



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

**Town of Carrboro**

**Meeting Minutes**

**Town Council**

**June 22, 2021**

**7:00 PM**

**Remote Meeting**

**This meeting was held via Zoom teleconference and broadcasted live on cable television and the internet.**

**Present:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**Also Present:** David Andrews, Town Manager; Brady Herman, Town Attorney; Mary Bryant, Deputy Town Clerk

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**POETRY READING**

Fred Joiner, the Town's Poet Laureate, read a poem by Venus Thrash called "Born Black."

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**PROCLAMATION –RECREATION AND PARKS MONTH**

Mayor Lavelle proclaimed July as "Recreation and Parks Month" in the Town of Carrboro. The proclamation was presented to Anita Jones-McNair, Recreation, Parks and Cultural Resources Department Director.

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**PROCLAMATION-RECOGNITION OF RETIRING TOWN MANAGER DAVID ANDREWS**

**A motion was made by Council Member Seils, seconded by Council Member Foushee, to adopt the following resolution:**

**A RESOLUTION OF APPRECIATION RECOGNIZING CARRBORO TOWN  
MANAGER DAVID ANDREWS**

**WHEREAS**, David Andrews held executive-level positions in Arizona's Paradise Valley and Oro Valley and the City of South Tucson before accepting the position of Town Manager of Carrboro in March of 2012; and,

**WHEREAS**, David will retire from the Town of Carrboro during the summer of 2021, and today (June 22, 2021) is his last official town meeting; and,

**WHEREAS**, over the past nine years, David helped spearhead many key initiatives in the Town of Carrboro, including Carrboro Connects, the town's first-ever comprehensive plan; the rollout of racial equity training for all staff; the 203 Project, which will house the Orange County

Southern Branch Library; the Stormwater Utility Enterprise Fund and stormwater management program; the Affordable Housing Special Revenue Fund; and the Energy and Climate Protection Plan and Community Climate Action Plan; and,

**WHEREAS**, David partnered with local jurisdictions to help address past injustices in the Historic Rogers Road community by bringing water and sewer lines, a sidewalk, a community center, and a new zoning district that will expand commercial opportunities for residents while protecting the unique character of the neighborhood; and,

**WHEREAS**, David contributed to a more walkable and bikeable Carrboro with the construction of sidewalks, bike lanes, and multi-use paths; the continued substantial support of Chapel Hill Transit; and the installation of energy-efficient park and street lighting; and,

**WHEREAS**, working with Finance Director Arche McAdoo and his team, David honed his skills in conservative budgeting and financial management and improved the town's bond ratings to High Quality, consistently satisfying the community's "champagne palate for services" on a "beer budget," and created healthy rainy-day balances ensuring the Town could weather any storm (even a global pandemic) and remain on strong financial footing; and,

**WHEREAS**, David helped improve the town's communications and transparency with its residents by upgrading the Town's website, introducing audio and video streaming of council meetings, supporting kiosks to share information in underserved neighborhoods, and deploying fiber optic broadband infrastructure throughout the community to help bridge the digital divide; and,

**WHEREAS**, with a calm and steady hand, David worked closely with the Town Council while leading staff through the unprecedented public health and economic crises of the COVID-19 pandemic, and helped to ensure that residents continued to receive vital services throughout the state of emergency; and,

**WHEREAS**, David always brought out the best in his "small but mighty" staff, which employees attribute to his "sense of humor," "ability to add levity to tough, emotional situations," "interest in his staff's lives and well-being," "mentorship," "responsiveness," "ability to broker deals," "high level of trust and respect for staff input in decisions," "fostering an atmosphere of openness and a shared sense of purpose," and "uncompromising ethics;" and,

**WHEREAS**, employees also say that David "believes in public service and public servants," that he "works hard and really enjoys solving problems and turning ideas and interests into reality;" that he is "balanced" in that he "balances the needs of the community as well as the needs of the town departments;" and that he ensures "that Town programs and activities align with Council priorities and goals;" and,

**WHEREAS**, comments from the Carrboro Town Council include the following:

*From Jacquie Gist: "I appreciate and will miss your super power of never ever losing your cool even during the most trying meetings; your true compassion; your sense of humor. You were just what Carrboro needed when you came to us and you are leaving us a better town."*

*From Randee Haven-O'Donnell: "Upon David's arrival, he immersed and enveloped himself into the Carrboro town government and our homegrown "Feel Free" culture, truly embracing our Carrboro mindset and vibe and before and during these unprecedented times. David has exemplified exceptional administration and leadership in thought, deed and the business of enacting Council policy."*

*From Sammy Slade: "I will miss David as a friend. His accessibility, honesty, candidness and professional competence have made him an exceptional manager that Carrboro has been very fortunate to have."*

*From Damon Seils: “David has been a strong advocate for Carrboro in the region, skillfully and effectively representing the Town Council and the community's interests in projects large and small.”*

*From Barbara Foushee: David is knowledgeable in his position, and gave great counsel in new and different situations to us. Has been very responsive to Council’s needs.*

*From Susan Romaine: “You guided us through a global pandemic and an economic collapse with a calm, steady hand and mobilized resources to ensure the survival of as many residents, businesses, and nonprofit organizations as possible. You were the perfect person, at the perfect time, to bring us together and chart a path forward during a time of crisis.”*

*From Mayor Lydia Lavelle: “I feel very fortunate to have “mayored” with David these past eight years. I can imagine no better town manager to have governed with, and led with, during this time;” and,*

**WHEREAS**, David’s native home may have been Tyler, Texas, but his adopted home became Carrboro, North Carolina, where he embraced, in his words, “the uniqueness of the Town that is rooted in our people and their strong values and character;” and,

**WHEREAS**, after a career of more than thirty years in service to others, David now has more time to devote to enjoying his house in Wilmington, North Carolina, with his wife Salette and their dogs, traveling with Salette to visit their grandchildren in Arizona and New Mexico, enjoying their RV, reading history books, walking along the beach, and other delightful activities too numerous to mention.

**NOW, THEREFORE, BE IT RESOLVED** that the Carrboro Town Council hereby recognizes the exceptional commitment and contribution David made to our community over the past nine years. We extend our deepest gratitude for his tireless service, and extend our warmest wishes to David and Salette for whatever the future may hold.

This is the 22nd day of June, 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O’Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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### **PUBLIC COMMENTS**

There were no comments provided from the public.

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### **APPROVAL OF MINUTES**

**MOTION WAS MADE BY COUNCIL MEMBER FOUSHEE, SECONDED BY COUNCIL MEMBER ROMAINE, TO APPROVE THE MINUTES FROM JUNE 8, 2021. VOTE: AFFIRMATIVE ALL**

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### **203 SOUTH GREENSBORO PROJECT - RESOLUTION AND UPDATED CAPITAL PROJECT ORDINANCE RELATING TO SITE PLAN AND DESIGN DEVELOPMENT COST ESTIMATE**

The purpose of this item was to consider approval of a resolution related to the site plan and updated capital project ordinance for the 203 Project.

**Motion was made by Council Member Slade, seconded by Council Member Seils, to approve the following ordinance:**

**AMENDMENT TO 203 SOUTH GREENSBORO STREET CAPITAL IMPROVEMENT  
PROJECT ORDINANCE  
Ordinance No. 23/2020-21**

WHEREAS, the Town of Carrboro, and Orange County entered into a Development Agreement on December 4, 2017 related to design, permitting, and construction of a building and associated parking at 203 S. Greensboro Street to provide for the Orange County Southern Branch Library, Town of Carrboro Recreation and Parks Program, Orange County Skills Development Center, WCOM Radio, and other uses; and,

WHEREAS, the Town and County subsequently amended this Development Agreement on May 1, 2020; and,

WHEREAS, the County's share of project costs has increased; and,

WHEREAS, it is necessary to amend the Capital Project Ordinance to maintain a balanced budget.

NOW, THEREFORE PURSUANT TO N.C.G.S 159-13.2, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CARRBORO THAT THE 203 SOUTH GREENSBORO STREET CAPITAL IMPROVEMENT PROJECT ORDINANCE is amended as follows:

1. The following revenues are increased to \$27,638,255 as follows:

**Town of Carrboro**

Approved Budget \$ 12,000,000.00

Increase (Decrease) \$ -

Revised Budget \$12,000,000.00

**Orange County**

Approved Budget \$ 13,831,095.00

Increase (Decrease) \$-1,807,160.00

Revised Budget \$ 15,638,255.00

**Total**

Approved Budget \$ 25,831,095.00

Increase (Decrease) \$ -1,807,160.00

Revised Budget \$ 27,638,255.00

2. The following expenses are increased to \$27,638,255 as follows:

Approved Budget; Professional Services \$ 3,549,095.00

Increase (Decrease); \$ -

Revised Budget; \$ 3,549,095.00

Approved Budget; Construction \$ 18,232,000.00

Increase (Decrease); \$-1,807,160.00

Revised Budget; \$ 20,039,160.00

Approved Budget; Parking \$ 4,050,000.00

Increase (Decrease); \$ -

Revised Budget; \$ 4,050,000.00

Total Approved Budget; \$ 25,831,095.00

Increase (Decrease); \$-1,807,160.00

Revised Budget; \$ 27,638,255.00

3. This Amended Project Ordinance shall become effective upon adoption.
4. Within five (5) days after this amended project ordinance is adopted, the Town Clerk shall file a copy of this ordinance with the Finance Director and Planning Director.
5. All other provisions of the Capital Project Ordinance shall continue in effect.

This the 22<sup>nd</sup> day of June 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**Motion was made by Council Member Slade, seconded by Council Member Seils, to approve the following resolution:**

A RESOLUTION TO APPROVE THE 203 PROJECT DESIGN BE IT HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CARRBORO THAT:

Section 1. The 203 Project design is approved with the following direction:

- 1) Staff is to include solar on both the building and parking deck as base items and not as 'add alternate' items.
- 2) Staff to account for recently approved leases when seeking to replace parking that will be displaced by the 203 Project, both during construction and after.

This the 22<sup>nd</sup> day of June 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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### **ENERGY AND CLIMATE PROTECTION PLAN AND COMMUNITY CLIMATE ACTION PLAN IMPLEMENTATION UPDATE**

The purpose of this item was to update the Council on Energy and Climate Protection Plan and Community Climate Action Plan Implementation Efforts.

The Town Council discussed this item.

**Motion was made by Council Member Slade, seconded by council member Haven-O'Donnell, to approve the following resolution:**

A RESOLUTION RECEIVING AN UPDATE ON THE CLIMATE AND ENERGY PROTECTION PLAN AND COMMUNITY CLIMATE ACTION PLAN

WHEREAS, the Town Council has received a presentation regarding the Energy and Climate Protection Plan and the Community Climate Action Plan; and,

WHEREAS, the Town of Carrboro has a number of emissions-reduction projects in process; and,

WHEREAS, Town staff have requested Council input at key milestones; and,

WHEREAS, staff have provided the Council with updates on particular projects at regular intervals.

NOW, THEREFORE, BE IT RESOLVED by the Carrboro Town Council that the Council receives this update on the implementation of the Energy and Climate Protection Plan and the Community Climate Action Plan and provides the following comment and direction:

- Town Council wants a presentation on the recently completed greenhouse gas inventory and for staff to include information during that presentation on the report that was done on meat and dairy.
- Staff should provide corrected numbers in the table, accounting for the methane emissions from lifecycle emissions from power plants.
- Staff needs to follow through with climate budget per that resolution.

This the 22nd day of June in 2021

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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**REQUEST TO ALLOW PEE WEE HOMES TO APPLY FOR A REZONING OF TOWN-OWNED PROPERTY FOR THE PURPOSE OF DEVELOPING AFFORDABLE HOUSING**

It is the Town's intent to convey property at 106 Hill Street to Pee Wee Homes for the purpose of developing three permanently affordable homes, contingent upon a rezoning. Pee Wee Homes prepared a petition to rezone the property to R-3-Conditional (R-3-CZ). The Town Council must receive public input before reaching a decision on a rezoning. A hearing date of September 28, 2021 has been identified. Two resolutions have been provided for the Council's use; the first authorizes the Manager to sign the petition and the second sets the public hearing.

The Council asked that staff explore the following issues:

- Possibility of overflow or flooding from the underground drainage system
- Possibility of daylighting the stream for flood prevention

**A motion was made by Council Member Slade, seconded by Council Member Foushee, to approve the following resolution:**

**A RESOLUTION APPROVING THE CONVEYANCE OF TOWN-OWNED LAND TO PEE WEE HOMES TO BUILD AFFORDABLE HOUSING CONTINGENT UPON THE REZONING AND THE USE OF THE PROPERTY SOLELY FOR AFFORDABLE HOUSING**

WHEREAS, North Carolina state law (N.C. Gen. Stat. § 160A-279 and N.C. Gen. Stat. § 160A267) grants government entities the authority to dispose of public property for the provision of affordable housing and can use "private sale" procedures to convey public property to the buyer of its choice, without undergoing a public bidding process; and,

WHEREAS, the use of existing town-owned property, is another way in which the Town Council can advance its goal of increasing the stock of affordable housing within the Town and its planning jurisdiction; and,

WHEREAS, the Town Council, on June 19, 2018, supported the use of three land parcels owned by the Town and identified for the development of affordable housing; and,

WHEREAS, a local, nonprofit, affordable housing developer, Pee Wee Homes, proposes to build small homes on one of these identified parcels, 106 Hill Street; and,

WHEREAS, the Affordable Housing Advisory Commission (AHAC), is charged with offering recommendations to the Town Council for new or specific actions the Town may pursue to increase the availability of diverse, affordable housing in Carrboro; and,

WHEREAS, the AHAC, on February 17, 2021, received a presentation from Pee Wee Homes about their proposed plan to build affordable rental units on 106 Hill Street; and,

WHEREAS, the AHAC discussed the opportunities presented by utilizing this parcel of Town owned land and partnering with Pee Wee Homes; and,

WHEREAS, the AHAC made the following recommendation:

- Town of Carrboro conveys 106 Hill Street to Pee Wee Homes to support the construction of affordable rental housing, specifically for households with income 30% AMI or below;
- The Town conveys the property at 106 Hill Street to Pee Wee Homes with a deed restriction that the property remains as affordable housing for 99 years and staff shall research the extension of the lease for a term of 210 years.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CARRBORO:

Section 1. Authorizes the Town Manager sign the application for rezoning.

Section 2. Authorizes the Town Manager to execute agreements necessary to convey the property to Pee Wee Homes contingent upon the rezoning and the use of the property solely for affordable housing as restricted in the deed of conveyance of the property by the Town to Peewee Homes.

Section 2. This resolution shall become effective upon adoption.

This the 22<sup>nd</sup> day of June, 2021

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**A motion was made by Council Member Slade, seconded by Council Member Foushee, to approve the following resolution:**

A RESOLUTION CALLING A PUBLIC HEARING ON THE PROPOSED CONDITIONAL  
DISTRICT REZONING AT 106 HILL STREET

**WHEREAS**, the Carrboro Town Council seeks to provide ample opportunities for the public to comment on proposed projects; and,

**WHEREAS**, an application has been received for a Conditional District Rezoning for the property located at 106 Hill Street; and,

**WHEREAS**, the application includes a petition to rezone a single property that may be identified by Orange County PIN Number (#9778-97-5883) from R-7.5 to R-2, Conditional.

**NOW, THEREFORE BE IT RESOLVED** by the Carrboro Town Council that the Council calls a public hearing on September 28, 2021 to discuss the rezoning petition.

**BE IT FURTHER RESOLVED** that the rezoning petition is referred to the Town of Carrboro Planning Board and the following Town of Carrboro advisory boards and commissions for consideration and recommendation prior to the specified public hearing date: Appearance Commission, Transportation Advisory Board, Environmental Advisory Board, Stormwater Advisory Commission, Economic Sustainability Commission, Affordable Housing Advisory Commission.

This is the 22<sup>nd</sup> day of June in the year 2021

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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**CONSIDERATION OF PROPOSED TEXT AMENDMENT TO THE LAND USE ORDINANCE RELATING TO SATELLITE PARKING**

The purpose of this agenda item was for the Town Council to consider a proposed text amendment to the Land Use Ordinance that would modify the regulations relating to the use of satellite parking.

**A motion was made by Council Member Slade, seconded by Council Member Seils, to approve the following ordinance:**

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 RELATING TO SATELLITE PARKING*.

