

ARTICLE IX

ZONING DISTRICTS AND ZONING MAP

PART I. ZONING DISTRICTS

- (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.** 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)**

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- 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.
 - 3. 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.

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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 15-141.4 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 **(AMENDED 4/27/10; 06/23/15; 10/23/18)**

There may also be established a HR-CC-CZ zoning district, pursuant to the purpose statement and criteria described in Section 15-136.1.(AMENDED 02/09/21)

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(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 (f) and (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) 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) (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. **(AMENDED 10/25/16)**

(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

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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 Land Use Plan, Thoroughfare Plan, and other plans officially adopted by the 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)**

(e) 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)**

(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)**

(g) 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 zoning permit, special use permit, or conditional use permit.

(h) Notwithstanding the foregoing, in approving a rezoning to a B-1(g) – CZ zoning district, the 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)**

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- (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.

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

(h) If a B-1(g) – CZ zoning district is created and, pursuant to subsection (f) 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)**

(i) For property that is zoned B-4-CZ, the Board of Aldermen may 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 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 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-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 CUP issued in connection with a B-4-CZ rezoning.

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 Board of Aldermen a proposal for undertaking such a study before accepting a formal application for the rezoning. If the 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 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 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 Board of Aldermen. Subsequent requests for FLX zoning shall demonstrate compliance with the findings from the site specific planning study.

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- (3) If more than five years have elapsed since the findings from the site specific planning study were presented to the Board and the circumstances relating to the study have substantially changed, the 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.

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- (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 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 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

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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 Board of Aldermen may refer the draft) prior to the ordinance being referred to the Board of Aldermen to establish a date for the legally required public hearing on the ordinance; (ii) at the time the Board of Aldermen directs that an ordinance be drafted in accordance with subsection (f)(1) above, the 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 Board as provided in subsection 15-321(c)(2). In such case, the 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

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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.

- (a) 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.
- (b) 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 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 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.

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(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 XX

AMENDMENTS

Section 15-320 Amendments in General

(a) Amendments to the text of this chapter or to the zoning map may be made in accordance with the provisions of this article, or in the case of nonsubstantive editorial changes, may be made administratively by the planning director, as described in Section 15-38 of this ordinance. **(AMENDED 09/01/87)**

(b) The term “major map amendment” shall refer to an amendment that addresses the zoning district classification of five or more tracts of land in separate ownership or any parcel of land (regardless of the number of lots or owners) in excess of fifty acres. All other amendments to the zoning district map shall be referred to as “minor map amendments.”

(c) All properties within the University Lake Watershed are zoned WR, B-5, WM-3 or C. As provided in Subsection 15-137(b), no additional areas may be rezoned WM-3 or B-5, and no areas within the University Lake Watershed may be rezoned to any classification other than WR, or C. **(AMENDED 10/15/96)**

(d) The regulations applicable to the watershed districts do, and all amendments to these regulations shall, comply with the water supply watershed protection rules promulgated by the State pursuant to G.S. 143-214.5. Copies of all amendments to Sections 15-265 or 15-266 shall be sent to the Division of Community Assistance, Division of Environmental Health, and Division of Water Quality. **(AMENDED 10/15/96)**

Section 15-321 Initiation of Amendments

(a) Whenever a request to amend this chapter is initiated by the Board of Aldermen, the planning board, the board of adjustment, the appearance commission, or the town administration, the town attorney in consultation with the planning staff shall draft an appropriate ordinance and present that ordinance to the Board of Aldermen so that a date for a public hearing may be set.

(b) Any other person may also petition the Board to amend this chapter. The petition shall be filed with the planning department and shall include, among the information deemed relevant by the planning department:

- (1) The name, address, and phone number of the applicant.
- (2) A description of the land affected by the amendment if a change in zoning district classification is proposed.
- (3) Stamped envelopes containing the names and addresses of all those to whom notice of the public hearing must be sent as provided in Section 15-323.

