan as part of a proposed public park, greenway, or bikeway, or the town or the N.C. Department of Transportation otherwise seeks to acquire a portion of a lot for any public use, and (ii) before the lot is developed, the owner of the lot, with the concurrence of the town, dedicates to the town or the N.C. Department of Transportation that portion of the lot so designated or sought to be acquired, or the town or the N.C. Department of Transportation condemns the same, then, when the remainder of the lot is developed for residential purposes, the permissible density at which the remainder may be developed shall be

calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development. **(AMENDED 11/26/85; 11/28/89)**

(b) If the portion of the lot that remains after dedication as provided in subsection (a) is divided in such a way that the division either does not constitute a subdivision or constitutes only a minor subdivision (as these terms are defined in Section 15-15), then, when each of the lots so created is later developed for residential purposes, the permissible density at which each lot may be developed shall be calculated in the following manner:

(1) Divide the area of the particular lot in question by the total area of the portion of the original lot not dedicated to the town.

(2) Multiply the fraction derived from step (1) above times the total area of the dedicated portion of the original lot.

(3) Regard the area derived from the calculation in step (2) above as if it were part of the lot in question and calculate the density on the basis of this combined area.

(c) In no case may the density permitted under this section exceed a level of fifteen dwelling units per acre.

(d) Notwithstanding any other provisions of this ordinance, the town may condemn additional right-of-way along an existing street even though such condemnation creates a nonconforming lot, and the property owner may at the request of the town dedicate additional right-of-way along an existing street even though such dedication creates or results in the creation of nonconforming lots. **(AMENDED 11/26/85)**

(e) Notwithstanding any other provisions of this chapter, a property owner may dedicate to the town or the town may otherwise acquire a right-of-way over or a fee simple interest in a portion of a lot, even though such acquisition creates a situation where a building or sign is so located on the remainder of the lot that it is inconsistent with the setback requirements set forth in Section 15-184. The setback situation so created shall be regarded as in conformity with the setback requirements of this chapter (rather than as a nonconforming situation) except in relation to the provisions of Section 15-92.1(e). **(AMENDED 4/2/02)**

(f) Notwithstanding any other provisions of this chapter, if a property owner dedicates of the town or the State otherwise acquires from a property owner additional right-of-way along an existing street, then to the extent that the height of a building is dependent on the distance a building is set back from a street right-of-way, the maximum building height permitted under Section 15-185 shall be calculated as if such dedication or acquisition had not been made, provided that this provision shall not be applicable if right-of-way is dedicated pursuant to subsection 15-185(a)(3)(a). **(AMENDED 4/8/03)**

Section 15-182.3 Residential Density of Major Developments in Certain Districts (AMENDED 05/25/99)

(a) Notwithstanding the provisions of Section 15-182, when any tract of land within the R-10, R-15, R-20, RR, and HR-R districts is developed under circumstances requiring the issuance of a class B or class A special ~~or conditional~~ use permit, the maximum number of dwelling units that may placed on that tract shall be determined in accordance with the provisions of this section. (**Amended 10/22/19)**

(b) If the development is to be served by OWASA owned water and sewer lines, then the maximum number of dwelling units for any type of residential development shall be determined by dividing the adjusted tract acreage [calculated in accordance with the provisions of subsection (c) below] by the "minimum square feet per dwelling unit" associated with the zoning district of the property to be developed as set forth in Section 15-182. **(AMENDED 06/22/99)**

(c) The adjusted tract acreage shall be calculated by deducting from the gross acreage of the tract the sum total of each of the following areas that may be located within the tract in question. If an area within the tract qualifies under more than one of the following categories, then that area shall be included only within the one category that involves the most restrictive (i.e. the greatest) deduction.

(1) Floodways: multiply the area within a floodway by a factor of 1.0.

(2) Wetlands: multiply the area of designated wetlands by a factor of 0.95.

(3) Major Rock Formations: multiply the area of major rock formations by a factor of 0.90.

(4) Steep Slopes: multiply the area of land with natural ground slopes exceeding 25 percent by a factor of 0.80.

(5) Land traversed by high-tension electrical transmission lines (69kv or higher): multiply the area within the power easement by a factor of 0.75.

(6) Floodplains: multiply the 100-year floodplain by a factor of 0.5.

(7) Moderately steep slopes: multiply the area with natural ground slopes of between 15 and 25 percent by a factor of 0.4.

(8) Land traversed by underground utility lines (not within a street right of way): multiply the area within the easement (or if no easement exists, the area within ten feet on either side of the line) by a factor of 0.3.

(d) If the development is not to be served by OWASA owned water and sewer lines, then the maximum number of dwelling units shall be determined in reference to an actual yield plan prepared by the developer in accordance with the provisions of this subsection. The yield plan shall be a conceptual layout of a single-family residential subdivision (containing proposed lots that meet the minimum lot size requirements of the district where the property is located, streets, easements, and other pertinent features) that could be developed within the tract in question in accordance with the provisions of this chapter. Although the yield plan must be drawn to scale, it need not reflect any great degree of site engineering. However, it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the topography of the land and natural constraints, existing easements and encumbrances, and the applicable provisions of this chapter, particularly those relating to open space, recreational facilities, and street rights of way. In addition, the yield plan shall be prepared under the assumption that each lot will be served with an individual septic tank located on the same lot as the house it serves. The applicant shall submit evidence (in the form of a preliminary soils evaluation from Orange County or comparable information from a qualified source) that there appears to be sufficient suitable soil within each of the proposed lots to support a septic tank system serving at least a three-bedroom house. When a yield plan meeting the requirements of this subsection has been submitted, the zoning administrator shall confirm this in a letter to the developer, which letter shall indicate the maximum number of dwelling units that can be developed on the tract in accordance with this subsection.