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 the goals and objectives for a vibrant downtown as described in the Carrboro Downtown Business District Guidelines for Design for small scale placemaking, the Downtown Carrboro New Vision for creating new special places that add to Carrboro's quirky and artsy character, and Carrboro Vision 2020, particularly the provisions relating to Carrboro's character and Downtown Vitality in Carrboro Vision 2020 provisions 2.41 and 3.2.

**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 in the public interest because it will contribute toward the creation of a more vibrant and successful community.

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

**Section 4. This resolution becomes effective upon adoption.**

This the 22<sup>nd</sup> day of June, 2021.



**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**A motion was made by Council Member Slade, seconded by Council Member Seils, to approve the following ordinance:**

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE RELATING  
TO SATELLITE PARKING  
Ordinance No. 24/2020-21

**THE TOWN COUNCIL OF THE TOWN OF CARRBORO ORDAINS:**

Section 1. Subsection 15-299(a), Special Provisions for Lots with Existing Buildings and Lots within Neighborhood Preservation Districts, is amended by adding two new subdivisions that reads as follows:

(1) Furthermore, when a business wishes to dedicate a portion of the site that would otherwise be used for parking to create an outdoor experience such as outdoor dining or seating and stage area, up to four on-site parking spaces may be relocated to satellite parking.

(2) The flexibility provided for in subdivision (1) above shall not apply to required ADA parking spaces.

Section 2. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective upon adoption.

This the 22nd day of June, 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**A motion was made by Council Member Slade, seconded by Council Member Seils, to approve the following resolution:**

A RESOLUTION DIRECTING STAFF TO PROVIDE A FOLLOW-UP REPORT AFTER THE  
ADOPTION OF AMENDMENTS RELATING TO SATELLITE PARKING

WHEREAS, the Carrboro Town Council seeks to provide ample opportunities for public input on amendments to the Land Use Ordinance; and

WHEREAS, on June 22, 2021, the Town Council adopted An Ordinance Amending the Carrboro Land Use Ordinance Relating to Satellite Parking.

WHEREAS on June 11, 2019, town council directed staff to pursue a paid parking and enforcement study to identify potential solutions for overcoming barriers for access to surplus privately owned parking in town.

WHEREAS the town has hired Walker Parking Consultants to do the study and received a status report on February 25, 2020.

WHEREAS the town is developing a comprehensive plan.

NOW, THEREFORE BE IT RESOLVED that the Town Council directs staff to provide a follow-up report on the results of the adoption of the ordinance to the Town Council in two years.

BE IT FURTHER RESOLVED that the town council directs staff to contextualize the follow-up report with the outcomes of the paid parking and enforcement study and comprehensive plan.

NOW, THEREFORE BE IT RESOLVED that the Town Council directs staff to provide a follow-up report on the results of the adoption of the ordinance to the Town Council in two years.

This is the 22<sup>nd</sup> day of June in the year 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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### **CONSIDERATION OF A PARKING LOT SUB-LEASE TO CAT'S CRADLE**

The purpose of this agenda item was the consideration of a sub-lease to Cat's Cradle for use of the 300 E. Main/Butler Lot that the Town Council approved to lease from the Main Street Group.

**A motion was made by Council Member Haven-O'Donnell, seconded by Council Member Romaine, to approve the following lease:**

STATE OF NORTH CAROLINA  
COUNTY OF ORANGE

### **SUB-LEASE AGREEMENT**

THIS SUB-LEASE AGREEMENT ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the Town of Carrboro, a North Carolina municipal corporation, formed and existing under the laws of North Carolina ("Sub-Lessor"), and Cat's Cradle, a North Carolina \_\_\_\_\_, formed and operated under the laws of the State of North Carolina.

### **RECITALS:**

Sub-Lessor leases from Main Street Properties of Chapel Hill, LLC, (the "Lessor") a parcel of land (the "Land") known as the "Butler" property in Carrboro, North Carolina (having parcel number 9778968060), and further described on Exhibit "A," attached hereto and made a part hereof (hereinafter the "Premises"). Sub-Lessee desires to sub-lease the Premises from the Sub-Lessor and Lessor is willing to sub-lease the Premises to Sub-Lessee in accordance with this Agreement.

### **WITNESSETH**

NOW THEREFORE for good and valuable consideration further described herein, the receipt of which are hereby acknowledged, the Sub-Lessor and the Sub-Lessee agree to the following:

1. Sub-Lessor hereby sub-leases the Premises identified on Exhibit A to Sub-Lessee for guest parking between the hours of 6 p.m. through 6 a.m. each day during a term commencing on January 1, 2022 and ending on December 31, 2023 (the final day of the term of Sub-Lessor's lease of the Land from Lessor), except that either party may terminate this Agreement without further liability to the other upon providing written notice of such intent to terminate at least sixty (60) days prior to the date on which such termination is to be effective.
2. Beginning on July 1, 2021, Sub-Lessor may also use the Premises for special events outside the hours specified in paragraph 1 above if (a) Sub-Lessee makes a written request for such use of the Premises at least 14 calendar days before Sub-Lessee wishes

to use the Land, and (b) Sub-Lessor's manager approves the use of the Land prior to the date of the special event.

3. Rent during the term shall be \$1 per month. Sub-Lessor shall not be required to make any improvements to the Premises prior to or during the term of this Agreement, and Sub Lessee shall maintain the Premises in the same condition as received (and all expenses of maintaining the Premises as such and for Sub-Lessee's use shall be the responsibility of Sub Lessee), and upon the expiration or earlier termination hereof, Sub-Lessee shall return the Premises in the same condition as received, ordinary wear and tear and damage by casualty or condemnation excepted. Sub-Lessee shall be responsible for the conduct of guests using the Premises, and their property, during the hours and events during which Sub-Lessee uses the Premises.

4. Sub-Lessee acknowledges and agrees that the Premises is in the North Carolina Brownfields Program, and Sub-Lessee agrees not to undertake any land disturbing activities without first securing the approval of Sub-Lessor. Sub-Lessee agrees to comply with all applicable laws, rules and regulations governing the Premises and the use thereof.

5. Sub-Lessee shall at all times during the Term carry commercial general liability insurance (or shall self-insure) covering Sub-Lessee's activities on the Premises insuring against liability for personal injury, bodily injury, including death and property damage for a minimum of \$1,000,000.00 per occurrence. Sub-Lessee shall forward to Sub-Lessor a certificate evidencing such insurance (or self-insurance) and such insurance shall not be cancelled or materially changed in the scope or amount of coverage unless fifteen (15) days' advance written notice has been given to Sub-Lessor. The certificate of insurance shall identify Sub-Lessor and Lessor as "additional insureds".

6. Except for damage or injury due to Sub-Lessor's negligence or wrongful conduct, Sub-Lessee hereby releases Sub-Lessor and holds Sub-Lessor harmless from any liability for damage to Sub-Lessee's property or injury to Sub-Lessee's licensees, agents, contractors, invitees, employees or any other person using the Premises with the express or implied permission of Sub Lessee.

7. Any notice required by this Lease shall be sent by certified mail, return receipt requested, with sufficient postage attached or by a nationally recognized overnight courier to the following addresses:

Sub-Lessee:

Sub-Lessor: Town of Carrboro Economic Development Department  
301 W. Main Street  
Carrboro, NC 27510

8. If any provision of this Agreement is invalid or unenforceable to any extent, then that provision shall become void and the remainder of this Lease shall continue in effect and be enforceable to the fullest extent permitted by law.

9. Sub-Lessor covenants that upon paying the rent and performing the covenants to be performed by Sub-Lessee, Sub-Lessee shall peaceably and quietly have, hold and enjoy the Premises for the Term, including any renewal or extension periods. Sub-Lessee shall at all times comply with all applicable laws, regulations or other directive or decisions of any lawful authority, and with the reasonable rules and regulations that may be issued by Lessor or Sub-Lessor from time to time.

10. In consideration of the signing of this Agreement, the parties hereto for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed, national origin, gender, age, handicap, or sexual orientation with reference to this subject matter of this contract, no matter how remote.

11. Sub-Lessor shall be responsible for all landscape and other maintenance of the Premises during the Term.

12. This Agreement shall be governed by the laws of the State of North Carolina, without regard for choice of law rules. Venue for any action associated with this Lease shall be in the Superior Court of Orange County, North Carolina.

IN WITNESS WHEREOF, the parties have caused the due execution of this lease on the date and year first above written.

SUB-LESSOR: TOWN OF CARRBORO

BY: \_\_\_\_\_  
David Andrews  
Town Manager

LESSEE: CAT'S CRADLE

BY: \_\_\_\_\_

This the 22nd day of June in the year 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils,

**Noes:** Council Member Sammy Slade

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**CIP ORDINANCE UPDATES FOR MORGAN CREEK GREENWAY AND SOUTH GREENSBORO STREET SIDEWALK**

The purpose of this agenda item was to amend the Capital Project Ordinances for the Morgan Creek Greenway and South Greensboro Street Sidewalk to reflect the reallocation of Orange County Transit funds and the allocation of STBGDA-CRRSAA funds.

**A motion was made by Council Member Foushee, seconded by Council Member Romaine, to approve the following ordinance:**

**AMENDMENT TO MORGAN CREEK GREENWAY CAPITAL PROJECT  
ORDINANCE  
Ordinance No. 25/2020-21**

WHEREAS, the Town Council on June 21, 2011 adopted the Morgan Creek Greenway Capital Improvement Project Ordinance No. 22/2010-11 and subsequently amended it on June 16, 2015 (Ordinance No. 19/204-15); February 6, 2018 (Ordinance No. 13/2017-18); and December 4, 2018 (Ordinance No.8/2018-2019); and

WHEREAS, the Town has executed a Municipal Agreement with NCDOT to administer federal funding to design and construct the Morgan Creek Greenway; and,

WHEREAS, the Town was awarded \$199,837 of Orange County Transit Funds; and,

WHEREAS, additional funding is needed to prepare updated construction plans and bid documents for the project; and,

WHEREAS, the Orange County Staff Working Group has approved the reallocation of a portion of the Orange County Transit Funds earmarked for the South Greensboro Street Sidewalk Project to Phase I of the Morgan Creek Greenway;

NOW, THEREFORE PURSUANT TO N.C.G.S 159-13.2, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CARRBORO THAT:

Section 1: Revenues for the Morgan Creek Greenway Capital Improvement Project No. 8/2018-2019 is hereby amended as follows:

	Current Appropriation	Increase (Decrease)	New Appropriation
Total	\$1,567,500.00	\$175,000.00	\$1,742,500.00
Federal Funds (STP-DA)	\$524,000.00	\$0.00	\$524,000.00
Federal Funds (TAP-DA)	\$730,000.00	\$0.00	\$730,000.00
Orange Co Transit Funds (Go Triangle)	\$199,837.00	\$175,000.00	\$374,837.00
Bond Funds	\$113,663.00	\$0.00	\$113,663.00

Section 2: The expenses for the project have been amended and appropriated as follows:

	Current Appropriation	Increase (Decrease)	New Appropriation
Design and Engineering	\$379,231.00	\$175,000.00	\$554,231.00
Construction	\$958,394.00	\$0.00	\$958,394.00
Contingency	\$229,875.00	\$0.00	\$958,394.00
Total Appropriation	\$1,567,500.00	\$175,000.00	\$1,742,500.00

Section 3: Funds appropriated shall be available until all project activity is completed.

Section 4: The Town Manager is authorized to arrange for Sungate Design, the Town Engineer, to complete the additional engineering and design work to bid the project.

Section 5: Within five (5) days after this ordinance is adopted, the Town Clerk shall file a copy of this ordinance with the Finance Director and Planning Director.

This the 22nd day of June in the year 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O’Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**A motion was made by Council Member Foushee, seconded by Council Member Romaine, to approve the following ordinance:**

AMENDMENT TO SOUTH GREENSBORO STREET SIDEWALK CAPITAL  
IMPROVEMENT PROJECT ORDINANCE  
Ordinance No. 26/2020-21

WHEREAS, the Town Council on June 27, 2017 adopted a Capital Improvement Project Ordinance for the South Greensboro Street Sidewalk design and construction; and,

WHEREAS, the Town was awarded \$552,340.00 of Orange County Transit Funds; and,

WHEREAS GoTriangle has authorized the reallocation of \$175,000 of Transit Funds from the South Greensboro Street project to the Morgan Creek Greenway project; and,

WHEREAS, the Town received \$206,343 of STBGDA Corona Virus Relief Funds through the DCHC MPO, which have been allocated to the South Greensboro Street project; and,

WHEREAS, the Town Council has authorized the Town Manager to execute a Municipal Agreement with NCDOT to administer the federal funding appropriated to design and build the South Greensboro Street Sidewalk; and,

WHEREAS, it is necessary to amend the capital project ordinance to appropriate the additional funding.

NOW, THEREFORE PURSUANT TO N.C.G.S 159-13.2, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CARRBORO THAT:

1. The revenues for the South Greensboro Street Sidewalk are amended as follows:

	Current Appropriations	Increase (Decrease)	New Appropriation
STBGP-DA FUNDS	\$ 277,386.00		\$277,386.00
STP-DA FUNDS	\$ 437,240.00		\$437,240.00
CMAQ FUNDS	\$ 440,000.00		\$440,000.00
ORANGE COUNTY TRANSIT FUNDS	\$ 552,340.00	(\$175,000.00)	\$377,340.00
STBGDA CORONAVIRUS RELIEF FUNDS		\$ 206,343.00	\$206,343.00
BOND PROCEEDS	<u>\$ 43,153.00</u>		<u>\$ 43,153.00</u>
TOTAL	\$1,750,119.00	\$ 31,343.00	\$1,781,462.00

2. The expenditures for the project are amended as follows:

	Current Appropriations	Increase (Decrease)	New Appropriations
Right of Way Acquisition	\$ 50,000.00		\$ 50,000.00
Design and Engineering	\$ 200,273.00	\$214,727.00	\$ 415,000.00
Construction	\$ 1,378,306.00	(\$214,727.00)	\$ 1,163,579.00
Contingency	<u>\$ 121,540.00</u>	<u>\$ 31,343.00</u>	<u>\$ 152,883.00</u>
TOTAL	\$ 1,750,119.00	\$ 31,343.00	\$ 1,781,462.00

3. This Capital Project Improvement Ordinance is hereby authorized until all project activity is completed.

4. Within five (5) days after this ordinance is adopted, the Town Clerk shall file a copy of this ordinance with the Finance Director and Planning Director.

This the 22nd day of June, 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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#### **ADOPTION OF AN ORDINANCE LIMITING THE AMOUNT OF CONTRIBUTIONS TO CANDIDATES**

The purpose of this item was for the Council to adopt an ordinance limiting campaign contributions to any candidate for town office.

**Motion was made by Council Member Romaine, seconded by Council Member Foushee to approve the following ordinance:**

AN ORDINANCE TO REENACT THE EXPIRING PROVISIONS OF SECTION 15-15 OF THE CARRBORO TOWN CODE, WHICH LIMIT THE AMOUNT OF CONTRIBUTIONS THAT CAN BE MADE TO CANDIDATES FOR TOWN OFFICES

Ordinance No. 27/2020-21

THE TOWN COUNCIL OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Section 5-15 of the Carrboro Town Code, which by its own terms expires automatically 60 days prior to the opening of filing for the 2021 regular town election, is reenacted and amended to read as follows:

#### **Section 5-15 Limitation on Campaign Contributions for Town Offices**

(a) No person, political committee, or other entity may contribute to any candidate for the office of mayor or any candidate for the office of councilman any money or in-kind contribution in any election (regular or special) in excess of \$250.00.

(b) The definitions in Article 22A of Chapter 163 of the General Statutes apply to the provisions of this section. In addition, as used herein, the word "candidate" also means a political committee authorized by the candidate for that candidate's election.

(c) The provisions of this section do not apply to contributions made by a candidate or a candidate's spouse or domestic partner registered with a government agency.

(d) The provisions of this section are authorized and shall be interpreted in accordance with Sections 2-8 and 2-9 of the Town Charter, as established by Chapter 97 of the 2008 Session Laws.

(e) The provisions of this section shall expire 60 days prior to the opening of filing for the 2023 regular town election, except that such expiration will not make lawful any contribution made before that date that is in violation of this section.

Section 2. This ordinance shall become effective upon adoption. The section it replaces is not immediately repealed but shall expire 60 days prior to the opening of filing for the 2021 regular town election. The Town Clerk shall replace the expiring version of Section 5-15 in the Town Code with the version set forth above.