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- (4) A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this chapter.
 - (5) A concise statement of the reasons why the petitioner believes the proposed amendment would be in the public interest.
- (c) Upon receipt of a petition as provided in (b), the planning staff shall either:
- (1) Treat the proposed amendment as one initiated by the town administration and proceed in accordance with subsection (a) if it believes that the proposed amendment has significant merit and would benefit the general public interest; or
 - (2) Forward the petition to the Board with or without written comment for a determination of whether an ordinance should be drafted and a public hearing set in accordance with subsection (d).
- (d) Upon receipt of a proposed ordinance as provided in subsection (a), the Board may establish a date for a public hearing on it. Upon receipt of a petition for an ordinance amendment as provided in subsection (b), the Board may summarily deny the petition or set a date for a public hearing on the requested amendment and order the attorney, in consultation with the planning staff, to draft an appropriate ordinance.

Section 15-322 Planning Board and Other Advisory Consideration of Proposed Amendments

(a) If the Board sets a date for a public hearing on a proposed amendment, it shall also refer the proposed amendment to the planning board for its consideration and may refer the amendment to the appearance commission if community appearance is involved, and may refer the amendment to the transportation advisory board if the amendment involves community transportation issues, and may refer the amendment to the environmental advisory board if the amendment involves community environment issues, and may refer the amendment to the affordable housing advisory commission if the amendment involves an affordable housing issue. **(AMENDED 09/19/95, REWRITTEN 02/25/14, AMENDED 06/25/19).**

(b) The planning board shall advise and comment on whether the proposed amendment is consistent with the Land Use Plan, Thoroughfare Plan, or other applicable plans officially adopted by the Board of Aldermen. The planning board shall provide a written recommendation to the Board of Aldermen that addresses plan consistency and other matters as deemed appropriate by the planning board. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the Board of Aldermen may proceed in its consideration of the amendment without the planning board report. **(AMENDED 10/24/06)**

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(c) A comment by the planning board that a proposed amendment is inconsistent with the Land Use Plan, Thoroughfare Plan or other officially adopted plan shall not preclude consideration or approval of the proposed amendment by the Board of Aldermen, and the Board of Aldermen is not bound by the recommendations of the planning board. **(AMENDED 10/24/06)**

(d) A member of the planning board and any other advisory committee that provides direct advice to the Board of Aldermen (i.e. it does not report to the planning board) shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. **(AMENDED 10/24/06)**

Section 15-323 Hearing Required: Notice

(a) No ordinance that amends any of the provisions of this chapter may be adopted until a public hearing has been held on such ordinance.

(b) The planning staff shall publish a notice of the public hearing on any ordinance that amends the provisions of this chapter once a week for two successive weeks in a newspaper having general circulation in the Carrboro area. The notice shall be published for the first time not less than ten days nor more than twenty-five days before the date fixed for the hearing. This period is to be computed in accordance with G.S. 160A-364, which provides that the date of publication is not counted but the date of the hearing is.

(c) With respect to all map amendments, the planning staff shall mail, by first class mail, written notice of the public hearing to the record owners of all properties whose zoning classification is changed by the proposed amendment as well as the owners of all properties any portion of which is within 1000 feet of the property rezoned by the amendment. For purposes of this section the term "owners" shall mean the persons shown as owners on Orange County's computerized land records system. The planning staff shall also make reasonable efforts to mail a similar written notice to the non-owner occupants of residential rental property located within 1,000 feet of the lot that is the subject of the rezoning. The notices required by this subsection shall be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. The staff member mailing such notices shall certify to the board that the notices have been mailed, and such certificate shall be deemed conclusive in the absence of fraud. **(AMENDED 10/12/82; 1/22/85; 10/1/85; 04/15/97; 3/26/02)**

(d) The first class mail notice required under subsection (c) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to either make the mailed notice provided for in subsection (c) of this section or may, as an alternative, elect to publish notice of the hearing as required by G.S. 160A-364, but provided that each advertisement shall not be less than one-half (1/2) of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper

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which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent Orange County property tax listing for the affected property, shall be notified according to the provisions of subsection (c) of this section. **(AMENDED 10/24/06)**

(e) For proposed zoning map amendments, the planning staff shall prominently post a notice of the public hearing on the site proposed for a rezoning or an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the planning staff shall post sufficient notices to provide reasonable notice to interested persons.

(f) The planning staff shall take any other action deemed by the Planning Department to be useful or appropriate to give notice of the public hearing on any proposed amendment.