Section 15-182.4 Residential Density Bonuses for Affordable Housing (AMENDED 05/25/99, 8/22/06, 1/22/08, 3/20/12, 4/22/14, 6/24/14, 1/27/15; REWRITTEN 6/26/07)

(a) The Town Council~~Board of Aldermen~~ has established as a policy goal that at least fifteen percent of the housing units within all new residential developments should consist of affordable housing units as described in this section. The remaining provisions of this section are designed to provide incentives to encourage developers to comply with this policy goal either by providing affordable housing units or lots or, under the circumstances set forth in subsection (j), by making payments in lieu of providing such affordable housing units. **(AMENDED 1/22/08, 1/27/15)**

(b) For purposes of this section, an affordable housing unit means a dwelling unit that satisfies the requirements of the following subsections (c) through (f): **(AMENDED 1/27/15)**

(c) The appropriately-sized affordable housing unit must be offered for sale or rent at a price that does not exceed an amount that can be afforded by a family whose annual gross income equals 80 percent of the median gross annual family income, as most recently established by the United States Department of Housing and Urban Development, for a family of a specific size within the Metropolitan Statistical Area where the Town of Carrboro is located; provided that a for-sale housing unit that is offered for sale at a price that exceeds the foregoing limit but does not exceed an amount that can be afforded by a family whose annual gross income equals 115%

of the median gross annual family income shall also be regarded as affordable so long as (i) such unit otherwise qualifies as an affordable housing unit under this section, and (ii) units that qualify as affordable under this exception do not constitute more than 25% of the affordable housing units provided within any development **(AMENDED 3/20/12, 1/27/15)**

(d) It is conclusively presumed that a family can afford to spend 30% of its annual gross income on housing costs. In the case of housing units that are for sale, the term "housing costs" shall mean the costs of principal and interest on any mortgage, real property taxes, insurance, fees paid to a property owners association, and any ground lease or maintenance fees. In the case of rental housing units, the term "housing costs" shall mean the cost of rent plus utilities. In making the calculation called for in this subsection, it shall be conclusively presumed that a unit is appropriately sized when an efficiency or one bedroom housing unit serves a family of one, that a two bedroom housing unit serves a family of two; that a three bedroom housing unit serves a family of three, and that a housing unit containing four or more bedrooms serves a family of four. **(AMENDED 1/27/15)**

(e) The developer shall also establish or provide for arrangements to ensure that each such affordable unit is made available for sale or rent only to a family whose annual gross income does not exceed (i) 80% of the median gross annual income of a family of the same size within the Metropolitan Statistical Area where the town of Carrboro is located, or (ii) 115% of the median gross annual income of a family of the same size within the Metropolitan Statistical Area where the town of Carrboro is located if the unit is one that qualifies as affordable under the 115% exception provided for in subsection (c). **(AMENDED 3/20/12, 1/27/15)**

(f) The developer of the affordable housing unit must establish or provide for arrangements to ensure that, for a period of not less than 99 years from the date of initial occupancy of the unit, such unit shall remain affordable (as provided in subsection (c)) and shall be offered for sale or rent only to families that satisfy the income criteria set forth in subsection (e). Such arrangements may include but shall not be limited to a ground lease, a deed restriction, or other covenant running with the unit. The documents establishing such arrangements shall be reviewed and approved by the Town of Carrboro prior to final plat approval if the units are located on subdivided lots or prior to the issuance of a certificate of occupancy if the units are not located on unsubdivided lots. The provisions of this subsection shall be considered satisfied if units are transferred to the Orange Community Housing and Land Trust at or below a price that is consistent with the provisions of subsection (c) above. **(AMENDED 1/27/15)**

(g) Notwithstanding the other provisions of this section, if a dwelling unit is transferred to the Orange Community Housing and Land Trust or other non-profit housing provider in order to qualify such unit as "affordable" under the provisions of this section, and the financial institution that provides a loan to the buyer requires that such loan be secured by a deed of trust or other instrument that allows the unit to be sold

upon default free and clear of the affordability restrictions set forth in this section, then the Land Trust or other non-profit housing provider may agree to such financing terms. Should foreclosure under such a deed of trust occur, this shall not render non-conforming or otherwise have an adverse effect upon either the affordable unit or the development that created the affordable unit. **(AMENDED 1/27/15)**

(h) For purposes of this section, an affordable housing lot shall mean a lot that (i) is designed and approved for the construction of a single family dwelling, and (ii) upon creation of such lot by the recording of a final plat, is donated (without additional consideration) to a non-profit agency that is in the business of constructing on such lots affordable housing units that meet the affordability criteria set forth in subsections (c) through (f) above. **(AMENDED 1/27/15)**

(i) The maximum residential density permissible within a development whose maximum density would otherwise be determined in accordance with the applicable provisions of this Article XII shall be increased by two dwelling units for every one affordable housing unit constructed within the development, up to a maximum of 150% of the density otherwise allowable. Similarly, the maximum number of single family detached residential building lots that could otherwise be created within a development tract under the applicable provisions of this Article XII may be increased by two such lots for every one affordable housing lots created within such development, up to a maximum of 150% of the maximum density otherwise allowable. To illustrate, if the maximum density of a tract would be 100 dwelling units (or single family lots), a developer who chooses to construct 10 affordable housing units (or create 10 affordable housing lots) as part of the development of that tract would be allowed to construct 10 additional dwelling units (or create 10 additional lots) that did not satisfy the "affordability" criteria set forth in subsections (c) or (f), for a total density of 120 dwelling units (or lots). In this illustration, the maximum possible density that could be achieved would be 150 dwelling units if the developer constructed at least 25 affordable housing units (or created 25 affordable housing lots). **(AMENDED 1/27/15)**

(j) For purposes of determining the maximum density permissible within a development under subsection (i) of this section, the Town Council~~Board of Aldermen~~ may allow the payment of an affordable housing payment in lieu fee (determined in accordance with the provisions of subsection 15-54.1(b)(4)) to be regarded as the equivalent of providing an affordable housing unit. The developer may request such authorization at any time following the submission of a development application. In exercising its discretion as to whether such a request should be granted, the Council~~Board~~ shall consider the need for the particular type of units the payments in lieu would replace, the comparative need for cash resources to assist in the provision or maintenance of affordable housing, and such other factors as the Council~~Board~~ deems relevant in determining whether and to what extent payments in lieu would better serve the Council~~Board~~'s goal of providing and maintaining affordable housing. **(AMENDED 1/22/08, 1/27/15)**