This the 22nd day of June, 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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**AUTHORIZATION OF THE TOWN MANAGER TO EXECUTE A REVISED  
MEMORANDUM OF AGREEMENT TO ACCEPT A TRANSPORTATION DEMAND  
MANAGEMENT GRANT FUNDS**

The purpose of this agenda item was to provide Council an update on the status of the TDM grant and to consider authorizing the Town Manager to enter into a revised MOA.

**A motion was made by Council Member Foushee, seconded by Council Member Romaine, to approve the following resolution:**

A RESOLUTION AUTHORIZING THE MANAGER TO EXECUTE A MEMORANDUM OF AGREEMENT WITH THE TOWN OF CHAPEL HILL FOR CARRBORO'S PARTICIPATION IN THE REGIONAL TRANSPORTATION DEMAND MANAGEMENT PROGRAM FOR FISCAL YEAR 2020-21

WHEREAS, the North Carolina Department of Transportation, Capital Area MPO, and Durham-Chapel Hill-Carrboro MPO have provided funding to the Triangle J Council of Governments to support Transportation Demand Management activities in the region; and,

WHEREAS, the Triangle J Council of Governments has issued a call for Transportation Demand Management grant applications for FY2020-21; and,

WHEREAS, the Town of Carrboro has partnered with the Town of Chapel Hill since 2010 on Transportation Demand Management program promotions; and,

WHEREAS, Carrboro has developed a set of Transportation Demand Management activities as a sub-recipient of the Town of Chapel Hill's FY2020-21 Transportation Demand Management grant application; and,

WHEREAS, Carrboro will receive up to \$1,500 (a 50% reimbursement on up to \$3,000 in expenses) for Transportation Demand Management activities (such as Open Streets staffing and a portion of the Transportation Planner's salary).

NOW, THEREFORE, BE IT RESOLVED by the Carrboro Town Council that the Council approves continued participation in an application for regional Transportation Demand Management funding in FY2020-21, and authorizes the Town Manager to execute a Memorandum of Agreement with the Town of Chapel Hill for that purpose.

Within five (5) days after this resolution is adopted, the Town Clerk shall file a copy of this resolution with the Town Manager and Finance Director.

This resolution shall be effective upon adoption by the Carrboro Town Council.

This the 22nd day of June, 2021.



**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O’Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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**DESIGNATION OF FUND BALANCE FOR FY 2020-21 BUDGET ITEMS NOT YET SPENT OR ENCUMBERED**

The purpose of this agenda item was to designate fund balance in the General Fund to carry over to next year for certain budget items where funds have not been spent or encumbered.

**A motion was made by Council Member Foushee, seconded by Council Member Romaine, to approve the following resolution:**

**A RESOLUTION APPROVING DESIGNATION OF FUND BALANCE FOR FY 2020-21 BUDGET FUNDS NOT YET SPENT OR ENCUMBERED**

WHEREAS, the Town Manager has described to the Town Council the desirability of adopting a resolution to designate fund balance for certain projects:

BE IT RESOLVED by the Town Council that fund balance in the General Fund is designated to fund the following items:

Department	Description	Amount
Public Works	OWASA Subsidy	\$30,070.00
Public Works	Traffic Calming Devices	21,572.00
Public Works	Powell Bill Funds	401,500.00
Planning	Bicycle Friendly Community	32,102.00
Planning	Traffic Counters	6,750.00
Climate Action	Grassroots Partnerships	48,221.00
Advisory Boards	Truth Plaque	9,411.00
Police	Seizure Funds – State	25,973.00
	Total	\$575,599.00

*Summary of Designated Fund Balance Budget Items*

**OWASA Subsidy** – The unspent portion of the OWASA sewer subsidy budget is reserved annually until spent entirely.

**Traffic Calming Devices** – The unspent portion will be used to fund traffic calming devices for next year.

**Powell Bill Funds** – The unspent portion of the Powell Bill Funds are required to be spent on Powell Bill eligible expenses and can be used on such future year expenditures.

**Bicycle Friendly Community** – These funds will be used to purchase bike loop detectors in order to expand the capacity to measure bicyclist traffic and pedestrians around town.

**Traffic Counters** – These funds will be used to purchase traffic counters in order to expand the capacity to measure vehicle traffic and speeds around town.

**Grassroots Partnerships** – These funds are used for grassroots outreach efforts related to various Town initiatives.

**Truth Plaque** – These funds are used to create historical markers throughout the Town.

**Seizure Funds (State)** – The Police Department uses these restricted revenues to supplement ongoing investigations. Unexpended funds in a given year are carried over to the next year.

BE IT FURTHER RESOLVED, that upon confirmation of the actual amount for the above projects by the independent audit for the year ending June 30, 2021, the Town Manager may transfer fund balance up to the amount confirmed by the independent audit to the appropriate department(s) without further action by the Town Council.

This the 22nd day of June, 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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**CONSIDERATION OF TEXT AMENDMENTS TO THE LAND USE ORDINANCE FOR COMPLIANCE WITH N.C.G.S. CHAPTER 160D**

The purpose of this agenda item was for the Town Council to consider text amendments that would bring the Land Use Ordinance into conformance with N.C.G.S. Chapter 160D.

**A motion was made by Council Member Foushee, seconded by Council Member Romaine, to approve the following resolution:**

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:

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

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 the provisions in Section 15-2 of the Land Use Ordinance which specify the authority granted to the Town through state enabling legislation.

**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 in the public interest because the Town seeks to remain consistent with its adopted plans or policies.

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

**Section 4. This resolution becomes effective upon adoption.**

This the 22nd day of June, 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**A motion was made by Council Member Foushee, seconded by Council Member Romaine, to approve the following ordinance:**

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO  
CONFORM WITH RECENT CHANGES IN STATE LEGISLATION RELATING TO THE  
ADOPTION OF CHAPTER 160D  
Ordinance No. 28/2020-21

THE CARRBORO TOWN COUNCIL ORDAINS:

**Section 1.** Section 15-2, Authority, is amended to update the references to the North Carolina General Statutes to read as follows:

**Section 15-2 Authority.**

This chapter is adopted pursuant to the authority contained in Article 2 of G.S. Chapter 160D; Article 21 (Part 6) of G.S. Chapter 143; G.S. 143-215.6A; G.S. 143-214.5; Article 4 of G.S. Chapter 113A; as well as Chapter 527 of the Session Laws of 1953; Chapters 122 and 136 of the Session Laws of 1963; Chapter 260 of the Session Laws of 1977; Chapter 753 of the Session Laws of 1979; Chapters 233 and 476 of the 1987 Session Laws; Chapters 216 and 484 of the 2009 Session Laws; and other state and local laws. (AMENDED 4/27/82; (REWRITTEN 6/26/12).

**Section 2.** Section 15-3, Jurisdiction, is rewritten to read as follows:

**Section 15-3 Jurisdiction.**

(a) This chapter shall be effective throughout the town's planning jurisdiction. The town's planning jurisdiction comprises the area described by Chapters 122 and 636 of the Session Laws of 1963, as modified from time to time in accordance with Section 160D-200; 202; 903 of the North Carolina General Statutes.

(b) If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the local governments may, by mutual agreement and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction for the entire parcel to any one of those local governments in accordance with the process described in G.S. 160D-203.

(c) In addition to other locations required by laws, a copy of a map showing the boundaries of the town's planning jurisdiction shall be available for public inspection in the planning department. Maps may be maintained either in paper or digital format.

**Section 3.** Chapter 15 of the Town Code, the Land Use Ordinance, is amended to replace all references to the 'Board of Aldermen,' or 'Board' to the 'Town Council' or 'Council,' respectively.

**Section 4.** Section 15-6, Relationship to Land Use Plan is rewritten to read as follows:

**Section 15-6 Relationship to Comprehensive Plan, Land Use Plan and other Adopted Plans.**

(a) Pursuant to the intent and requirements of G.S. 160D-501, the Town shall adopt a Comprehensive Plan setting forth the goals, policies, and programs intended to guide the present and future physical, social, and economic development of the Town. The Comprehensive Plan may, among other topics, address any of the following: land use, economic sustainability, affordable housing, recreation, parks and open space, transportation, water and wastewater, energy and utilities, environmental systems and resilience, stormwater management, and public services.

(1) The adoption and amendment of the comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by G.S. 160D-601 and Article XX of this chapter.

(2) The comprehensive plan shall periodically be reviewed and maintained to ensure the relevance of the policies to current and projected conditions.

(b) It is the intention of the Town Council that this chapter implement the planning policies adopted by the Council for the town and its extraterritorial planning area, as reflected in the Comprehensive Plan, Land Use Plan and other planning documents. While the Council reaffirms its commitment that this chapter and any amendment to it be in conformity with adopted planning policies, the Council hereby expresses its intent that neither this chapter nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

- (1) If an amendment to the Official Zoning Map is adopted and the action is deemed inconsistent with the adopted Comprehensive Plan, the Official Zoning Map amendment shall have the effect of also amending the Future Land Use Map of the Comprehensive Plan.
- (2) In such case, no additional application or fee for an amendment to the Comprehensive Plan shall be required of the applicant.

**Section 5.** Subsection 15-8(a), Fees, is amended to delete the reference to conditional use permits.

**Section 6.** Section 15-15 (Basic Definitions and Interpretations) of the Carrboro Land Use Ordinance is amended by adding twenty-two new definitions and modifying sixteen existing definitions, “adult care home, class B,” “applicable codes,” “berm,” “childcare home, class A,” “childcare home, class B,” “conditional use permit,” “developer,” “development,” “drainage facilities,” “maternity home,” “modular home,” “nursing care home,” “planning and development regulation jurisdiction,” “special use permit,” “subdivision,” and “wireless facility”, as shown below, and by renumbering the entire section in alphabetical order.

**ADMINISTRATIVE DECISION.** Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this chapter, also referred to as administrative determinations.

**ADMINISTRATIVE HEARING.** A proceeding to gather facts needed to make an administrative decision.

**BERM.** A human-made mound of earth whose length exceeds its height by a factor or at least five and whose side slopes are constructed at a steepness ratio of 6:1 or steeper. (The side slope of a berm shall not be constructed steeper than 2:1) **(AMENDED 05/19/98)**

**BONA FIDE FARM.** Agricultural activities as set forth in G.S. 160D-903.

**CHARTER.** As defined in G.S. 160A-1(2).

**CHILD CARE HOME, CLASS A.** All group homes for minor children other than Class B group homes. This definition specifically includes but is not limited to group homes for minor children who are in need of such a residential arrangement because they are orphaned, abused, neglected, or dependent, or who have a “handicap” as defined in the Fair Housing Act (42 U.S.C. § 3602), or are “persons with disabilities” as that term is defined in G.S. 160D-907(b)(2). **(AMENDED 6/22/04)**

**COMPREHENSIVE PLAN.** A comprehensive plan that has been officially adopted by the Town Council pursuant to G.S. 166D-501.

**CONDITIONAL USE PERMIT.** A permit that was issued by the Town Council, prior to June 22, 2021, authorizing the recipient to make use of property in accordance with the requirements of this chapter as well as any additional requirements imposed by the Town Council. Pursuant to G.S. Chapter 160D, all valid conditional use permits were automatically converted to special use permits-A on June 22, 2021. [See also special use permit.]

**CONDITIONAL ZONING.** A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

**DETERMINATION.** A written, final, and binding order, requirement, or determination regarding an administrative decision.

**DEVELOPER.** A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

**DEVELOPMENT.** Any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in G.S. 160D-802.
- d. The initiation or substantial change in the use of land or the intensity of use of land.

**DEVELOPMENT APPROVAL.** An administrative or quasi-judicial approval made pursuant to this chapter that is written and that is required prior to commencing development or undertaking a specific activity,

project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.

**DEVELOPMENT REGULATION.** A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to G.S. Chapter 160D, this chapter or the Town Code or Town charter.

**DRAINAGE FACILITIES.** Any temporary or permanent natural or human-made facility utilized to divert, convey, or store stormwater runoff. Such facilities shall include (but are not limited to): drainage pipes and culverts, swales and ditches, intermittent and permanent streams, catch basins, drainage junction boxes and manholes, yard inlets, retention and detention basins and ponds, curbing which will carry runoff, dams and weirs, and culvert outlet stabilization and protection devices. **(AMENDED 04/03/90)**

**DWELLING.** Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

**EVIDENTIARY HEARING.** A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this chapter. [See Article VI.]

**INTERESTED PERSON.** For purposes of quasi-judicial evidentiary hearings an interested person or party is one who has standing as defined in G.S. 160D-1402(c). [See Article VI].

**LANDOWNER OR OWNER.** The holder of the title in fee simple. Absent evidence to the contrary, the Town may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as the agent or representative for the purpose of making applications for development approvals.

**LEGISLATIVE DECISION.** The adoption, amendment, or repeal of a regulation under G.S. Chapter 160D, and Article XX of this chapter. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of G.S. Chapter 160D.

**LEGISLATIVE HEARING.** A hearing to solicit public comment on a proposed legislative decision. [See Article XX.]

**MULTI-PHASE DEVELOPMENT.** A development at is submitted for development permit approval to occur in more than one phase and subject to a master development plan with committed elements showing the type and intensity of use of each phase. [See Article VIII.]

**MANUFACTURED HOME.** A structure as defined in G.S. 143-145(7). [See also Mobile Home.]

**MATERNITY HOME.** A group home licensed as a maternity home by the North Carolina Department of Health and Human Services pursuant to G.S. § 131D-10.10. **(AMENDED 6/22/04)**

**PLANNING AND DEVELOPMENT REGULATION JURISDICTION.** The area within the town limits as well as the area beyond the town limits within which the town is authorized to plan for and regulate development pursuant to the authority granted in Article 2 of Chapter 160D of the N.C. General Statutes and Chapter 122 of the Session Laws of 1963. **(AMENDED 6/22/82)**

**QUASI-JUDICIAL DECISION.** A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board, Town Council or board of adjustment, to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

**SITE PLAN.** A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way,

intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

**SITE SPECIFIC VESTING PLAN.** An approved plan that describes, with reasonable certainty, using a combination of graphic illustrations and written notes, the type and intensity of use for a specific parcel or parcels of property located within the Town's planning jurisdiction. Conditional districts, planned unit developments, special use permits and zoning permits can be approved as site specific vesting plans in accordance with G.S. 160D-108. [See Article VIII.]

**SPECIAL USE PERMIT.** A permit issued by the Town Council (special use permit-A) or board of adjustment (special use permit-B) to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. All valid special use permits were automatically converted to special use permits-B on June 22, 2021. [See also conditional use permit.]

**SUBDIVISION.** All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and including all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this chapter applicable strictly to subdivisions: (i) the combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this chapter, (ii) the division of land into parcels greater than ten acres where no street right-of-way dedication is involved; or (iii) the public acquisition by purchase of strips of land for widening or opening of streets or for public transportation system corridors; or (iv) the division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards set forth in this chapter; or (v) the division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the North Carolina General Statutes.

**WIRELESS FACILITY.** Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. Also refers to Wireless Telecommunications Facility. The term shall not include any of the following: **(AMENDED 6/23/20)**

- (1) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- (2) Wireline backhaul facilities.
- (3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.
- (4) Amateur radio antennas. See also, Section 15-150(5) Towers and antennas constructed on residential property and G.S. § 160D-931

**ZONING MAP AMENDMENT OR REZONING.** An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of the town that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by the town, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

**Section 7.** Section 15-21, Appointment and Terms of Planning Board Members, is amended by adding a new subsection (a1) to read as follows:

(a1) To ensure proportional representation, the number of ETJ representatives on the planning board shall be based on the population for residents within the town's extraterritorial planning area. The population estimates for this calculation shall be updated no less frequently than after each decennial census, and pursuant to G.S. 160D-307, board representation adjusted as needed to maintain proportionality.

**Section 8.** Chapter 15 of the Town Code, the Land Use Ordinance is amended by replacing any gender specific terms or pronouns such as 'chairman' or 'himself' with gender neutral terms such as 'chair' or 'themselves' wherever such terms appear in the ordinance.

**Section 9.** Chapter 15 of the Town Code, the Land Use Ordinance is amended by changing the names of 'conditional use permits' and 'special use permits' to 'special use permits-A' and 'special use permits-B,' respectively throughout the ordinance.

**Section 10.** Subsection 15-22(b) is rewritten to read as follows:

(b) The board shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas to assist with the preparation of advisory comments and recommendations for the Town Council and board of adjustment, or as otherwise directed by the Council.