(g) The notice required or authorized by this section (other than the posted notice required by subsection (e)) shall: **(AMENDED 11/24/09)**

- (1) State the date, time, and place of the public hearing.
- (2) Summarize the nature and character of the proposed change.
- (3) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment.
- (4) State that the full text of the amendment can be obtained from the town clerk.
- (5) State that substantial changes in the proposed amendment may be made following the public hearing.

(h) The planning staff shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is the Board's intention that the notice requirements set forth in this section that are not required by state law shall not be regarded as mandatory, and therefore a failure to comply with such requirements shall not render any amendment invalid. **(AMENDED 11/24/09)**

(i) Except for a town-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply (regardless of how the staff treats the proposed amendment under subsection 15-321(c)), the applicant shall certify to the Board of Aldermen that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons required to provide notice shall certify to the Board of Aldermen that proper notice has been

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provided in fact, and such certificate shall be deemed conclusive in the absence of fraud. **(AMENDED 11/24/09)**

(j) Actual notice of the proposed amendment and a copy of the notice of public hearing required under subsection 15-323(i) of this section shall be by any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection applies only to an application to request a zoning map amendment where the application is not made by the owner of the parcel of land to which the amendment would apply. This subsection does not apply to a city-initiated zoning map amendment. **(AMENDED 11/24/09)**

Section 15-324 Board Action on Amendments (AMENDED 10/24/06)

(a) At the conclusion of the public hearing on a proposed amendment, the Board may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

(b) The Board is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

(c) Voting on amendments to this chapter shall proceed in the same manner as on other ordinances, subject to Section 15-326 of the Land Use Ordinance and Section 2-15 of the Town Code.

(d) Prior to adopting or rejecting any zoning amendment, the Board shall adopt one of the following statements which shall not be subject to judicial review **(AMENDED 2/6/2018)**:

- (1) A statement approving the zoning amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.
- (2) A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.
- (3) A statement approving the zoning amendment and containing at least all of the following:
 - a. A declaration that the approval is also deemed an amendment to the comprehensive plan. The governing board shall not require any additional request or application for amendment to

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- the comprehensive plan.
- b. An explanation of the change in conditions the governing board took into account in amending the zoning ordinance to meet the development needs of the community.
 - c. Why the action was reasonable and in the public interest.
- (4) The Board retains the right to find a zoning amendment to be consistent with any duly adopted plan, but to deny the zoning amendment request
 - (5) For the purposes of this section, "comprehensive plan" includes a unified development ordinance and any other officially adopted plan that is applicable.
- (e) A Board member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. (See also Carrboro Town Code Section 2-35).

Section 15-325 Ultimate Issue Before Board on Amendments

In deciding whether to adopt a proposed amendment to this chapter, the central issue before the Board is whether the proposed amendment advances the public health, safety or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the mayor and excluded. In particular, when considering proposed minor map amendments:

- (1) Except when the request is to rezone property to a conditional use district or conditional zoning district, the Board shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Board shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification. **(AMENDED 05/25/99; 05/27/08)**
- (2) The Board shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

Section 15-326 Citizen Comments on Zoning Map and Text Amendments (AMENDED 10/24/06, REWRITTEN 12/6/16).

The Town of Carrboro Land Use Ordinance may from time to time be amended, supplemented, changed, modified or repealed. If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification or repeal to this Ordinance to the Clerk of the Board of Aldermen at least two (2) business days prior to the proposed vote on such change, the Clerk to the Board shall deliver such written statement to the

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Board. If the proposed change is the subject of a quasi-judicial proceeding under North Carolina General Statutes Section 160A-388 (such as conditional use rezoning in which the legislative rezoning is accompanied by or followed by a quasi-judicial conditional use permit process), the Clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the Board shall not disqualify any member of the Board from voting. Written statements submitted in connection with a quasi-judicial proceeding may be admitted into evidence at such a proceeding if the Board determines that such statements are admissible in the proceeding. (Amended 12-6-16 ; and enacted pursuant to a Resolution in Opposition to the General Assembly's Repeal of Statutory Authority for Qualified Protest Petitions to Trigger a Super Majority Vote for Certain Zoning Map Amendments, dated 12-6-16).