(k) Within any development that provides affordable housing units or affordable housing lots, the minimum area that must be set aside as open space to satisfy the requirements of Section 15-198 may be reduced by an amount equal to twice the land

area consumed by all such affordable housing units or lots, except in no case may the required percentage of open space be less than 20 % (10 % in the ORMU and R-2 districts). **(AMENDED 1/27/15)**

(l) Affordable housing units or lots constructed or created in accordance with this section shall not be unduly isolated or segregated from other dwellings or lots that do not satisfy the "affordability" criteria set forth in this section. **(AMENDED 1/27/15)**

(m) In approving a class B or class A special ~~or conditional~~ use permit for a development that proposes to utilize the density bonus provisions of this section, the permit issuing authority shall ensure, by approval of a condition, phasing schedule, or otherwise, that affordable housing units or lots, or payments in lieu thereof, are actually provided in accordance with the provisions of this section. Without limiting the generality of the foregoing, the permit issuing authority may impose a condition specifying that certificates of occupancy may not be issued for the market priced units until the corresponding affordable housing units are constructed and offered for sale or rent for an amount that is consistent with the definition set forth in this section, or payments in lieu thereof have been made to the town. **(AMENDED 1/22/08, 1/27/15)**

(n) If, by using the affordable housing density bonus provided for in this section, the number of dwelling units or lots within a development increases to the point where the type of permit required for the project based on the number of units or lots would otherwise change from a zoning to a class B special use permit or from a class B special use to a class A special ~~conditional~~ use permit in accordance with the provisions of Section 15-147, the developer may nevertheless seek approval for the project under the permit process that would be applicable if no density bonus was sought under this section. **(AMENDED 1/27/15)**

(o) As provided in subsection 15-92.1(d), developments that use the affordable housing density bonus provisions of this section may be entitled to relief from the setback requirements under some circumstances. **(AMENDED 1/27/15)**

(p) Notwithstanding the other provisions of this section, with respect to a development that (i) was approved prior to the amendments to this section adopted on June 26, 2007, and (ii) constructed dwelling units that satisfied the affordability criteria by recording covenants and including restrictions in the deeds that conveyed title to the affordable units limiting the sale or resale price of such units in accordance with a formula set forth in this section, and (iii) took advantage of the density bonus provisions of this section and constructed additional market rate units as authorized by this section:

(1) The Town Council ~~Board of Aldermen~~ may amend the class A special ~~conditional~~ use permit that authorized such development to provide that those provisions that restrict the price at which the affordable units may be sold shall no longer be binding, (thereby allowing the units to be sold at market value) subject to and in accordance with the following provisions:

a. At the closing on the sale of such units, all fees and charges typically paid by the seller of other market rate units (such as loans secured by property, real estate commissions, prorated property taxes, excise taxes, etc.) shall be paid by the seller of a unit previously designated as affordable. The balance of the proceeds of the sale to which the seller is entitled shall be referred to in this section as the "net proceeds of the sale."

b. To the extent that the price paid by the buyer of the unit exceeds the price paid by the seller when the seller purchased the unit, the difference between the two figures shall be referred to in this section as the "equity appreciation amount." To the extent that the net proceeds of the sale are sufficient, the seller shall be allowed to keep the first five thousand dollars ($5,000.00) of equity appreciation, plus an amount of the equity appreciation equal to the amount paid by the seller for additions to the home or significant upgrades to the home (routine maintenance, repairs, or replacements excluded).

c. If the net proceeds of the sale exceed the amount the seller is permitted to retain under the foregoing paragraph, the remainder of the net proceeds shall be split evenly between the Town and the seller.
(AMENDED 1/27/15)

(2) The Town Council~~Board of Aldermen~~ may also amend the class A special ~~conditional~~ use permit that authorized such development to provide that those provisions that restrict the price at which the affordable units may be sold shall expire automatically on the twentieth anniversary of the recording date of the deed conveying the affordable unit to the party owning that unit on the effective date of this subsection. Thereafter, no restrictions on the sales price of such unit or the disposition of sales proceeds shall apply to such unit. **(AMENDED 1/27/15)**

(3) A development wherein affordable units are converted to market rate units under this subsection shall not be regarded as nonconforming with respect to density. **(AMENDED 06/24/14, 1/27/15)**

Section 15-183 Minimum Lot Widths.

(a) No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:

(1) Could be used for purposes that are permissible in that zoning district; and

(2) Could satisfy any applicable setback requirements for that district.

(b) Without limiting the generality of the foregoing standard, the following minimum lot widths are recommended and are deemed presumptively to satisfy the standard set forth in subsection (a). The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the

street intersects with lot boundary lines at opposite sides of the lot. **(AMENDED 5/26/81; 12/7/83; 2/4/86; 11/14/88; 05/15/90; 04/16/91; 10/22/19)**

ZONE	LOT WIDTH
C	None
RR	100
R-20	100
R-15	85
R-10	75
R-S.I.R.	75
R-7.5	75
R-3	50
B-1(c)	None
B-1(g)	None
B-2	50
B-3	75
B-3-T	75
B-4	None
B-5	100
M-1	100
M-2	100
WM-3	100
WR	100
CT	100
R-2	100
0	75
O/A	75
HR-R	100

(c) No lot created after the effective date of this chapter that is less than the recommended width shall be entitled to a variance from any building setback requirement.

Section 15-184 Building Setback Requirements.

(a) Subject to Section 15-187 (Architecturally Integrated Subdivisions) and the other provisions of this section, no portion of any building or any freestanding sign may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the table set forth below: **(AMENDED 1/22/85)**

(1) If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline.

(2) As used in this section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.