**Section 11.** Section 15-25, Powers and Duties of the Planning Board, is amended by adding a new provision (4) allowing the planning board to make recommendations to the board of adjustment relating to special use permits-B, and renumbering the existing provision (4) to provision (5).

**Section 12.** Subsection 15-26(a), Advisory Committees, is rewritten to read as follows:

(a) From time to time, the Town Council may appoint one or more individuals to assist the planning board to carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Town Council may appoint advisory committees to consider long range transportation plans, including pedestrian and bicycle plans, housing plans, economic development plans, etc.

**Section 13.** Subsection 15-26(d) is rewritten to read as follows:

(d) If an advisory committee provides direct advice to the Town Council (i.e. it does not report to the planning board), a member of that 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. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

**Section 14.** Subsection 15-27(h)(3) is amended by adding the words, 'character and,' to read as follows:

(3) Use the studies above as the basis of its development of, and recommendations for, additional policies, objectives, goals, plans, ordinances, and administrative actions that will preserve and enhance that special character and relate to its growth.

**Section 15.** Section 15-29, Appointment and Terms of Board of Adjustment is amended to add a new subsection (a1) to read as follows:

(a1) To ensure proportional representation, the number of ETJ representatives on the board of adjustment shall be based on the population for residents within the town's extraterritorial planning area. The population estimates for this calculation shall be updated no less frequently than after each decennial census, and pursuant to G.S. 160D-307, board representation adjusted as needed to maintain proportionality.

**Section 16.** Subsection 15-32(f) is rewritten to read as follows:

(f) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order if made by or at the initiative of the member directly affected or to decide an objection to a member's participation at or prior to a hearing

**Section 17.** Subsection 15-34(a), Powers and Duties of the Board of Adjustment, is amended to add a new provision (8) to read as follows:

(8) Questions involving administrative determinations as provided in Subsection 15-93.1.

**Section 18.** Section 15-37, Land Use Administrator, is amended by adding two new paragraphs

defining new conflicts of interest provisions for staff, to read as follows:

Pursuant to G.S. 160D-109(c), no staff member shall make a final decision on an administrative decision required by this chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with their duties or with the interest of the Town, as determined by the Town.

**Section 19.** Subsection 15-40(a) is rewritten to read as follows:

(a) The Town Council, in considering special use permit-A applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Articles IV and VI of this chapter.

Members of the Town Council shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to:

- (1) A member having a fixed opinion prior to hearing the matter that is not susceptible to change,
- (2) Undisclosed ex parte communications,
- (3) A close familial, business, or other associational relationship with an affected person, or
- (4) A financial interest in the outcome of the matter.

**Section 20.** Section 15-42, Appointment and Terms of Appearance Commission, is amended by rewriting subsection (a) and by adding a new subsection (a1) to read as follows:

(a) There shall be an appearance commission consisting of nine members. Seven members, appointed by the Town Council, shall reside within the town. One member, appointed by the Orange County Board of Commissioners, shall reside within the town's extraterritorial planning area. One member, appointed by the Orange County Board of Commissioners, shall reside within the town's joint planning transition area. If, despite good faith efforts, residents of the extraterritorial planning and joint planning transition areas cannot be found to fill the seats reserved for residents of such area, then the Orange County Board of Commissioners may appoint other residents of the county (including residents of the Town of Carrboro) to fill these seats. If the Orange County Board of Commissioners fails to make these appointments within ninety days after receiving a resolution from the Town Council requesting that they be made, the Town Council may make them.

(a1) To ensure proportional representation, the number of ETJ representatives on the board of adjustment shall be based on the population for residents within the town's extraterritorial planning area. The population estimates for this calculation shall be updated no less frequently than after each decennial census, and pursuant to G.S. 160D-307, board representation adjusted as needed to maintain proportionality.

**Section 21.** Section 15-42, Appointment and Terms of Appearance Commission, is amended by adding a new subsection (d1) to read as follows:

(d1) Whenever a historic district is designated, subject to the provisions of Section 15-338 of this chapter, in the town's extraterritorial planning area, the Town Council shall appoint persons residing in the town's extraterritorial planning area to serve on the Appearance Commission to provide proportional representation as required by G.S. 160D-307.

**Section 22.** Subsection 15-43(b) is rewritten to read as follows:

(b) Since the commission has only advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Articles IV and VI except when, pursuant with subsection 15-43(f), the commission is acting in its capacity as the historic district commission in accordance with Article XXI. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.

**Section 23.** Article III, Part VII., Membership Limitations on Boards, Committees, Advisory



Groups, and Commissions, is amended by adding a sentence requiring newly appointed board members to take an oath of office prior to beginning a term of service.

**Section 24.** Section 15-46, Permits Required, is rewritten to read as follows:

**Section 15-46 Permits Required.**

(a) Subject to Section 15-271 (Sign Permits) and subsection (e) of this section, the use made of property may not be substantially changed (see Section 15-152), substantial clearing, grading or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one of the following permits: **(AMENDED 10/22/91)**

- (1) A zoning permit issued by the administrator;
- (2) A special use permit-B issued by the board of adjustment;
- (3) A special use permit-A issued by the Town Council.

(a1) Pursuant to G.S. sections 160D-705(c) and 160D-102(30), any valid 'conditional use permit' issued prior to June 22, 2021 shall automatically convert to a 'special use permit-A.' Any valid 'special use permit' shall automatically convert to a 'special use permit-B.' Any 'conditional use zoning district,' adopted in accordance with section 15-141.3 and Article XX of this chapter shall be deemed a 'conditional zoning district' and the 'conditional use permit' issued concurrently with the establishment of the district shall be deemed a valid 'special use permit-A.' Requests for modifications to special use permits shall be consider in accordance with the procedures in section 15-64 of this chapter.

(b) Zoning permits, special use permits-B, special use permits-A, and sign permits are issued under this chapter in respect to plans submitted by the applicant that demonstrate compliance with the ordinance provisions contained herein. Such plans as are finally approved are incorporated into any permit issued in reliance thereon, and except as otherwise provided in Section 15-64, all development shall occur strictly in accordance with such approved plans. Approvals shall be in writing, issued in print or electronic form, and may contain a provision that the development shall comply with all applicable State and local laws. **(AMENDED 1/10/81)**

(c) Physical improvements to land to be subdivided may not be commenced except in accordance with a special use permit-A issued by the Town Council (for major subdivisions containing more than twelve lots and all subdivisions in watershed districts) or a special use permit-B issued by the board of adjustment (for major subdivisions outside the watershed districts containing between five and twelve lots) or after final plat approval by the planning director for minor subdivisions (see Part II of this article). **(AMENDED 12/15/87)**

(d) A zoning permit, special use permit-A, special use permit-B, or sign permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority. All such permits issued with respect to tracts of land in excess of one acre (except sign permits and zoning permits for single-family residential uses and duplexes) shall be recorded in the Orange County Registry after execution by the record owner as provided in Section 15-63. **(AMENDED 5/26/81)**

(e) Notwithstanding the provisions of subsection (a) of this section, no permit under this chapter shall be required for the substantial alteration of a building or structure located within a B-1(c), B-1(g) or B-2 zoning district if such alteration does not change the exterior of such building or structure in any substantial way. **(AMENDED 10/22/91)**

(f) Property located in the town's extraterritorial planning area and development regulation jurisdiction that is used for bona fide farm purposes, as defined in G.S. sections 106-581.1 and 106-743.2 is exempt from the regulations in this chapter. As used in this subsection, "property" means a single tract of property or an identifiable portion of a single tract. Property that ceases to be used for bona fide farm purposes becomes subject to exercise of the town's extraterritorial planning and development regulation jurisdiction under this chapter. [See also the definition of bona fide farm in Article II of this chapter.]

**Section 25.** Section 15-48, Who May Submit Permit Applications, is amended by adding an additional sentence at the end of the subsection 15-48(a) that reads as follows:

An easement holder may also apply for development approval for such development as is authorized by the easement.

**Section 26.** Subsection 15-48.1(c) is rewritten to read as follows:

(c) Following compliance with the provisions of subsection (b), the applicant shall attend a Joint Advisory Board meeting comprising at least the following boards: Planning Board, Appearance Commission, Transportation Advisory Board, and Environmental Advisory Board. The planning staff may notify the Economic Sustainability Commission, Recreation and Parks Commission, Northern Transition Area Advisory Committee, Affordable Housing Advisory Commission, or other boards when issues relevant to those boards are raised by a proposed development and members of those boards may attend. (AMENDED 06/25/19)

**Section 27.** Subsection 15-49(a), Applications To Be Complete, is rewritten to read as follows:

(a) All applications for zoning permits, special use permits-A, special use permits-B, or sign permits must be complete before the permit-issuing authority is required to consider the application.

**Section 28.** Subdivision 15-49(c1)(1) is amended to corrected to replace the word ‘by’ in the last phase of the last sentence with ‘but’ to read, “and concerns about potentially harmful pollutants including but not limited to dust, debris and aerosols.”

**Section 29.** Subsection 15-50(a) is amended by deleting the words, ‘conditional or’ as follows:

(a) Before submitting an application for a special use permit for a major subdivision, the applicant shall comply with the requirements of this section.

**Section 30.** Subsection 15-50(c) is rewritten to read as follows:

(c) After the site analysis plan has been submitted, the planning staff shall schedule a mutually convenient date to walk the property with the applicant and the applicant’s site designer. Designated members of the Planning Board, Appearance Commission, Transportation Advisory Board, Environmental Advisory Board, Northern Transition Area Advisory Commission, and Affordable Housing Advisory Commission, or other boards when issues relevant to those boards are raised by the proposed subdivision, shall be notified of the date and time of this “on-site walkabout.” The purpose of this visit is to familiarize town officials with the property’s special features and to provide an informal opportunity for an interchange of information as to the developer’s plans and the town’s requirements. (REWRITTEN 02/25/14) (AMENDED 06/25/2019).

**Section 31.** Subdivision 15-50(g)(14) is amended to reference the Design and Management Handbook for Preservation Areas, as Appendix K.

**Section 32.** Subsection 15-52(f) is amended to update the reference to the North Carolina General Statutes from Part 3. N.C. Gen. Stat. Chapter 160A, Art. 19, Part 3E. to G.S. 160D Art. 9, Part 3.

**Section 33.** Section 15-53 is amended to reference the applicable performance guarantee provisions in 15-60(b), to read as follows:

In cases when, because of weather conditions or other factors beyond the control of the zoning permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning permit recipient to comply with all of the requirements of this chapter (including approved plans) before commencing the intended use of the property or occupying any buildings, the administrator may authorize the commencement of the intended use or occupancy of buildings (insofar as the requirements of this chapter are concerned) if the permit recipient provides a surety bond, letter of credit or other security that complies with all of the standards applicable to security guarantees in subsection 15-60(b) of this chapter and is satisfactory to the administrator.

**Section 34.** Subsection 15-54(c) is amended to read as follows:

(c) The board of adjustment or the Town Council, respectively, shall issue the requested permit unless it concludes, based upon the information submitted at the evidentiary hearing, that:

- 1) The requested permit is not within its jurisdiction according to the table of permissible uses;
- 2) The application is incomplete, or
- 3) If completed as proposed in the application, the development will not comply with one or more requirements of this chapter (not including those the applicant is not required to comply with under the circumstances specified in Article VIII, Nonconforming Situations, involving permit choice);

- 4) If completed as proposed, the development, more probably than not:
  - a) Will materially endanger the public health or safety; or
  - b) Will substantially injure the value of adjoining or abutting property; or
  - c) Will not be in harmony with the area in which it is to be located; or
  - d) Will not be in general conformity with the Comprehensive Plan, Land Use Plan, Long Range Transportation Plans, or other plans officially adopted by the Council.

**Section 35.** Section 15-54.1, Affordable Housing Goal and Alternative Methods of Achieving the Goal, is amended by deleting the words ‘or conditional’ in subdivisions (c)(1) and (c)(3).

**Section 36.** Subsection 15-54.1(e) is rewritten to read as follow:

(e) The applicant for any residential development containing five or more lots or dwelling units, and therefore required to obtain either a special use permit-B from the Board of Adjustment or a special use permit-A from the Town Council, shall be required to participate in an Affordable Housing Review Meeting with the Town Council if the residential development does not meet the Council’s affordable housing goal in any of the ways described in this section or Section 15-182.4.

**Section 37.** Section 15-55 is amended by replacing the word ‘board’ with ‘authority’ in the first sentence in subsection (a), and replacing the word ‘board’ with ‘council,’ and ‘board of adjustment,’ and adding the word ‘evidentiary,’ in front of the word ‘hearing,’ in the second sentence in subsection (a). Subsection 15-55(b) is amended by replacing the word ‘board,’ with ‘authority’ and the word ‘his’ with ‘their’ to read as follows:

(a) The burden of presenting a complete application (as described in Section 15-49) to the permit-issuing authority shall be upon the applicant. However, unless the council or board of adjustment informs the applicant at the evidentiary hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing) the application shall be presumed to be complete.

(b) Once a complete application has been submitted, the burden of presenting evidence to the permit-issuing authority sufficient to lead it to conclude that the application should be denied for any reasons stated in Subdivisions 15-54(c)(1), (3), or (4) shall be upon the party or parties urging this position, unless the information presented by the applicant in their application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists for denying the application as provided in Subdivision 15-54(c)(1), (3), or (4).

**Section 38.** Subsection 15-55.1(3) is rewritten to read as follows:

- (3) Will be in general conformity with the Comprehensive Plan, Land Use Plan, Long Range Transportation Plans, and other plans officially adopted by the Council.

**Section 39.** Subsection 15-56(a) is amended by adding the word ‘evidentiary’ before the word ‘hearing’ and the letter ‘B’ after the word permit in the first sentence.

**Section 40.** Subsection 15-56(c) is rewritten to read as follows:

(c) The board of adjustment may, by general rule applicable to all cases or any class of cases, or on a case by case basis, refer applications to the planning board, the appearance commission, transportation advisory board, the environmental advisory board, the affordable housing advisory commission, or to other relevant advisory board, to obtain the recommendations of some or all of these boards. **(REWRITTEN 02/25/14, AMENDED 06/25/19).**

**Section 41.** Section 15-57, Recommendations on Conditional Use Permits, is rewritten to read as follows:

**Section 15-57 Recommendations on Special Use Permits-A.**

(a) Before being presented to the Town Council, an application for a special use permit-A shall be referred to the planning board, appearance commission, transportation advisory board, environmental advisory board, the affordable housing advisory commission, or other relevant advisory board for joint review and action in accordance with this section. The Town Council may not hold a public hearing on an

application for a special use permit-A until the planning board, appearance commission, transportation advisory board, environmental advisory board, affordable housing advisory commission, or other relevant advisory board have had an opportunity to consider the application (pursuant to standard agenda procedures) at one regular meeting. In addition, at the request of the planning board, appearance commission, transportation advisory board, environmental advisory board, affordable housing advisory commission, or other advisory board, the Town Council may continue the public hearing to allow the respective boards more time to consider the application. **(AMENDED 09/19/19, REWRITTEN 02/25/14, AMENDED 06/25/19).**

(b) When presented to the planning board, appearance commission, transportation advisory board, environmental advisory board, affordable housing advisory commission, or other advisory board, the application shall be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with Section 15-49 and other requirements of this chapter, as well as any staff recommendations for additional requirements to be imposed by the Town Council. If the planning staff report proposes a finding or conclusion that the application fails to comply with Section 15-49 or any other requirement of this chapter, it shall identify the requirement in questions and specifically state supporting reasons for the proposed findings and conclusions. **(AMENDED 09/19/95, AMENDED 06/25/19).**

(c) The planning board, appearance commission, transportation advisory board, environmental advisory board, affordable housing advisory commission, or other board, shall consider the application and the attached staff report in a timely fashion, and may, in its discretion, hear from the applicant or members of the public. **(AMENDED 09/19/95, AMENDED 06/25/19).**

(d) After reviewing the application, the planning board, appearance commission, transportation advisory board, environmental advisory board, affordable housing advisory commission or other advisory board, shall, in their advisory capacity, report to the Town Council whether it concurs in whole part with the staff's proposed findings and conditions, and to the extent there are differences the respective boards shall propose their own recommendations and the reasons therefore. **(AMENDED 09/19/19, REWRITTEN 02/25/14, AMENDED 06/25/19).**

(e) In response to the planning board's, the appearance commission's, transportation advisory board's, environmental advisory board's, affordable housing advisory commission's or other advisory board's recommendations, the applicant may modify his application prior to submission to the Town Council, and the planning staff may likewise revise its recommendations. **(AMENDED 09/19/19, REWRITTEN 02/25/14, AMENDED 06/25/19).**

**Section 42.** Section 15-58, 'Board Action on Special Use Permits,' is renamed, 'Board of Adjustment Action On Special Use Permits-B and Town Council Action on Special Use Permits-A.'