(3) As used in this section, the term "building" includes any substantial structure, which, by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:

a. Gas pumps and overhead canopies or roofs.
b. Fences, walls or berms running along lot boundaries adjacent to public street rights-of-way if such fences, walls or berms exceed three feet in height and are substantially opaque except that fences, walls or berms shall not be regarded as "buildings" within the meaning of this subsection if they are located along the rear lot line of lots that have street frontage along both the front and rear of such lots. **(AMENDED 05/19/98)**
c. Pergolas, except that a pergola will not be considered a "building" for purposes of this section if it consists merely of an insubstantial frame, no larger than 15 feet long on any side, presents itself visually more as a part of the landscape than as a building. **(AMENDED 10/22/13)**
d. Facilities that house and/or contain domesticated livestock except that the building setbacks for rabbits and fowl shall adhere to the requirements in Chapter 10, Article III, Domesticated Livestock and Wild Animals, of the Town Code. **(AMENDED 02/28/17)**

(4) Notwithstanding any other provision of this chapter, signs that do not meet the definition of freestanding signs may be erected on or affixed to structures (e.g., some fences) that are not subject to the setback requirements applicable to buildings only if such signs are located such that they satisfy the setback requirements applicable to freestanding signs in the district where located. **(AMENDED 5/26/81; 12/7/83; 2/4/86; 11/14/88; 05/15/90; 04/16/91; 01/16/01)**

(5) Notwithstanding the foregoing, the first three feet of roof overhang on a residential structure constructed in a residential zoning district is not considered a building for the purposes of this section and is not subject to the building setback requirements. **(AMENDED 4/22/14; 10/22/19)**

ZONE	Minimum Distance from Street Right of Way line		Minimum Distance from Street Centerline		Minimum Distance from Lot Boundary Line
	Building	Freestanding Sign	Building	Freestanding Sign	Building and Freestanding Sign
C	25	12.5	55	42.5	20
WR	35	17.5	65	47.5	20

ZONE	Minimum Distance from Street Right of Way line		Minimum Distance from Street Centerline		Minimum Distance from Lot Boundary Line
	Building	Freestanding Sign	Building	Freestanding Sign	Building and Freestanding Sign
RR	40	20	70	50	20
R-20	40	20	70	50	20
R-15	35	17.5	55	47.5	20
R-10	25	12.5	55	42.5	12
R-S.I.R.	25	12.5	55	42.5	10
R-7.5	25	12.5	55	42.5	10
R-3	15	7.5	45	37.5	8
B-1(c)	--	--	30	--	--
B-1(g)	--	--	30		
B-2	15	7.5	45	37.5	10
B-3	15	7.5	45	37.5	15
B-3-T	15	7.5	45	37.5	15
B-4	30	15	60	45	10
CT	--	--	30	--	--
B-5	40	20	70	50	20
M-1	--	--	30	--	--
M-2	--	--	30	--	--
WM-3	30	15	60	45	20
O	15	7.5	45	37.5	15
O/A	15	7.5	45	37.5	15
R-2	15	7.5	45	37.5	8, plus 2 feet for every additional foot above 35 feet in height
HR-R	50	20	70	50	20

(b) With respect to lots within the R-20 district that were in existence or had received preliminary plat approval by Orange County prior to November 14, 1988 and were outside the town's extraterritorial planning jurisdiction but that on or after that date became zoned R-20 as a result of the implementation of the Joint Planning Agreement:

(1) The minimum set back distance from the lot boundary line shall be 15 feet rather than the 20 feet indicated in the table set forth in subsection (a);

(2) On lots having frontage on more than one street, the building setback applicable to the street which the front of the principal building located on that lot faces shall be as set forth in subsection (a). The building setback from the other streets shall be 15 feet from the right-of-way line. **(AMENDED 04/25/89)**

(c) Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, then the lot in the nonresidential district shall be required to observe the property line setback requirements applicable to the adjoining residential lot.

(d) Setback distances shall be measured from the property line or street centerline to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.). Setbacks for berms shall be measured from the property line or street centerline to the point on the berm where it exceeds three feet in height. **(AMENDED 05/19/98)**

(e) Whenever a private road that serves more than three lots or more than three dwelling units or that serves any nonresidential use tending to generate traffic equivalent to more than three dwelling units is located along a lot boundary, then:

(1) If the lot is not also bordered by a public street, buildings and freestanding signs shall be set back from the centerline of the private road just as if such road were a public street.

(2) If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes (as set forth above in the column labeled "Minimum Distance from Lot Boundary Line") shall be measured from the inside boundary of the traveled portion of the private road.

(f) Notwithstanding any other provision of this section, on lots in residential zones used for residential purposes, a maximum of one accessory building may be located in the rear yard of such lot without regard to the setback requirements otherwise applicable to the rear lot boundary line if such accessory building does not exceed fifteen feet in height or contain more than 150 square feet of gross floor area. **(AMENDED 5/26/81)**

(g) Reserved. (**REPEALED 3/24/09)**

(h) Reserved. (**REPEALED 3/24/09)**

(i) Notwithstanding any other provision of this section, no setback requirement shall apply to bus shelters erected by or at the direction of the town. **(AMENDED 1/22/85)**

(j) Notwithstanding any provision in (a), no minimum distance from a lot boundary line for buildings or freestanding signs shall be required from any railroad right-of-way or other railroad property being used principally as a track bed or corridor. **(AMENDED 2/4/86)**

(k) In addition to the overall density restrictions of the underlying zone, each mobile home unit in any mobile home community (use classification 1.122 or 1.123) must be placed such that it is at least 10 feet in any direction from any other mobile home

unit within the community, in order to reduce the likelihood of the spread of fire. **(AMENDED 10/20/87)**

(l) Notwithstanding the provisions of subsections (a) or (b), properties located in Carrboro's Transition Area II, and zoned R-R shall be required to maintain a 100-foot undisturbed, naturally vegetated setback along any common boundary line with Properties in Orange County's planning jurisdiction that are designated both Rural Buffer and Public/Private Open Space on the Joint Planning Area Land Use Plan. No structures or associated clearing shall be permitted within this setback. Utilities and associated clearing shall be permitted within this setback only to the extent that no reasonable alternative exists. **(AMENDED 06/05/89)**