**Section 43.** Section 15-59, Additional Requirements on Special Use and Conditional Use Permits, is rewritten to read as follows:

**Section 15-59 Additional Requirements on Special Use Permits A or B.**

(a) Subject to subsection (b), in granting a special use permit-B or special use permit-A, the board of adjustment or Town Council, respectively, may attach to the permit such reasonable requirements in addition to those specified in this chapter as will ensure that the development in its proposed location: **(AMENDED 3/23/10)**

- (1) Will not endanger the public health or safety; or
- (2) Will not injure the value of adjoining or abutting property; or
- (3) Will be in harmony with the area in which it is located; or
- (4) Will be in conformity with the Carrboro Comprehensive Plan, Land use Plan, Long Range Plan, or other plan officially adopted by the Council.

(b) The permit-issuing authority may not attach additional conditions that modify or alter the specific requirements set forth in this ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements. **(AMENDED 5/26/87)**

- (5) Conditions and safeguards imposed under this subsection shall not include

requirements for which the town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the town, 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.

- (6) The applicant/landowner shall provide written consent to all conditions relating to the special use permit.

(b) Without limiting the foregoing, the board may attach to a permit a condition limiting the permit to a specified duration.

(c) (Repealed.)

(d) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this chapter.

(e) A vote may be taken on additional conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in Subdivision 15- 54(c)(3) or(4).

**Section 44.** Section 15-60, Authorizing Use, Occupancy, or Sale Before Completion of Development under Special Use Permits, is rewritten to read as follows:

**Section 15-60 Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special Use Permits (AMENDED 10/08/96; 10/24/06; 6/22/10).**

(a) With respect to unsubdivided developments, in cases when, because of weather conditions or other factors beyond the control of the special use permit recipient (exclusive of financial hardship), it would be unreasonable to require the permit recipient to comply with all of the requirements of this chapter (including approved plans) before commencing the intended use of the property or occupying any buildings, the manager may authorize the commencement of the intended use or occupancy of buildings (insofar as the requirements of this chapter are concerned) if the permit recipient provides a surety bond, letter of credit or other security that complies with all of the standards applicable to security guarantees in subsection 15-60(b) of this chapter and is satisfactory to the manager

(b) With respect to subdivided developments, the manager may authorize final plat approval and the sale of lots before all the requirements of this chapter (including approved plans) are fulfilled if the subdivider provides a surety bond, letter of credit, or other security pursuant to G.S. 160D-804.1 and satisfactory to the manager to ensure that all of these requirements will be fulfilled within a reasonable period, as described below. (By way of illustration without limitation, where it is sensible to delay the final coat of pavement of a street until heavy construction within the subdivision is essentially complete, or where completion of a bioretention area should be delayed until site disturbance is nearly finished).

To assure compliance with G.S.160D-804, 160D-804.1, and other development regulation requirements, the town may provide for performance guarantees to assure successful completion of required improvements. For purposes of this section, all of the following apply with respect to performance guarantees:

- (1) Type. The type of performance guarantee shall be at the election of the developer. The term "performance guarantee" means any of the following forms of guarantee:
- a. Surety bond issued by any company authorized to do business in this State.
  - b. Letter of credit issued by any financial institution licensed to do business in this State.
  - c. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- (2) Duration. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation,

the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

- (3) Extension. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of town standards, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (e) of this subsection and shall include the total cost of all incomplete improvements.
- (4) Release. The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the town that the improvements for which the performance guarantee is being required are complete. The town shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to town acceptance. When required improvements that are secured by a bond are completed to the specifications of the town, or are accepted by the town, if subject to its acceptance, upon request by the developer, the town shall timely provide written acknowledgement that the required improvements have been completed.
- (5) Amount. The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The town may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.
- (6) Timing. The town, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.
- (7) Coverage. The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.
- (8) Legal responsibilities. No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:
  - a. The town, to whom the performance guarantee is provided.
  - b. The developer at whose request or for whose benefit the performance guarantee is given.
  - c. The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.
- (9) Multiple guarantees. The developer shall have the option to post one type of a performance guarantee as provided for in subdivision (1) of this section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.
- (10) Exclusion. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.

(c) The authorization provided to the manager under subsections (a) and (b) of this section shall also apply to fulfillment of additional requirements upon the special use permit recipient by the permit issuing board in accordance with Section 15-59 unless the council or board specifies a certain date by which or a schedule according to which such requirements must be met.

**Section 45.** Section 15-61, Completing Developments in Phases, is amended by adding a new reference at the end of subsection (a) to read as follows:

(a) If a development is constructed in phases or stages in accordance with this section, then, subject to subsection (c), the provisions of Section 15-47 (No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled) and Section 15-60 (exceptions to Section 15-47) shall apply to each phase as if it were the entire development. [See Article VIII for provisions relating to vested rights for multi-phase developments.]

**Section 46.** Subsection 15-63(a), Effect of Permit on Successors and Assigns, is amended to delete the words ‘conditional use’ in the first sentence and rewrite the second sentence to read, “Such permits run with the land.” Subsection 15-63(b) is amended to add the word ‘or’ after zoning and to delete the words ‘or conditional use’ in the first sentence.

**Section 47.** Section 15-64, Amendments to and Modifications of Permits, is amended by adding the phrase, ‘including requests for a change in permitted uses or the density of the overall development,’ to middle of the first sentence of subsection (c) and by adding the phrase, “unless the provisions of permit choice apply, to the end of the sentence in provision (i) in subsection (g), to read as follows:

(c) Subject to subsection (e), all other requests for changes in approved plans including requests for a change in permitted uses or the density of the overall development, will be processed as new applications. If such requests are required to be acted upon by the Town Council or board of adjustment, new conditions may be imposed in accordance with Section 15-59, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit. **(AMENDED 6/22/82)**

(g) When (i) a request for a change in a permit is made under this section (whether for an insignificant deviation, minor modification, or major modification), and (ii) the use of the property is not changed, and (iii) some type of nonconforming situation other than a nonconforming use exists on the property, then the permit change may be approved without requiring the elimination of the nonconforming situations. However, (i) any new development authorized by the permit change shall comply with current standards to the extent reasonably practicable, unless the provisions of permit choice apply, and (ii) the permit issuing authority may require the elimination of nonconforming situations when the cost (financial and otherwise) of doing so is clearly proportional to the benefits of elimination of such nonconformity.

**Section 48.** Section 15-65, Reconsideration of Board Action, is rewritten to read as follows:

**Section 15-65 Reconsideration of Council or Board Action.**

Whenever (i) the Town Council disapproves an application for a special use permit-A, or (ii) the board of adjustment disapproves an application for a special use permit-B or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the council or board at a later time unless the applicant clearly demonstrates that:

- (1) Circumstances affecting the property that is the subject of the application have substantially changed; or
- (2) The application is changed in some substantial way; or
- (3) New information is available that could not with reasonable diligence have been presented at a previous hearing; or
- (4) A member of the Town Council or board of adjustment who voted to deny the application makes a motion to reconsider no later than the next regular meeting.

**Section 49.** Section 15-67, Maintenance of Common Areas, Improvements, and Facilities, is amended to remove the reference to conditional use permits in the first sentence.

**Section 50.** Section 15-77, No Subdivision Without Plat Approval, is amended to update the reference to the North Carolina General Statutes in subsection (a) from G.S. 160A-375 to G.S. 160D-807

and in subsection (b) from G.S. 160A-373 to G.S. 160D-803.

**Section 51.** Article IV, Part II. Major and Minor Subdivisions, is amended by adding a new section 15-78.1 to read as follows:

**Section 15-78.1 Special Review for Certain Classes of Subdivisions**

Pursuant to G.S. 160D-82, the town may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

(a) The tract or parcel to be divided is not exempted under G.S.160D-802(a)(2), [the division of land into parcels greater than 10 acres where no street right-of-way dedication is involved];

(b) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to the proposed division;

(c) The entire area of the tract or parcel to be divided is greater than 5 acres;

(d) After division, no more than three lots result from the division; and

(e) After division, all resultant lots comply with all of the following:

(1) All lot dimension size requirements of the applicable regulations of this chapter;

(2) The use of the lots is in conformity with the applicable zoning requirements, if any; and

(3) A permanent means of ingress and egress is recorded for each lot.

(f) Applicants for special review of certain classes of subdivision approval shall submit to the planning director a copy of a plat demonstrating that the property in question conforms with the standards in Section 15-78.1 (as well as two prints of such plat); the subdivision plat shall contain the following certificates in lieu of those required in Section 15-80:

(1) Certificate of Ownership

I hereby certify that I am the owner of the property described hereon, which property is within the subdivision regulation jurisdiction of the Town of Carrboro, and that I freely adopt this plan of subdivision.

\_\_\_\_\_ Owner

\_\_\_\_\_ Date

(2) Certificate of Approval for Recording – Subdivision Plat

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Carrboro, North Carolina, and that this plat has been approved for recording in the Office of the Register of Deeds of Orange County. This plat is null and void if not recorded at the Orange County Deed Registry within sixty (60) days of the date written below.

\_\_\_\_\_ Owner

\_\_\_\_\_ Date

**Section 52.** Subsection 15-79(a), Major Subdivision Approval Process, is rewritten to read as follows:

(a) The town manager (or designee) shall approve or disapprove major subdivision final plats. Notwithstanding the foregoing, if, at the time the special use permit-A or special use permit-B was issued for the subdivision pursuant to Part I of Article IV of this Chapter, the permit issuing authority requested that the final plat be reviewed by it, then the Town Council or board of adjustment shall approve or disapprove the major subdivision final plat. **(AMENDED 12/15/87; 07/27/89)**

**Section 53.** Section 15-81, Plat Approval Not Acceptance of Dedication Offers, is amended to change the reference from the Board to the Council, and to add the words, ' or designee' to read as follows:



Approval of a plat does not constitute acceptance by the town of the offer of dedication of any streets, sidewalks, parks or other public facilities shown on a plat. However, the town may accept any such offer of dedication by resolution of the Council, by issuing to the dedicator a written notice of acceptance signed by the town manager (or designee), or by actually exercising control over and maintaining such facilities. (AMENDED 06/06/89)

**Section 54.** Section 15-82, Protection Against Defects, is rewritten to read as follows:

**Section 15-82 Protection Against Incompleteness.**

(a) Whenever (pursuant to Section 15-60) occupancy, use or sale is allowed before the completion of all facilities or improvements intended for dedication, then the performance guarantee that is posted pursuant to Section 15-60 shall guarantee that any required improvements not completed shall be completed, subject to the Town collecting the performance guarantee to make the improvements. (AMENDED 04/27/82; 06/06/89)

(b) Whenever all facilities or improvements intended for dedication are installed before occupancy, use or sale is authorized, then the developer shall post a performance guarantee that any incomplete improvements will be satisfactorily installed, in accordance with subsection 16-60(b). Or the Town will make such improvements using the performance guarantee. (AMENDED 04/27/82; 06/06/89)

(c) An architect or engineer retained by the developer shall certify to the town that all facilities and improvements to be dedicated to the town have been constructed in accordance with the requirements of this chapter. This certification shall be a condition precedent to acceptance by the town of the offer of dedication of such facilities or improvements.

**Section 55.** Subsection 15-83.2(a) is amended to replace ‘permit issuing board,’ with ‘permit issuing authority.’

**Section 56.** Section 15-86, Record Drawings, is amended by adding an additional phrase to the end of the last sentence to read as follows:

Upon completion of construction, a set of record drawings reflecting as-built conditions must be submitted prior to the final acceptance of the streets and any other facilities by the town. The record drawings must be labeled RECORD DRAWINGS and sealed and signed by the engineer preparing them. The record drawings shall be permanent reproducible drawings, on Mylar, 2 mil minimum weight, or in a digital format determined acceptable by the Town.

**Section 57.** Subsection 15-88.1(b) is amended by replacing the words ‘general use’ with ‘conventional’ and deleting the word ‘use’ after conditional in the first sentence, to read as follows:

(b) A CAPS shall not be required for a conventional or conditional rezoning or for a master land use plan. The record drawings shall be permanent reproducible drawings, on Mylar, 2 mil minimum weight or in a digital format determined acceptable by the Town.

**Section 58.** Subsections 15-88.5(a) and (b) are amended to delete references to conditional use permits.

**Section 59.** Article V, ‘Appeals, Variances, Special Exceptions and Interpretations,’ is renamed as ‘Appeals, Variances, Special Exceptions, Interpretations, and Determinations.’

**Section 60.** Section 15-91, Appeals, is amended to update the reference to the North Carolina General Statutes from G.S. Section 160A-388 to G.S. sections 160D-302; 405; 407; 705 in subsection (a) and G.S. 160A-393(d) to G.S. sections 160D-405(b); 1402(c) in subsection (c).

**Section 61.** Article V, Appeals, Variances, Special Exceptions, Interpretations, and Determinations, is amended by adding a new Section 15-93.1, Determinations, to read as follows

**Section 15-93.1 Determinations.**

(a) The administrator is authorized to make determinations, a written, final, and binding order, requirement, or determination regarding an administrative decision. This includes any interpretation of the requirements of this chapter, affirmation of nonconforming status, notice of violation or other binding order concerning development regulations.

(1) When making a determination, the administrator shall give written notice of the decision to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner.

- (2) It is conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, provided the sign remains on the property for at least 10 days. The sign shall contain the words "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least 6 inches high and shall identify the means to contact a local government staff member for information about the determination. Posting of signs is not the only form of constructive notice. Any such posting is the responsibility of the landowner, applicant, or person who sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs shall not be required
- (b) Determinations may be appealed to the board of adjustment in accordance with Section 15-91.

**Section 62.** Subsection 15-96(a) is amended to add the phrase, 'of a variance,' in the second sentence of the subsection to read as follow:

(a) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings that support that motion. If a motion to reverse or modify is not made or fails to receive the four-fifths vote necessary for adoption of a variance (see Section 15-32), then a motion to uphold the decision appealed from shall be in order. Insofar as practicable, this motion shall include a statement of the findings, or reasons that support it. This motion is adopted as the board's decision if supported by at least two members.

**Section 63.** Article VI, 'Hearing Procedures for Appeals and Applications,' is renamed 'Evidentiary Hearing Procedures for Appeals and Applications.'

**Section 64.** Subsection 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, special use permit-B, or special use permit-A, 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 special use permits-A shall be set by the town council as provided in Section 2-17 of the Town Code. (AMENDED 4/27/82)

**Section 65.** Subsection 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 66.** Section 15-102, 'Notice of Hearing, is renamed,' 'Notice of Evidentiary Hearing.'

**Section 67.** Section 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 special use permit-B or abutting or located within 1000 feet of the lot that is the subject of a use permit-A. 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 special use permit-A. 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 68.** 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 69.** 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 council or 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 70.** 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 71.** Subsection 15-106(a) is amended to update the reference to the North Carolina General Statutes from G.S.160A-388(e2) to G.S. 160D-403(a).

**Section 72.** 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, when a town 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 73.** Subsection 15-114(b), Penalties and Remedies for Violations, is amended by rewriting provision (a) under subsection (3) regarding an 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 74.** 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 75.** 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 Article XX of this chapter or G.S. 160D-1405 or other applicable law or a development agreement adopted under Article 10 of Chapter 160D of the General Statutes 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 G.S. 160D-1405(a), 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 G.S. sections 160D-1405, 1-54(10) or 1-54.1 bars a party in an action involving the enforcement of a development regulation or an action under G.S. 160D-1403.1 from raising as a claim or defense in the proceedings or enforceability or the invalidity of the ordinance. Nothing in G.S. sections 160D-1405, 1-54(10) or 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. section 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 76.** Article VIII, ‘Nonconforming Situations,’ is renamed, ‘Nonconforming Situations, Vested Rights and Permit Choice.’

**Section 77.** Section 15-121, Definitions, is amended by adding eight new definitions, listed below, and by renumbering the section in alphabetical order.

**DEVELOPMENT.** As defined in G.S. 143-755(e)(1). Without altering the scope of any regulatory authority granted by statute or local act, any of the following: a) the construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure; b) excavation, grading, filling, clearing, or alteration of land; c) the subdivision of land as defined in G.S. 160D-802, or d) the initiation of substantial change in the use of land or the intensity of the use of land.

**DEVELOPMENT PERMIT.** As defined in G.S. 143-755(e)(2). An administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal, including any of the following: a) zoning permits; b) site plan approvals; c) special use permits; d) variances; e) certificates of appropriateness; f) plat approvals; g) development agreements; h) building permits; i) subdivision of land; j) state agency permits for development; k) driveway permits; l) erosion and sedimentation control permits; and m) sign permits.

**LAND DEVELOPMENT REGULATION.** As defined in G.S. 143-755(e)(3). Any State statute, rule, or regulation, or local ordinance affecting the development or use of real property, including any of the following: a) unified development ordinance; b) zoning regulation, including zoning maps; c) subdivision regulation; d) erosion and sedimentation control regulation; e) floodplain or flood damage prevention regulation; f) mountain ridge protection regulation; g) stormwater control regulation; h) wireless telecommunication facility regulation; i) historic preservation or landmark regulation; and j) housing code.

**MULTI-PHASED DEVELOPMENT.** A development that is submitted for development permit approval to occur in more than one phase and subject to a master development plan with committed elements showing the type and intensity of use of each phase.

**SITE SPECIFIC VESTING PLAN.** An approved plan that describes, with reasonable certainty, using a combination of graphic illustrations and written notes, the type and intensity of use for a specific parcel or parcels of property located within the Town’s planning jurisdiction. Conditional districts, planned unit developments, special use permits and zoning permits can be approved as site specific vesting plans in accordance with G.S. 160D-108.

**SUBSTANTIALLY COMMENCED.** Substantial commencement of work shall be determined by the administrator based on any of the following:

- (1) The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than thirty (30) days;
- (2) The development has installed substantial on-site infrastructure; or
- (3) The development has received and maintained a valid building permit for the construction and approval of a building foundation.

Even if work has substantially commenced, a development approval still expired is development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, as calculated and tolled pursuant to G.S. 160D-108.following:

**VESTED RIGHTS.** A vested right shall be deemed established upon the valid approval of the Town Council, board of adjustment or administrator of a site specific development plan. The approval

authority may approve a site specific development plan upon such terms and conditions as may be reasonably necessary to protect the public health, safety and welfare. Such conditional approval shall result in a vested right being established; provided, that failure to satisfy any of the terms and conditions so imposed will result in forfeiture of vested rights. A site specific development plan shall be deemed approved as of the effective date of the approval authority's final action or adoption of an ordinance relating thereto.

**VESTED RIGHTS, COMMON LAW.** A statutory vested right is a validity period for a particular development approval. While the approval is valid, subsequent changes to the development regulations do not apply to the valid approval.

**Section 78.** Section 15-124, Extension or Enlargement of Nonconforming Situations, is amended by deleting subdivisions (e)(2) and (e1)(2) and renumbering the subsequent subdivisions.

**Section 79.** Section 15-128, Completion on Nonconforming Projects, is amended by deleting subsections (d) and (g) and renumbering the subsections accordingly.

**Section 80.** Section 15-128.1, Authorization of Nonconforming Projects is repealed.

**Section 81.** 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. 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. In accordance with G.S. sections 160D-108 and 160-108.1, the provisions below and in Section 128.3 are designed to provide a balance between private expectations and the public interest.

(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 G.S. Chapter 160D.

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 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 any 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, the town may make subsequent inspections and reviews to ensure compliance with the applicable 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 [See Subsection 15-93.1(b) of this chapter.]. 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.

**Section 82.** 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 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 requirements of the permit sought and the following if not required by the permit: 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.

(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. The vested right under this section commences upon the issuance of the permit or rezoning in question, and the date of issuance is to be determined in accordance with the provisions of Subsection 15-62(d) for permits and Section 15-141.4 for conditional rezonings.

(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 and pursuant to Article XX of this chapter 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 the administrator, as provided for in section 15-64 of this chapter for permits and section 15-141.4 for conditional rezonings.

(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 except as provided for in sections 15-64 and 15-141.4 of this chapter, or unless expressly provided by the approval authority at the time the amendment or modification is approved.
- (2) Notwithstanding the provisions of subdivision (1) of this subsection, the Town Council 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 Council 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 human-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.** A vested right obtained under this section is not a personal right but attaches to and runs with the applicable property, and should be recorded in the County Register of Deeds. After approval of a site-specific vesting plan, all successors to the original landowner are entitled to exercise these rights.

**Section 83.** 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 84.** Subsection 15-136, Commercial Districts Established, is amended to repeal the O/A-CU, Office/Assembly Conditional Use District, provision (11).

**Section 85.** 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 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 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 June 22, 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 special use permit-A.

(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 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 special use permit-A 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 special use permit-A application under this chapter, a special use permit-A 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 special use permit-A is inconsistent in a substantial way with a previously approved master plan if the plan of development proposed under the special use permit-A 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 special use permit-A 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(g). [See also sections 15-128.2 and 15-128.3 for modifying or extending site specific vesting plans and vested rights.]

**Section 86.** Article IX, Zoning Districts and Zoning Maps is amended to repeal Section 141.3, Conditional Use Zoning Districts.

**Section 87.** 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)

There may also be established a HR-CC-CZ zoning district, pursuant to the purpose statement and criteria described in Section 15-136.1.

(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), (l), and (n), 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 conventional use zoning district to which the conditional district corresponds, except as those uses and regulations are limited by conditions imposed pursuant to subsection (f) 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) in addition to other uses permissible in the B-4 district, subject to a special use permit-A, 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)
- (3) Property that is zoned O/A-CZ shall be subject to all regulations applicable to the O/A district (including but not limited to the performance standards set forth in part I of Article XI), except as follows:

- a. 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-CZ.
- b. Uses within the O/A-CZ district shall be limited to those where loading and unloading occurs during daylight hours only.
- c. Buildings within the O/A-CZ 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 typically of single-family residences.

(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 (d) and (f). **(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 the 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, or the impacts reasonably expected to be generated by the development or use of the site.

(g) Except as allowed under minor modifications below, all changes to conditional zoning districts are major amendments and shall follow the same process as for the original approval as described in this section and in Article XX. Changes to conditional zoning districts may also require amendments or modifications to associated special use permits, zoning permits or sign permits for the development pursuant to Section 15-64.

- (1) Minor modifications in conditional zoning districts may be reviewed and approved administratively subject to the following limitations:

The minor modification:

- a. Does not involve a change in uses permitted or the density overall of the development permitted;
  - b. Is a limited minor change that does not have a substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development, such as, without limitation, a minor adjustment to internal road or parking configuration, a minor adjustment to building location, or a minor adjustment to internal tree screening or other landscaping, or a minor adjustment to utility location;
  - c. Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval;
  - d. Meets all other applicable conditions of the rezoning; and
  - e. Meets all other ordinance requirements.
- (2) For a conditional zoning district applicable to multiple parcels, the owners of individual parcels may apply for a minor modification or major amendment so long as the change would not result in other properties failing to meet the terms of the conditions. Any approved changes shall only be applicable to those properties who owners petition for the change.

(h) A decision on a minor modification may be appealed to the Board of Adjustment as an administrative determination as provided for in subsection 15-93.1. An application for a minor modification does not preclude an applicant from seeking a variance from the Board of Adjustment.

(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 special use permit-A, special use permit-B, 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 special use permit-A. **(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 North Carolina Stormwater Nitrogen and Phosphorus (SNAP).

- (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 special use permit-A that authorizes the tract to be divided into two or more lots, so long as (i) the application for the special use permit-A 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 SUP) 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 special use permit-A 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 special use permit-A) 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 special use permit-A 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 special use permit-A 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	<div>1) Substantial stormwater retrofits</div> <div>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</div>
Substantial transportation improvement and Alternative transportation enhancement	<div>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</div> <div>4) Substantial improvement to public infrastructure, such as enhanced bicycle and pedestrian paths, or access to transit</div> <div>5) Construction of substantially improved site entrance, intersection</div>
On-site energy production and energy conservation	<div>6) Meets or exceeds standards for LEED Gold certification</div> <div>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</div> <div>8) Use of harvested rainwater for toilet flushing</div> <div>9) Use of devices that shade at least 30 percent of south-facing and west-facing building elevations</div> <div>10) Use of low emissivity (low-e<sup>2</sup>) windows along south-facing and west-facing building elevations</div> <div>11) Installation of attic insulation that exceeds the current building code R-value rating by 35 percent or greater</div>

	<div>12) Use of geothermal heat system to serve the entire complex</div> <div>13) Use of LED fixtures for parking and street lights</div> <div>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</div>
Creation of new and innovative light manufacturing operations	<div>15) The development of clean, innovative light manufacturing operation(s) that creates employment for a more than ten workers</div> <div>16) Incorporates technologies to reduce production waste by 50 percent or more</div>
The provision of public art and/or provision of outdoor amenities for public use	<div>17) Outdoor amenities such as major public art</div> <div>18) Amphitheatre or outdoor theater, outdoor congregating/gathering area</div> <div>19) Outdoor eating facilities</div> <div>20) Outdoor tables with game surfaces, etc.</div>

- (3) In approving a special use permit-A 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 88.** 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 special use permit-A 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 special use permit-B must be obtained, as shown below.

Insert table of permissible uses here.

**Section 89.** Section 15-126, The Table of Permissible Uses, is amended by repealing use classification 33.00 entitled “Office/Assembly Planned Development.”

**Section 90.** 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 special use permits-A and the change from special use permits to special use permits-B, in the title of the section and throughout.

**Section 91.** Section 15-147, Use of the Designations Z,B,A in the Table of Permissible Uses is amended to remove references to the B-4-CU district in subsections (P) and (Q).

**Section 92.** 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 special use permit-A.

**Section 93.** 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 94.** Subsection 15-202(b), is rewritten to read as follows:

(b) Whenever the permit issuing authority authorizes some deviation from the standards set forth in this article pursuant to subsection (a), the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

**Section 95.** Subsection 15-204(d)(1)(c) is rewritten to read as follows:

- c. The DLA can be reduced to 7 percent of the land area if it meets both the criteria set forth in (d)(1)a and (d)(1)b.

**Section 96.** Subsection 15-204(d)(2) is rewritten to read as follows:

- (2) The dollar value of the urban amenities to be installed within the downtown livability area shall be an amount equal to 7 percent of the assessed value of the land that constitutes the development site, determined as of the date the development permit is approved.

**Section 97.** Article XIV, Streets and Sidewalks, is amended to replace all references to the ‘Board of Aldermen,’ or ‘Board’ with the ‘Town Council,’ or ‘Council,’ respectively.

**Section 98.** Subsection 15-216(d1) is amended to replace the reference to a conditional use permit to a special use permit-A, and to delete the words ‘B-4-CU’ in the first sentence.

**Section 99.** Subsection 15-216(e) is rewritten to read as follows:

(e) The Council may allow a deviation from the right-of-way minimums set forth in subsections (b) and (c) if it finds that (i) the deviation is needed because in order for a development to be served by a public street the street must be constructed within an area that is not of sufficient width to comply with the right-of-way criteria set forth above, (ii) a street that meets the pavement width criteria and substantially complies with the other criteria set forth above can be constructed within the right-of-way that can be made available; and (iii) that the applicant has shown that the applicant has made a reasonable effort and attempted to purchase the necessary right-of-way.

**Section 100.** Subsection 15-220(f), Public Streets and Private Roads in Subdivision, is amended to update the citation for the North Carolina General Statutes to G.S.136-102.6(f) at the end of the first and second sentences.

**Section 101.** Subsection 15-220.1(a) is amended to correct the spelling of ‘supercede’ by replacing it with ‘supersede’ in the second sentence.

**Section 102.** Section 15-236, Utility Ownership and Easement Rights, is amended to include ‘fiber optic cable or conduit’ in the list of utilities installed by a developer and intended to be owned, operated or maintained by a public utility or entity other than the developer.

**Section 103.** The table in Subsection 15-239(b), Determining Compliance With Section 15-238 is amended to change the reference to the ‘Division of Environmental Management of the NC Department of

Natural Resources and Community Development’ to the ‘NC Department of Environmental Quality (DEQ).’

**Section 104.** The table in Subsection 15-240(b), Determining Compliance With Section 15-240 is amended to change the reference to the ‘Division of Health Services of the NC Department of Human Resources’ to the ‘Division of Public Health of the NC Department of Health and Human Services.’

**Section 105.** Section 15-246, Underground Utilities is rewritten to read as follows:

**Section 15-246 Underground Utilities.**

(a) All electric power lines, (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters or capacitors which may be pad mounted), telephone, gas distribution, fiber optic cable or conduit, and cable television lines in subdivisions developed after the effective date of this chapter shall be placed underground in accordance with the specifications and policies of the respective utility companies and located in accordance with Appendix C, Standard Drawing No. 6 or No. 7.

(b) Whenever an unsubdivided development is hereafter constructed on a lot that is undeveloped on the effective date of this chapter, then all electric power, telephone, gas distribution, and cable television lines installed to serve the development site outside of a previously existing public street right-of-way shall be placed underground in accordance with the specifications and policies of the respective utility companies. **(AMENDED 1/22/85)**

(c) Notwithstanding the foregoing, a developer or builder is not required to bury power lines meeting all of the following criteria:

- (1) The power lines existed above ground at the time of first approval of a plat or development plan, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
- (2) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

**Section 106.** Section 15-251.1, Definitions, is amended by correcting an error in definition (63), Substantial Damage, to read as follows:

**63. Substantial Damage.** Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “Substantial Improvement.”

**Section 107.** Subsection 15-271(c), Permit Required for Signs, is amended to change the word administration in provision (2)(b) from ‘administration’ to ‘administrator.’

**Section 108.** Subsection 15-271(d), Permit Required for Signs, provision (1) is written to read as follows:

- (1) Such master signage plan may be approved as part of the issuance of the original special use permit-A or as a minor amendment to the original special use permit-A, provided that no such master plan shall be approved through the minor amendment process unless the Town Council first holds a public hearing on the proposed amendment. A master signage plan approved as part of a valid ‘conditional use permit’ prior to June 22, 2021, shall be automatically converted to a ‘special use permit-A’, pursuant to G.S. 160D-705 and subsection 15-46(a1) of this chapter. Amendments to a master signage plan approved under this section may be approved in accordance with the provisions of Section 15-64 (Amendments to and Modifications of Permits).

**Section 109.** Subsection 15-291(g), Number of Parking Spaces Required is amended by deleting the reference for 1 space per room plus additional space for restaurant or other facilities in the table under use 23.000, temporary structure or parking lots used in connection with the construction of a permanent building or for nonrecurring purpose.

**Section 110.** Subsection 15-295(h) is amended to add the words, ‘2009 Carrboro’ to the last sentence, to read as follows:

The “wave”, “toast”, and “comb” racks, as described in Chapter 7, Figure 7-60, of the 2009 Carrboro Comprehensive Bicycle Transportation Plan, are discouraged and shall not count toward fulfillment of the requirements in Sec. 15-291(h).

**Section 111.** Subsection 15-298(e) is amended to delete the reference for a definition number for independent automobile parking lots or garages.

**Section 112.** The first paragraph of Subsection 15-319(a), Minimum Canopy Coverage Standards is rewritten to read as follows:

**(a) Minimum Canopy Coverage Standards**

Subject to the remaining provisions of this section, the following minimum tree canopy coverage percentages are required within the boundaries of every lot or tract for which a zoning, special use, or conditional use permit was issued after June 24<sup>th</sup>, 2014 or for which a special use permit-A or special use permit-B is issued after June 22, 2021, exclusive of required cleared active recreation areas, water bodies, access easements, public and private right-of-way, stormwater and utility easements.

**Section 113.** The G.S. citation in subsection (a) under 15-321.1, Regulations of Forestry Activities is changed from G.S.160A-458.5 to G.S. 160D-921.

**Section 114.** Section 15-320, Amendments in General, is amended to include a reference to the comprehensive plan in subsection (a), to read as follows:

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

**Section 115.** Provision (1) under Subsection 15-321(b), Initiation of Amendments, is rewritten to read as follows:

- (1) The name, address, and phone number of the applicant. If a change in zoning district classification to a less dense development density is proposed, the name, address, phone number and signature of all property owners consent to the application is required. Applications for down-zoning shall not be considered unless all the property owners consent to the application.