(m) When the neighborhood preservation district commission determines that an application for a permit under this ordinance involves a proposed authentic restoration, new construction or reconstruction in the same location and in the original conformation of a structure within a neighborhood preservation district that has architectural or historic significance, but that such proposed restoration, construction or reconstruction cannot reasonably be accomplished in conformity with the setback requirements set forth in this section, the neighborhood preservation district commission may recommend, and the permit issuing authority may allow, a deviation from these requirements to the extent reasonably necessary to accommodate such restoration, construction or reconstruction. **(AMENDED 09/26/89)**

(n) Signs erected in connection with elections or political campaigns, as described in subsection 15-273(a)(5), shall not be subject to the setback requirements of this section. However, as provided in subsection 15-273(a)(5), such signs may not be attached to any natural or man-made permanent structure located within a public right-of-way, including without limitation trees, utility poles, or traffic control signs. **(AMENDED 08/25/92)**

(o) When the appearance commission determines that (i) any new construction or any repair, renovation, or reconstruction of a pre-existing building is proposed within any commercial zoning district; and (ii) the appearance of the building would be substantially improved by the addition of or extension of an architectural feature; and (iii) the feature proposed by the appearance commission would violate the setback provisions of this section, then, subject to the following requirements, the commission may recommend, and upon such recommendation the applicant may amend his plans to propose and the permit issuing authority may authorize, an encroachment of such architectural feature into the required setback area.

(1) For purposes of this subsection, the term "architectural feature" includes any part of a building other than a building wall or mechanical appurtenance.

(2) The maximum encroachment that can be authorized under this subsection is two feet.

(3) The encroachment may be allowed when the appearance commission and permit issuing authority both conclude that authorization of the encroachment would result in a building that is more compatible with the surrounding neighborhood than would be the case if the encroachment were not allowed. **(AMENDED 11/09/93)**

(p) Notwithstanding the other provisions of this section, in the historic district, no portion of any new dwelling unit on a flag lot may be located any closer than fifteen (15) feet from any property line or any closer than thirty (30) feet from any existing dwelling unit located on the lot from which the flag lot was created (see Section 15-175.10). **(AMENDED 11/21/95)**

(q) Notwithstanding the other provisions of this section, the base of a use classification 18.200 tower shall be set back from a street right-of-way line and a lot boundary lane a distance that is not less than the height of the tower. **(AMENDED 02/18/97)**

(r) Notwithstanding any provision in this section with respect to use classification 1.340, single-room occupancy buildings may be set back from a street right-of-way line a distance that is consistent with the setbacks of other nearby buildings that front the same street. **(AMENDED 01/11/00)**

Section 15-185 Building Height Limitations (AMENDED 9/13/83; 2/4/86; 11/14/88; 4/8/03; 6/22/04; 8/23/05; 10/25/05)

(a) Subject to the remaining provisions of this chapter:

(1) No building in any of the following zoning districts may exceed a height of thirty-five feet R-3, R-7.5, R-10, R-15, R-20, RR, C, B-5, M-2, WM-3, O, O/A, and HR-R (AMENDED 10/22/19).

(2) No building in any of the zoning districts listed in the following table may exceed the height indicated.

ZONE	MAXIMUM HEIGHT
R-S.I.R.	100’
R-S.I.R.-II	100’
CT	Three Stories
B-2	Two Stories
B-3	28’
B-3-T	28’
B-4	50’
R-2	50’
M-1	Three Stories
WR	40’

(3) Buildings in the B-1(c) and the B-1(g) districts may be constructed to a maximum height of three stories where the lot on which the building is located abuts a street right-of-way of fifty feet or less and four stories where the lot on which the building is located abuts a street right-of-way of more than fifty feet or where the lot is located at least fifty feet from the nearest public street right-of-way, except that:

a. If a property owner whose property in a B-1(c) or B-l(g) district abuts a street right-of-way of fifty feet or less dedicates additional right-of-way to more that fifty feet, then the developer of a building on such property may take advantage of the additional height authorized under this subsection for buildings on lots that abut street rights-of-way of more than fifty feet, so long as such dedication occurs before a building permit is issued for a building that takes advantage of such additional height.

b. If a building in a B-1(c) or B-l (g) district is located on a lot that abuts more than one street, then for purposes of determining the height limit under this subsection, the lot shall be treated as if it abutted only the street having the narrowest right-of-way.

c. The maximum building height authorized in the first sentence of Subsection (a)(3) of this section may be increased by one story, up to a maximum height of five stories, for every ten feet that the additional story is set back from the street right-of-way beyond the setback specified in Section 15-184.

d. Any portion of a building (located on lots within a B-l (c) or B-1 (g) district) that exceeds thirty-five feet in height must be set back from the property line of any adjoining residentially zoned lot as least a distance equal to twice the lot boundary line setback requirement applicable to such adjoining lot.

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e. Notwithstanding the other provisions of this section, no building in excess of two stories shall be permitted on (i) any lot within the Town's National Register Commercial District upon which there exists on the effective date of this subsection as ~~as~~ contributing building, or (ii) any lot upon which there exists on the effective date of this subsection a building listed on the National Register of Historic Places, if, after the effective date of this subsection, such contributing building or building listed on the National Register of Historic Places is demolished. This limitation shall not apply to the relocation of such building to another lot. For purposes of this subsection, a "contributing building" is a building or structure within the boundaries of the district that adds to the historic associations, historic architectural qualities, or archaeological values for which the historic district is significant. A contributing building must also retain its "integrity." In other words, the property must retain enough of its historic

physical features to convey its significance as part of the district. Alterations can damage a property's historic appearance and its integrity.

(4) Regardless of whether a building in a B-1 (c) or B-l (g) district is set back from the street beyond the setback specified in Section 15-184, if a mansard, gable, or gambrel roof substantially conceals the existence of a story (i.e. the height of the space that constitutes the story is provided primarily by the roof the building rather than vertical exterior walls), that story shall not be counted toward the maximum number of stories otherwise allowed under this section, except that in no case shall the maximum building height (including the story contained within the mansard, gable, or gambrel roof) exceed five stories in the B-l (c) or B-l (g) district.