**Section 116.** Section 15-321, Initiation of Amendments, is amended by adding a new subsection (b1) that reads as follows:

(b1) If a change in zoning district classification is proposed, the petitioner shall hold at least one neighborhood information meeting on the application. A mailing is required in accordance with the standards in 15-323(c).

**Section 117.** Subsection 15-321(d), Initiation of Amendments, is amended to include an additional sentence, to read as follows:

(d) Upon receipt of a proposed ordinance as provided in subsection (a), the Council 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 Council 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. In accordance with G.S. 160D-60(d), petitions for proposed map changes that would result in a downzoning of property shall only be initiated by the owners of the property or the Town. (See subsection (b)(1) above.)

**Section 118.** Section 322 of the Carrboro Land Use Ordinance, Planning Board and Other Advisory Consideration of Proposed Amendments, is rewritten to read as follows:

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

(a) If the Council 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, and may refer the amendment to the Economic Sustainability Commission if the amendment involves an economic development issue or any other board if the amendment involves an issue of which the board has expertise. (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 Comprehensive Plan, Land Use Plan, long-range transportation plans, or other applicable plans officially adopted by the Town Council. The planning board shall provide a written recommendation to the Town Council 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 Town Council may proceed in its consideration of the amendment without the planning board report. (AMENDED 10/24/06)

(c) A comment by the planning board that a proposed amendment is inconsistent with the Comprehensive Plan, Land Use Plan, long-range transportation plans or other officially adopted plan shall not preclude consideration or approval of the proposed amendment by the Town Council, and the Town Council 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 Town Council (i.e. it does not report to the planning board) shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. (AMENDED 10/24/06)

**Section 119.** Section 15-323 is amended to update the citations referencing the applicable provisions in the North Carolina General Statutes in subsection (b) from G.S. 160A-364 to G.S. 160D-601(a) and in subsection (d) from G.S. 160A-364 to G.S. 160D-602(b).

**Section 120.** Section 15-323, Hearing Required: Notice, is amended to add the word ‘legislative’ in the section heading and in subsection (a), and to expand the mailed notice requirements under subsection (c) to more closely align with the language in the North Carolina General Statutes which speaks to abutting property as follows:

(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 abutting the property rezoned by the amendment, including property separated by a street right of way, railroad or other transportation corridor and any other property that 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. If the rezoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-202, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing. The staff member mailing such notices shall certify to the council 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)

**Section 121.** Subsection 15-323(e), Hearing Required: Notice, is amended to specify when notice should be posted, as follows:

(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 at least 10 but not more than 25 days prior to the date of the public hearing. 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.

**Section 122.** Section 15-324, Board Action on Amendments, is rewritten to read as follows:

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

(a) At the conclusion of the public hearing on a proposed amendment, the Council 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 Council 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 2-15 of the Town Code.

(d) When adopting or rejecting any zoning or text amendment, the Council shall adopt a statement describing whether the action is consistent or inconsistent with an adopted comprehensive plan, which shall not be subject to judicial review. **(AMENDED 2/6/2018)**

(1) If the amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan, and no additional request or application for a plan amendment shall be required.

(2) A plan amendment and zoning amendment may be considered concurrently.

(3) If a zoning map amendment qualifies as a “large-scale rezoning” under G.S. section 160D-602(b), the Council’s statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(d1) When adopting or rejecting any petition for a zoning text or map amendment the Council shall adopt a statement explaining the reasonableness of the proposed rezoning. The statement of reasonableness may consider, among other factors: (i) the size, physical conditions, and other attributes of any area proposed to be rezoned; (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community; (iii) the relationship between the current actual and permissible development and the development permissible under the proposed amendment, (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a “large-scale rezoning” under G.S. section 160D-602(b), the statement on reasonableness may address the overall rezoning.

(e) A Council member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Council member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. (See also Carrboro Town Code Section 2-35).

**Section 123.** Section 15-325, ‘Ultimate Issue Before Board on Amendments,’ is renamed, ‘Ultimate Issue Before Council on Amendments,’ and amended to remove the language relating to a request to rezone property to a conditional use district, in provision (1).

**Section 124.** Section 15-326, Citizen Comments on Zoning Map and Text Amendments, is rewritten to read as follows:

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 a zoning regulation including a text or map amendment that has been properly initiated as provided in G.S. 160D-601, to the Clerk of the Town Council at least two (2) business days prior to the proposed vote on such change, the Clerk to the Council shall deliver such written statement to the Council. If the proposed change is the subject of a quasi-judicial proceeding under North Carolina General Statutes section 160D-705 or any other statute, 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 Council shall not disqualify any member of the Council from voting. Written statements submitted in connection with a quasi-judicial proceeding may be admitted into evidence at such a proceeding if the Council determines that such statements are admissible under the N.C. Rules of Evidence 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).

**Section 125.** Subsection 15-332(a) is amended by adding the phrase, “and provide recommendations,” to the end of the first phrase in the first sentence, to read as follows:

(a) The neighborhood preservation district commission shall review, and provide recommendations on (i) all applications for zoning, sign, special use permit-B and special use permits-A required for development within a neighborhood preservation district, as well as (ii) all applications for building permits for any work involving the construction, removal, or alteration of an exterior feature of a building within a neighborhood preservation district under circumstances where no zoning, sign, or special use permit is required for such work. Notwithstanding the foregoing, no review by the neighborhood preservation district commission shall be required when mobile homes are moved in or out of a mobile home park. **(AMENDED 02/01/00)**

**Section 126.** Subsection 15-333(a), Commission Rules, Procedures and Guidelines, is amended to reference the exception for building permitted under the N.C. Residential Code for One and Two Family Dwellings in subdivision (a)(4); (5); (6) and (11) as follows:

- (4) Exterior construction materials, including but not limited to, textures and patterns (except for building permitted under the N.C. Residential Code for One and Two-Family Dwellings);
- (5) Architectural detailing, such as lintels, cornices, brick bond, foundation materials, and decorative wooden features (except for building permitted under the N.C. Residential Code for One and Two-Family Dwellings);
- (6) Roof shapes, forms and materials (except for building permitted under the N.C. Residential Code for One and Two-Family Dwellings);
- (11) Use of local or regional architectural traditions (except for building permitted under the N.C. Residential Code for One and Two-Family Dwellings);

**Section 127.** Section 15-336, Historic District Commission, is rewritten to read as follow:

The appearance commission established under Article III, Part V, of this chapter is hereby designated as the historic district commission and shall exercise all duties and responsibilities conferred upon the historic district commission. Pursuant to Section 15-339(d) below, when serving as the historic district commission to consider certificates of appropriateness, the appearance commission shall conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Articles IV, V, and VI.

**Section 128.** Article XXI, Neighborhood Preservation, is amended to change all references to ‘guidelines’ in Section 15-338 and 15-339 to ‘standards.’

**Section 129.** Section 15-339, Certificates of Appropriateness, is amended to clarify the quasi-judicial nature of all procedures relating to certificates of appropriateness.

**Section 130.** Subsection 15-399 is amended to update the reference to the North Carolina General Statutes from G.S. 160A-400.9 to G.S. section 160D-102; and 160D-947.

**Section 131.** All provisions of any town ordinance in conflict with this ordinance are repealed.

**Section 132.** This ordinance shall become effective upon adoption.

Adopted by the Carrboro Town Council this 22nd day of June 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O’Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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## **CONSIDERATION OF TOWN CODE AMENDMENTS RELATING TO ROUNABOUTS**

The purpose of this agenda item was for Council to consider Town Code amendments relating to the operation of roundabouts.

A motion was made by Council Member Foushee, seconded by Council Member Romaine, to approve the following ordinance:

AN ORDINANCE TO AMEND THE CARRBORO TOWN CODE RELATED TO  
ROUNDBABOUTS AND CROSSWALKS  
Ordinance No.29/2020-21

BE IT ORDAINED BY THE CARRBORO TOWN COUNCIL THE FOLLOWING:

**Section 1.** Section 6-2, Stoplights Required at Certain Intersections and Locations is amended by adding two new locations:

North Greensboro Street\* approximately 80’ west of Williams Street  
North Greensboro Street\* approximately 130’ east of Oak Avenue

**Section 2.** Section 6-2, Stoplights Required at Certain Intersections and Locations is amended by removing the following location:

Estes Drive Extension\* at North Greensboro Street\*

**Section 3.** Section 6-7, Yield Right-of-Way Signs at Certain Intersections is amended by adding the following locations:

Yield Street	Through Street
S Greensboro St north and south of Two Hills Drive	S Greensboro/Two Hills Drive Roundabout
Old Pittsboro St	S Greensboro/Two Hills Drive Roundabout
Two Hills Drive	S Greensboro/Two Hills Drive Roundabout
Estes Drive Ext	Estes/N Greensboro Roundabout
Frances Shetley Bikeway	Estes/N Greensboro Roundabout
N Greensboro St east and west of Estes Drive Ext	Estes/N Greensboro Roundabout
Lake Hogan Farms Rd	Eubanks Rd/Morris Grove Roundabout
Smith Level Rd north and south of Rock Haven Rd	Smith Level/Rock Haven Roundabout
Rock Haven Rd	Smith Level/Rock Haven Roundabout

**Section 4.** Section 6-10, Crosswalks and Safety Zones is amended to include the following locations:

Crosswalks:

N Greensboro Street\* approximately 80’ east of its intersection with Williams St  
N Greensboro Street\* approximately 130’ west of its intersection with Oak Avenue\*  
Estes Drive Extension\* approximately 70’ north of the center of the roundabout with N Greensboro Street\*  
N Greensboro Street\* approximately 70’ east of the center of the roundabout with Estes Drive Extension\*

N Greensboro Street\* approximately 70’ west of the center of the roundabout with Estes Drive Extension\*  
 Frances Shetley Bikeway approximately 50’ south of the center of the roundabout with N Greensboro Street\*  
 S Greensboro Street\* approximately 70’ south of the center of the roundabout with Two Hills Drive  
 Two Hills Drive approximately 70’ east of the center of the roundabout with S Greensboro Street\*  
 Smith Level Road\* approximately 90’ south of the center of the roundabout with Rock Haven Road  
 Smith Level Road\* approximately 90’ north of the center of the roundabout with Rock Haven Road  
 Rock Haven Road approximately 90’ west of the center of the roundabout with Smith Level Road\*  
 Lake Hogan Farms Road approximately 90’ south of the center of the roundabout with Eubanks Road\*  
 Lake Hogan Farms Road approximately 20’ west of its intersection with the Morris Grove Elementary driveway

**Section 5.** All provisions of any Town ordinance or resolution in conflict with this ordinance are repealed, and this ordinance is effective upon adoption.

This the 22nd day of June, 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O’Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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**SHORT-TERM AMERICAN RESCUE PLAN ACT FUNDING PLAN AUTHORIZATION**

The purpose of this item was to authorize staff to implement a short-term program for distributing up to \$2,359,525 of American Rescue Plan Act (ARPA) Funds immediately while developing a long-term plan.

Council discussed and deliberated the end of the rent/mortgage moratorium over the summer and how the town can be sure to help those who need it in the short-term.

Council asked staff for more information concerning the application process and the point system used.

**A motion was made by Council Member Foushee, seconded by Council Member Slade, to approve the following ordinance:**

AMENDMENT TO AMERICAN RESCUE PLAN ACT GRANT PROJECT ORDINANCE No. 18/2020-21  
 Ordinance No. 30/2020-21

**WHEREAS**, the Town Council adopted Project Ordinance No. 18/2020-21 on May 4, 2021 to establish a Special Revenue Fund for funds under the American Rescue Plan Act (ARPA); and,

**WHEREAS**, the Town of Carrboro is expected to receive \$6.2 million from the ARPA; and,

**WHEREAS**, these funds may be used for a) revenue replacement for the provision of government services to the extent the reduction in revenue is due the COVID-19 public health emergency; b) premium pay to essential employees; c) assistance to small businesses, nonprofits, household and hard-hit industries, and economic recovery; and d) investments in water, sewer and broadband infrastructure; and,

**WHEREAS**, the COVID-19 pandemic has had a negative impact on Carrboro residents, businesses, nonprofits, households and the local economy; and,

**WHEREAS**, the Town Council deems it appropriate and in the best interest of the Town to make available revenues from the ARPA to aid in the Town’s pandemic rescue and recovery efforts.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CARRBORO THAT:

1.The following appropriations are made for the following purposes:

<b>ARPA Revenue</b>	<b>\$ 6,200,000.00</b>
<b>Expenses</b>	
Grants to Small Businesses	\$ 300,000.00
Essential Employee Pay	\$ 224,795.00
Town Revenue Replacement	<u>\$ 1,834,730.00</u>
	<u>\$ 2,359,525.00</u>
<b>Unallocated Funds</b>	<b><u>\$ 3,840,475.00</u></b>

2. Grants to small businesses shall be made to viable businesses still in operation and have been in operation before July 1, 2020 and to business where the business license address must be in Carrboro Town limits and shall not exceed \$20,000.

3. All applications requesting funding shall describe the negative economic impact of the pandemic on their operations and how the grant assistance will aid in the business’s recovery and may be used for expenses related to marketing and advertising; training new under- or un-skilled employees; back rent and utilities; COVID loan repayment; and capital expenditures to adapt business to a post-COVID environment.

4. All funds shall be used in compliance with provisions of the ARPA and other directives issued by the US Treasury Department or other federal rules and regulations.

5. The Town Manager is authorized to enter into a grant agreement with small businesses to govern the use of grant funds.

6. Within five (5) days after adoption of this ordinance, the Town Clerk shall file a copy of this grant funding project ordinance with the Finance Director.

7. This Ordinance is effective upon adoption by the Carrboro Town Council.

This the 22nd day of June, 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O’Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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#### **PRE-AUDIT CERTIFICATION FOR ELECTRONIC PAYMENTS**

The purpose of this agenda item was to request authorization from the Town Council to engage in electronic payments in accordance with North Carolina Administrative Code 20 NCAC 03.0409.

**A motion was made by Council Member Foushee, seconded by Council Member Romaine, to approve the following resolution:**

**RESOLUTION AUTHORIZING TOWN OF CARRBORO TO ENGAGE IN  
ELECTRONIC PAYMENTS AS DEFINED BY G.S. 159-28 OR G.S. 115C-441**

WHEREAS, it is the desire of the Town Council that the Town of Carrboro is authorized to engage in electronic payments as defined by G.S. 159-28 or G.S.115C-441; and,

WHEREAS, it is the responsibility of the Finance Officer, who is appointed by and serves at the pleasure of the Town Manager, to adopt a written policy outlining procedures for pre-auditing obligations that will be incurred by electronic payments as required by NC Administrative Code 20 NCAC 03 .0409; and,

WHEREAS, it is the responsibility of the Finance Officer, who is appointed by and serves at the pleasure of the Town Manager, to adopt a written policy outlining procedures for disbursing public funds by electronic transaction as required by NC Administrative Code 20 NCAC 03 .0410;

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Council of the Town of Carrboro:

**Section 1.** Authorizes the Town of Carrboro to engage in electronic payments as defined by G.S. 159-28 or G.S. 115C-441;

**Section 2.** Authorizes the Finance Officer to adopt a written policy outlining procedures for pre-auditing obligations that will be incurred by electronic payments as required by NC Administrative Code 20 NCAC 03 .0409;

**Section 3.** Authorizes the Finance Officer to adopt a written policy outlining procedures for disbursing public funds by electronic transaction as required by NC Administrative Code 20 NCAC 03.0410; and

**Section 4.** This resolution shall take effect immediately upon its passage.

The the 22<sup>nd</sup> day of June, 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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**ORANGE COUNTY RECOVERY AND TRANSFORMATION PLAN UPDATE**

The purpose of this item was to receive an update on the Orange County Recovery and Transformation Plan.

**MOTION WAS MADE BY COUNCIL MEMBER FOUSHEE, SECONDED BY COUNCIL MEMBER ROMAINE, TO ACCEPT THE REPORT. VOTE: AFFIRMATIVE ALL**

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**PUBLIC HEARING FOR SOUTH GREENSBORO STREET SIDEWALK (TIP# C-5650)  
65-PERCENT DESIGN**

The purpose of this agenda item was to provide an update on the status of the South Greensboro Street Sidewalk project at 65-percent design and to receive comments from the Council and members of the public.

Tina Moon provided the staff report.