(b) Subject to subsections (c) and (d) the features listed in this subsection, when attached to a principal building, may be constructed to a height that does not exceed the lesser of (i) 120% of the district height limitation set forth in subsection (a), or (ii) the district height limitation set forth in subsection (a) plus fifteen feet. By way of illustration, in a zoning district with a height limitation of thirty-five feet, the following features may be constructed to a height of forty-two feet, but such features may not exceed the forty-two feet height limit even if a height variance has also been granted for the principal building (unless a variance has also been granted regarding the height limitation affecting such features.)

(1) Chimneys, church spires, elevator shafts, and similar structural appendages not intended as places of occupancy or storage;

(2) Flagpoles and similar devices;

(3) Heating and air conditioning equipment, solar collectors, and similar equipment, fixtures and devices.

(c) The exceptions set forth in subsection (b) to the height limitations set forth in subsection (a) shall not be allowed if and to the extent that the permit issuing authority, or the board of adjustment if the permit-issuing authority is the zoning administrator, concludes that such exception(s) would materially interfere with the legitimate use and enjoyment of neighboring properties (including public properties or rights-of-way) or would otherwise pose a danger to the public health and safety.

(d) The features listed in subsection (b) may exceed the height limitation set forth in subsection (a) only in accordance with the following requirements:

(1) Not more than one-third of the total roof area may be consumed by such features.

(2) The features described in subdivision (b)(3) above must be set back from the edge of the roof a minimum distance of one foot for every foot by which such

features extend above the roof surface of the principal building to which they are attached.

(3) Enclosures for any of the features set forth in subsection (b) may not surround a greater area than is reasonably necessary to enclose such features.

(4) The permit issuing authority may authorize or require that parapet walls be constructed (up to a height not exceeding that of the features screened) to shield the features listed in subdivisions (b)(1) and (3) from view.

(e) Towers, antennas, and wireless facilities, including small and micro wireless facilities shall not be subject to the maximum height limitations set forth in this section but shall be governed by the restrictions inherent on the definitions of such uses as well as the other provisions of this chapter applicable to use classification 18.000. The height of a tower or antenna attached to a structure other than an antenna shall be the vertical distance measured from the main elevation of the finished grade at the front of the building or structure to which the tower is attached to the top of the tower (or antenna, if the antenna extends above the tower). Pursuant to Section 15-176, the height of a small or micro wireless facility on a new, modified or replacement utility pole shall be measured from the ground to the top of the pole. **(AMENDED 02/18/97; 6/23/20)**

(f) Notwithstanding the remaining provisions of this section, the maximum building height for structures utilized for 5.100 use classifications, elementary and secondary schools, may be increased to not more than 50 feet when the permit issuing authority concludes that the additional height is necessary to accommodate specific building elements (e.g. auditorium and support facilities) or to accommodate building designs that seek to minimize building footprints and/or maximize natural lighting. **(AMENDED 6/22/04)**

(g) For purposes of this section:**(AMENDED 06/28/94; 04/08/03)**

1) Subject to subsection (g) (2), the height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building.

2) With respect to single-family detached residences, the height of a building shall be the vertical distance measured from the floor of the main story of the residence at the front elevation to the top of the roof above the floor.

3) The terms “story” and “floor” are defined in Section 15-15. **(AMENDED 04/08/03)**

(h) Within the B-1(C), zoning district, all buildings constructed after the effective date of this subsection shall contain at least two stories if such buildings contain more than 1,000 square feet of gross floor area.

Within the B-1(C) zoning district, all new additions to existing buildings shall contain at least two stories if such additions amount to 25% or more of the square

footage of the gross floor area of the pre-existing building. **(AMENDED 04/23/13)**

Section 15-185.1 Downtown Neighborhood Protection Overlay District Requirements (AMENDED 8/23/05)

(a) Lots that are within the Downtown Neighborhood Protection (DNP) Overlay District shall be subject to the requirements of this section.

(b) Within the DNP district, the portion of any lot so zoned that lies within 50 feet of a boundary line that abuts or is located directly across the street from residentially zoned property, other than property that is zoned R-2, shall constitute an area referred to in this section as the DNP Buffer Area.

(c) Within the DNP Buffer Area:

(1) A building or buildings constructed within such buffer area may not extend laterally along the affected boundary for more than 80% of the lot width at its narrowest point within the buffer area; and

(2) The maximum horizontal run of a single building shall be 80 feet; and

(3) If more than one building is constructed, there shall be a separation of at least 30 feet between one building and another.

(4) Notwithstanding the foregoing, if more than one building is constructed pursuant to Section 15-160.1(b) and the residentially zoned property is within the Lloyd/Broad Overlay District no separation between buildings shall be required. **(Amended 06/02/20)**

(d) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the provisions of Subsection 15-185(a)(3) shall not apply and the provisions of subsections (f), (g) and (h) of this section shall apply in lieu thereof. **(AMENDED 1/23/07).**

(1) A third story not exceeding a building height of 42 feet shall be permissible if a gable, or gambrel roof with a roof pitch no greater than 70 degrees and a continuous eave line substantially contains the third story (i.e. the height of the space that constitutes the story is provided primarily by the roof of the building rather than vertical exterior walls). When dormers are constructed on such roofs, the total width of all such dormers shall not exceed two-thirds of the width of the roof on which such dormers are constructed. **(AMENDED 2/27/07).**

(2) A third story shall be permissible if:

a. All portions of such third story are set back at least ten feet from the second story façade of the building wall that faces a boundary line that abuts or is located directly across the street from residentially zoned property.

(3) Towers, cupolas, and similar architectural features intended to complement the building design may extend to a height of not more than 42 feet, so long as such features do not contain more than 400 square feet and no elevational width of such features exceeds 25 feet.

(e) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the provisions of Subsection 15-185(a)(3) shall not apply and the provisions of subsections (f), (g) and (h) of this section shall apply in lieu thereof.

(f) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the portion of such lots within the DNP Buffer Area shall be subject to a maximum height limitation of two stories, except as set forth below: **(AMENDED 1/23/07).**

(1) A third story not exceeding a building height of 42 feet shall be permissible if a gable, or gambrel roof with a roof pitch no greater than 70 degrees and a continuous eave line substantially contains the third story (i.e. the height of the space that constitutes the story is provided primarily by the roof of the building rather than vertical exterior walls). When dormers are constructed on such roofs, the total width of all such dormers shall not exceed two-thirds of the width of the roof on which such dormers are constructed. **(AMENDED 2/27/07)**

(2) A third story shall be permissible if:

a. All portions of such third story are set back at least ten feet from the second story façade of the building wall that faces a boundary line that abuts or is located directly across the street from residentially zoned property; and

(3) Towers, cupolas, and similar architectural features intended to complement the building design may extend to a height of not more than 42 feet, so long as such features do not contain more than 400 square feet and no elevational width of such features exceeds 25 feet.

(g) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the portion of such lots that lie outside the DNP Buffer Area shall be subject to a maximum height limitation of three stories except as set forth below:

(1) A fourth story may be constructed if such fourth story is either set back at least ten feet from the edge of the DNP Buffer Area or is substantially contained within a mansard, gable, or gambrel roof with a roof pitch no greater than seventy degrees and a continuous eave line (i.e. the height of the space that

constitutes the story is provided primarily by the roof of the building rather than vertical exterior walls).

(2) If a fifth story is constructed, either all portions of such fifth story must be set back at least ten feet from the fourth story façade of the building wall that faces a boundary line that abuts or is located directly across the street from residentially zoned property, or the fifth story must be substantially contained within a mansard, gable, or gambrel roof with a roof pitch no greater than seventy degrees and a continuous eave line (i.e. the height of the space that constitutes the story is provided primarily by the roof of the building rather than vertical exterior walls).

(3) In addition, if a fifth story is constructed, either all portions of such fifth story must be set back from any street right-of way line other than that associated with establishing the DNP buffer area a distance of ten feet beyond the setback specified in Section 15-184, or the fifth story must be substantially contained within a mansard, gable, or gambrel roof with a roof pitch no greater than seventy degrees and a continuous eave line (i.e. the height of the space that constitutes the story is provided primarily by the roof of the building rather than vertical exterior walls).

(h) Notwithstanding the permit requirements established in Sections 15-146 and 15-147, if a developer proposes to construct within those areas of the DNP district where the underlying zoning is B-1(c) a building that exceed two stories in height, or where the underlying zoning is B-1(g) a building that exceeds three stories, a class A special ~~conditional~~ use permit must be obtained.

Section 15-185.2 Lloyd/Broad Overlay District Requirements (AMENDED 6/26/18)

(a) Lots within the Lloyd/Broad Overlay District are subject to the requirements of this Section.

(b) The front yard setback requirement applicable to lots within this District shall be a minimum of 15 feet and a maximum of 25 feet from the right-of-way.

(c) The maximum height of any structure within this District shall be a vertical distance of twenty-three (23) feet measured from the floor of the main story of the residence at the front elevation to the top of the roof above the floor. Within this District it shall not be permitted to construct habitable basements, crawl spaces or garages beneath the finished first floor of the dwelling unit. Increased setback distances for upper stories are encouraged. So long as all other overlay district requirements are met, a legally nonconforming roof height in a residential structures existing at the time of adoption of this ordinance may be extended to a new addition to the residential structure

(d) Within this District, the maximum size of new dwellings shall not exceed 1,750 square feet. Dwellings existing at the time of adoption of this ordinance, greater

than 1,200 square feet in size may be expanded up to 2,000 square feet. Dwellings existing as the time of adoption of this ordinance greater than 1,199 square feet or less may be expanded up to 1,750 square feet.

(e) Within this District, each improved lot must have at least two parking spaces. Parking areas shall be configured to provide direct access to individual spaces, without the need for excessive stacking, and, to the extent practicable, parking areas shall not be allowed between the building façade and the street right-of way.

(f) Within this District, the number of unrelated individuals occupying a single dwelling unit shall be limited to four. Individuals related by blood, marriage or other legal arrangement shall not be subject to this limitation.

Section 15-186 Cluster Subdivisions.

(a) In any single-family residential subdivision in the zones indicated below, a developer may create lots that are smaller than those required by Subsection 15-181 if such developer complies with the provisions of this section and if the lots created are not smaller than the minimums set forth in the following table:

ZONE	MINIMUM SQUARE FEET
R-7.5	5,625
R-10	7,500
R-S.I.R.	7,500
R-15	11,250
R-20	15,000
RR	20,000 **(AMENDED 11/14/88)**
WR	43,560 **(AMENDED 05/19/90)**

(b) The intent of this section is to authorize the developer to decrease lot sizes and leave the land "saved" by so doing as usable open space, thereby lowering development costs and increasing the amenity of the project without increasing the density beyond what would be permissible if the land were subdivided into the size lots required by Section 15-181.

(c) The amount of usable open space that must be set aside shall be determined by:

(1) Subtracting from the standard square footage requirement set forth in Section 15-181 the amount of square footage of each lot that is smaller than that standard;

(2) Adding together the results obtained in (1) for each lot.

(d) The provisions of this section may only be used if the usable open space set aside in a subdivision comprises at least 10,000 square feet of space that satisfies the definition

of usable open space set forth in Section 15-198 and if such usable open space is otherwise in compliance with the provisions of Article XIII. **(AMENDED 06/27/95; REPEALED 09/05/95; REDESIGNATED 09/05/95)**

(e) The setback requirements of Section 15-184 shall apply in cluster subdivisions. **(AMENDED 06/27/95; REPEALED 09/05/95; REDESIGNATED 09/05/95)**

Section 15-187 Architecturally Integrated Subdivisions.

(a) In any architecturally integrated subdivision, the developer may create lots and construct buildings without regard to any minimum lot size or setback restrictions except that: **(AMENDED 2/22/83; 4/24/84)**

(1) Lot boundary setback requirements shall apply where and to the extent that the subdivided tract abuts land that is not part of the subdivision; and

(2) Each lot shall be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this chapter.

(b) The number of dwelling units in an architecturally integrated subdivision may not exceed the maximum density authorized for the tract under Section 15-182. **(AMENDED 06/27/95; 06/22/99)**

(c) The amount of land "saved" by creating lots that are smaller than the standards set forth in Section 15-181 shall be set aside as open space except that in no case shall a development be required to preserve more than forty percent of the development tract as open space. **(AMENDED 06/27/95)**

(d) The purpose of this section is to provide flexibility, consistent with the public health and safety and without increasing overall density to the developer who subdivides property and constructs buildings on the lots created in accordance with a unified and coherent plan of development. **(REDESIGNATED 06/27/95)**

(e) The Town Council~~Board of Aldermen~~ may approve a conversion to an architecturally integrated subdivision of any multi-family project that was built in accordance with the standards of the zoning ordinance in effect at the time of construction despite the fact that the density of such project exceeds that permissible under this chapter. However, no increase in density may be allowed in connection with such conversion. **(REDESIGNATED 06/27/95)**

(f) Architecturally integrated subdivisions shall not be allowed in the C or WR zoning districts. **(REDESIGNATED 06/27/95)**

Section 15-188 Restrictions Designed to Mandate the Construction of Some Smaller New Homes for Sale (AMENDED 06/22/99; 03/23/04)

(a) The Council~~Board~~ finds that:

(1) Construction of new, single-family homes within the town's planning jurisdiction in recent years has been limited almost exclusively to homes that exceed 1,350 square feet in heated floor area and/or that sell for prices in excess of $ 175,000;

(2) It is in the public interest to have available within the town's planning jurisdiction a diversity of new housing stock such that at least some newly constructed single-family homes are potentially affordable to families other than those in the highest income brackets;

(3) The objective of providing some diversity in terms of the affordability of new housing stock within the town's planning jurisdiction as described above can be advanced by mandating that a certain percentage of the homes within new subdivisions be limited to not more than 1,350 square feet in heated floor area.

(b) Subject to the remaining provisions of this section, every residential development containing between thirteen and twenty units for sale shall be developed in such a manner that at least fifteen percent of the dwelling units constructed within such subdivision contain not more than 1,350 square feet of heated floor area at the time such units are initially conveyed, and an additional ten percent of the dwelling units contain not more than 1,100 square feet of heated floor area at the time such units are initially conveyed. Every residential development containing twenty-one or more units for sale shall be developed in such a manner that at least fifteen percent of the dwelling units constructed within such development contain not more than 1,100 square feet of heated floor area at the time such units are initially conveyed, and an additional ten percent of the dwelling units contain not more than 1,350 square feet of heated floor area at the time such units are initially conveyed**.** For purposes of this subsection the term "heated floor area" means any fully enclosed (not merely screened in or partially enclosed) space that is within or attached to a dwelling unit, where either (i) the room temperature of such space is controlled or affected by a man-made heating or cooling device, or (ii) such space, although unheated, is clearly designed to be living space (as opposed to storage space or a garage) and can readily be converted into a heated living area. Such units shall be referred to in this section as "size-limited units." Notwithstanding the foregoing, the requirement for size-limited units shall not apply to residential developments located in the R-R or W-R zoning districts.

(c) The number of dwelling units that can be constructed within an architecturally integrated subdivision or un-subdivided development is determined at the time the

class A special ~~conditional~~ use permit is approved. With respect to residential subdivisions other than architecturally integrated subdivisions, each lot that is large enough for only a single dwelling unit or that is limited by restrictive covenants to development only with a single dwelling unit shall be deemed to house one single-family detached dwelling unit. Lots that are large enough to accommodate more than one dwelling unit and are not so limited by restrictive covenants shall be deemed to house the largest number of duplex or multi-family units that could be approved under this chapter. The minimum number of size-limited units shall then be determined by multiplying the maximum number of dwelling units permissible within the subdivision as determined herein by the percentage specified in subsection (b) above (resulting fractions shall be dropped).

(d) The developer's plans submitted with the application for a class A special~~conditional~~ use permit shall indicate which lots in the case of residential subdivisions or which units in the case of un-subdivided residential developments the developer proposes to develop with size-limited units. The class A special~~conditional~~ use permit plans and any necessary final plats shall indicate clearly where a size-limited unit must be constructed, and, in the case of subdivisions subject to the provisions of subsection (e), purchasers of lots shall be bound by the limitation.

(e) No zoning or building permit may be issued for the construction of any dwelling unit on any lot that has been designated as a lot on which a size-limited unit must be constructed unless the dwelling conforms to the limitations of this section. Notwithstanding the foregoing, this section shall not prevent the purchaser of any size-limited unit, or any successor to such purchaser, from enlarging the dwelling unit at any time following one year after the issuance of the initial certificate of occupancy for the unit.

(f) This section shall not apply to any subdivision where each of the lots so created contains on the date the final plat is approved a dwelling unit for which a certificate of occupancy had been issued at least three years prior to the date of final plat approval. Nor shall this section apply to modifications of previously approved subdivisions.

(g) Size-limited units may not be located apart from the remainder of the development in any manner designed to isolate such units or discourage the residents of such units from full participation in the enjoyment of all facilities and common properties available to other residents of the development.

(h) This section shall not apply to the development of land that, on the effective date of this section, was subject to restrictive covenants that preclude the construction of dwellings as those prescribed in this section.

(i) This section shall not apply to the development of land for which a class A or class B ~~conditional or~~ special use permit authorizing the development of such land was approved prior to the effective date of this section.

(j) A residential development that provides at least 85 percent of the maximum number of affordable housing units available under the provision of Section 15-182.4 (Residential Density Bonuses for Affordable Housing) shall not be subject to the requirements of this section.

Section 15-189 through 15-195 Reserved.