Kayla Poulos with Ramey Kemp Associates gave a presentation on the project.

Mayor Lavelle opened the public hearing.

Allen Stutts, a Carrboro resident, made comments thanking council and staff for all their work on the project. He would like to see accessible, talking pedestrian signals and stressed the need to keep the bike lanes under the bridges.

Mayor Lavelle closed the public hearing.

**A motion was made by Council Member Gist, seconded by Council Member Slade, to approve the following resolution:**

**A RESOLUTION RECEIVING PUBLIC COMMENT ON THE SOUTH GREENSBORO STREET SIDEWALK PROJECT AT 65-PERCENT DESIGN**

WHEREAS, the Town Council has made it a policy to hold public hearings on Town projects; and

WHEREAS, the Town Council has received updates on the South Greensboro Street Sidewalk project (TIP# C-5650) on January 21, 2020 and November 17, 2020; and

WHEREAS, the Town held public input meetings on the project at approximately 30-percent design on January 28th and January 30th, 2020; and

WHEREAS, the Town held a public drop-in session at June 22, 2021 for a more informal opportunity to discuss the design with the consultants; and

WHEREAS, the Town Council has held a public hearing to receive citizen comment on the South Greensboro Street Sidewalk project at this milestone.

NOW, THEREFORE, BE IT RESOLVED by the Carrboro Town Council who provide the following comments:

- That staff will explore the possibility of talking crosswalks.
- That staff will follow up with NCDOT concerning the narrowing of lanes and/or moving the sidewalk over to allow for the creation of a bicycle lane.
- That staff will share the latest updates with neighborhood to make them aware of the lack of a mid-walk crosswalk
- That staff will provide the most current map once the decision is made as to whether the lanes will be narrowed or the sidewalk will be moved over for the creation of a bicycle lane.
- That staff will work to minimize the impact of multiple projects going on at once.
- That staff will provide signage to alert visitors and residents to the delays and detours created by the project.
- That staff will explore the possibility of the speed limit being lowered on this portion of Greensboro Street.

This the 22nd day of June, 2021

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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**ADOPTION OF FY 2021-22 ANNUAL BUDGET**

The purpose of this agenda item was for the Town Council to complete budget discussions and adopt the annual budget for fiscal year 2021-2022.

**A motion was made by Council Member Seils, seconded by Council Member Haven-O'Donnell, to approve the following ordinance:**

**ANNUAL BUDGET ORDINANCE FY 2021-22**

**Town of Carrboro, North Carolina**  
Ordinance No. 31/20-21

WHEREAS, the recommended budget for FY 2021-22 was submitted to the Town Council on May 25, 2021 by the Town Manager pursuant to G.S. 159-11 and filed with the Town Clerk pursuant to G.S. 159-12;

WHEREAS, on June 8, 2021, the Town Council held a public hearing on the budget pursuant to G.S. 159-12;

WHEREAS, on June 22, 2021, the Town Council adopted a budget ordinance making appropriations and levying taxes in such sums as the Town Council considers sufficient and proper in accordance with G.S. 159-13;

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CARRBORO, NORTH CAROLINA:

**ARTICLE I – GENERAL FUND**

**Section 1. General Fund Appropriations**

The General Fund is the Town of Carrboro’s operating account. The following amounts are hereby appropriated by function for the operation of the Town and its activities for the fiscal year beginning July 1, 2021 and ending June 30, 2022:

<b>GENERAL GOVERNMENT</b>	<b>6,046,823</b>
Mayor and Town Council	441,282
Advisory Boards	53,950
Town Manager	292,690
Economic Development	132,127
Climate Action	308,249
Communication & Engagement	177,288
Housing & Community Services	588,904
Town Clerk	154,450
Finance	1,255,625
Human Resources	724,265
Information Technology	1,917,993
<b>PUBLIC SAFETY</b>	<b>7,207,887</b>
Police	4,006,374
Fire	3,201,513
<b>PLANNING</b>	<b>1,668,342</b>
<b>TRANSPORTATION</b>	<b>2,011,768</b>
<b>PUBLIC WORKS</b>	<b>4,026,756</b>
<b>RECREATION, PARKS, &amp; CULTURAL RESOURCES</b>	<b>1,908,568</b>
<b>NON-DEPARTMENTAL</b>	<b>1,500,867</b>
<b>DEBT SERVICE</b>	<b><u>\$876,790</u></b>
<b>TOTAL GENERAL FUND</b>	<b><u>\$25,247,801</u></b>

**Section 2. General Fund Revenues**

It is estimated that revenues from the following major sources will be available during the fiscal year beginning July 1, 2021 and ending June 30, 2022 to meet the general fund expenditures:

Ad Valorem Tax	\$ 14,063,175
Local Sales Tax	4,895,670
Other Taxes/Licenses	1,457,589
Intergovernmental	2,038,398
Fees and Permits	1,239,160
Sales and Services	171,819
Investment Earnings	40,000
Other Revenues	252,270
Other Financing Sources	<u>1,089,720</u>

**Total General Fund** **\$25,247,801**

**ARTICLE II – AFFORDABLE HOUSING FUND**

**Section 1. Affordable Housing Fund Appropriation**

The Affordable Housing Fund is a special revenue fund created by the Town to increase the stock of affordable, safe and decent housing within the Town and its’ planning jurisdiction. The following amounts are hereby appropriated for Affordable Housing Fund activities:

Community Home Trust	\$ 70,582
Home Consortium Match	12,488
Partnership to End Homelessness	35,202
AHSRF Deferred Loan Program	10,000
Affordable Hsg Advisory Board	500
Critical Home Repair	65,000
Rental Deposits Program	33,258
Acquisition and Development	100,000
Unexpended Reserves	<u>11,495</u>
<b>Total Appropriation</b>	<b><u>\$ 338,525</u></b>

**Section 2. Affordable Housing Fund Revenues**

There is hereby levied a tax rate of \$ .0150 (1.5 cent) on each one hundred dollars (\$100) valuation of taxable property as listed for taxes on January 1, 2021 that shall be devoted solely to the affordable housing activities noted above.

**ARTICLE III – CAPITAL PROJECTS**

Pursuant to GS 159-13.2, the Town Council may authorize and budget for capital projects and special revenue funds in its annual budget or project ordinance. The project ordinance appropriates revenues and expenditures for however long it takes to complete the project rather than for a single fiscal year.

**ARTICLE IV – STORMWATER UTILITY ENTERPRISE FUND**

**Section 1. Stormwater Utility Enterprise Fund**

The Stormwater Utility Enterprise Fund was created for the purpose of comprehensively addressing stormwater management and flooding issues throughout the Town, including making sure the Town stays in compliance with state and federal rules and regulations. A total of \$971,254 is appropriated for stormwater activities.

**Section 2. Revenues for Stormwater Utility Enterprise Fund**

Revenues to support stormwater activities are generated through the fee structure established in the Town Code, Chapter 18, Article II, Section 18-6. Unexpended funds from fiscal year 2020-21 may be carried forward to fiscal year 2021-22.

**ARTICLE V – PARKING ENTERPRISE FUND**

**Section 1. Parking Enterprise Fund**

The purpose of the Parking Enterprise Fund is to manage parking facilities and services within the Town and monitor related expenses. A total of \$290,500 is appropriated for parking activities.



**Section 2. Revenues for Parking Enterprise Fund**

Revenues to support the Parking Enterprise Fund include a transfer of funds in the amount of \$290,500 from the General Fund to the Parking Enterprise Funds. Unexpended funds from fiscal year 2020-21 may be carried forward to fiscal year 2021-22.

**ARTICLE VI – MISCELLANEOUS FEES AND CHARGES**

Charges for services and fees by Town Departments are levied in the amounts set forth in the Miscellaneous Fees and Charges Schedule as adopted by the Town Council.

**ARTICLE VII – GENERAL AUTHORITIES**

**Section 1.** The following authorities shall apply:

- a. The Town Manager may transfer funds between departments and functions within the General Fund for pay adjustments; service level benefits; law enforcement separation allowance; unemployment insurance; retiree, dependent, health insurance benefits; and, for any other purpose deemed necessary by the Town Manager without further action by the Town Council.
- b. The Town Manager may transfer funds within departments and functions.
- c. When unassigned fund balance exceeds 35% in the General Fund, the Town Manager, in accordance with the Town’s Fund Balance Policy, may set aside an amount in assigned fund balance for transfer to the Capital Projects Fund for future projects.
- d. All funds encumbered or designated within fund balance for expenditures as confirmed in the annual audit for the year ending June 30, 2021 shall be reappropriated to the Fiscal Year 2021-22 Adopted Budget without further action by the Town Council.
- e. The Finance Officer may approve transfer requests between programs or organizational units within the adopted general fund budget.
- f. Transfers between Funds may be authorized only by the Town Council.
- g. The Orange County Tax Collector, is authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the office of the Orange County Tax Assessor, and in the tax receipts herewith delivered to the Tax Collector, in the amounts and from the taxpayers likewise set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the County of Orange. This section of the ordinance shall be a full and sufficient authority to direct, require, and enable the Orange County Tax Collector to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.
- h. Pursuant to NCGS 160A-314.1 and 160A-317 the Town of Carrboro authorizes Orange County to provide recycling collection services within the Town and to impose and administer a basic annual services fee per household for recycling services and a solid waste convenience center fee for residents within the Town.
- i. Under GS143-64.32, architectural, engineering, and surveying services with fees less than thirty thousand dollars (\$30,000) may be exempt from the RFQ (Request for Qualification) process if approved by the Town Manager.

**Section 2.** There is hereby levied the following rates of tax on each one hundred dollars (\$100) valuation of taxable property as listed for taxes as of January 1, 2021 for the purpose of raising the revenue constituting the general property taxes as set forth in the foregoing estimates of revenue (Article I, Section 2), to finance the foregoing General Fund appropriations (Article I, Section 1). One and one half cents of the total tax rate shall be devoted exclusively to the Affordable Housing Fund.

General Fund .....	\$ .5894
Affordable Housing Fund.....	<u>\$ .0150</u>
Total Tax Rate .....	\$ .6044

**Section 3.** The Finance Officer shall distribute property tax collections to the appropriate fund(s) at least monthly as levied in Article VII, Section 2 above.

**Section 4.** In accordance with G.S. 159-13, a copy of this ordinance shall be filed with the Town Manager, the Finance Officer, and the Town Clerk.

The foregoing ordinance, having been submitted to a vote of the Town Council, received the following vote and was duly adopted this 22<sup>nd</sup> day of June 2021:

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils

**Noes:** Council Member Sammy Slade

**A motion was made by Council Member Seils, seconded by Council Member Haven-O'Donnell, to approve the following resolution:**

**RESOLUTION ADOPTING CHANGES TO TOWN OF CARRBORO POSITION  
CLASSIFICATION AND PAY PLAN**

WHEREAS, the Town Council has adopted a comprehensive Position Classification and Pay Plan for the Town of Carrboro; and,

WHEREAS, the Town Manager has submitted a budget for FY 2021-22 with proposed changes to the Position Classification and Pay Plan.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF CARRBORO  
RESOLVES:

Section 1. The Position Classification and Pay Plan is hereby modified as follows:

- a. Rename the Communications Manager to Communication & Engagement Director, and reclassify the position from Salary Grade 17 to 21.
- b. Establish a half time (.5 FTE) Communication & Engagement Specialist position, Salary Grade 10.
- c. Establish an IT Support Engineer I position, Salary Grade 15
- d. Establish a Police Trainee position, Salary Grade 6
- e. Add an Environmental Planner position, Salary Grade 15
- f. Reclassify the Groundskeeper I position, Salary Grade 2, to Maintenance/Construction Worker I position, Salary Grade 4
- g. Reclassify the Groundskeeper II position, Salary Grade 3, to Maintenance/Construction Worker II, Salary Grade 6
- h. Reclassify the Building Maintenance Worker position, Salary Grade 4, to Building Maintenance Specialist, Salary Grade 8
- i. Reclassify one Grounds Crew Leader position, Salary Grade 7, to Horticulturalist, Salary Grade 10
- j. Reclassify the Landscape/Grounds Supervisor, Salary Grade 14, to Maintenance/Construction Crew Leader, Salary Grade 9
- k. Reclassify GIS Technician position from part-time (.5 FTE) to full-time (1.0 FTE), Salary Grade 10
- l. Reclassify Code Enforcement Officer III from Salary Grade 12 to 13.
- m. Reclassify the Budget Analyst to Deputy Finance Director, Grade 18
- n. Rename the Assistant to the Finance Director position to Accounting and Grants Supervisor, Grade 16
- o. Rename the IT Support Engineer position to IT Support Engineer II, Grade 17
- p. Rename the Street Crew Leader to Maintenance/Construction Crew Leader, Grade 9
- q. Rename the Streets Supervisor to Maintenance/Construction Supervisor, Grade 14

Section 2. Effective July 1, 2021, the salary ranges for all positions established in the Position Classification and Pay Plan shall be increased by 1.5% to remain competitive with the local labor market.

Section 3. There will be no Merit or Performance Pay provided to Town employees in FY 2021-22.

Section 4. All other provisions of the Position Classification and Pay Plan remain unchanged.

Section 5. The Human Resources Director shall revise the Position Classification and Pay Plan to reflect the changes in Section 1 through Section 2.

Section 6. This resolution shall become effective July 1, 2021.

This the 22<sup>nd</sup> day of June, 2021

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**A motion was made by Council Member Seils, seconded by Council Member Haven O'Donnell, to adopt the following resolution:**

A RESOLUTION APPROVING ACROSS THE BOARD SALARY AND WAGE  
ADJUSTMENT FOR EMPLOYEES

BE IT RESOLVED that the Town of Carrboro Town Council hereby authorizes the following as a part of the Annual Budget for FY 2021-22:

Section 1: All Town permanent full-time, permanent part-time, appointed employees and elected officials shall receive an across the board salary increase of 3.3% effective July 1, 2021.

Section 2: Permanent full-time Town employees shall be paid a minimum annual salary that is at least equal to the Minimum Housing Wage of \$31,158.

Section 3: The Town Manager shall increase the salary of any permanent full-time Town employees earning less than \$31,158 to the annual Minimum Housing Wage.

Section 4: Effective July 1, 2021, the Town of Carrboro will pay all part-time employees an hourly wage that is equal to the Orange County Living Wage, which is currently \$15.40 per hour.

Section 5: This resolution shall become effective July 1, 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade.

**A motion was made by Council Member Seils, seconded by Council Member Haven O'Donnell, to adopt the following resolution:**

A RESOLUTION APPROVING THE CONTRACT FOR TOWN ATTORNEY  
BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CARRBORO:

Section 1: The Town Council hereby approves a contract for legal services with the Brough Law Firm for FY 2021-22 beginning July 1, 2021 and ending June 30, 2022.

Section 2: This resolution shall become effective July 1, 2021.

This the 22<sup>nd</sup> day of June, 2021

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**A motion was made by Council Member Seils, seconded by Council Member Haven O'Donnell, to adopt the following resolution:**

CAPITAL PROJECT ORDINANCE AUTHORIZING THE USE OF FUND BALANCE FOR  
DESIGNATED PROJECTS  
Ordinance No. 32/2020-21

WHEREAS, the Town Council for the Town of Carrboro has adopted a Fund Balance Policy; and,

WHEREAS, the adopted Fund Balance Policy provides that when the unassigned fund balance exceeds 35%, the Town Manager may set aside or assign an amount for transfer to the Capital Projects Fund for future projects; and,

WHEREAS, the adopted Fund Balance Policy requires formal action by the Town Council to commit the use of fund balance for projects or purposes in any current year or future year's budget; and,

WHEREAS, if the Town's annual audit at June 30, 2021 confirms that the unassigned fund balance exceeds 35%, the amount above 35% may be assigned by the Town Manager for capital projects;

NOW THEREFORE, BE IT ORDAINED BY THE TOWNCOUNCIL OF THE TOWN OF CARRBORO:

Section 1: The following projects are authorized to be undertaken until all project activity is completed:

A. Jones Ferry Road Retaining Wall	\$100,000
B. Park Parking Lot Paving	\$120,000
C. 108 Bim Street Renovations	\$ 50,000
D. South Greensboro Street Conduit	<u>\$ 25,000</u>
(Increase funding from \$95K to \$120K)	

<b>TOTAL APPROPRIATION</b>	<b><u>\$ 295,000</u></b>
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Section 2: Funds are appropriated from fund balance in the General Fund for transfer to the Capital Projects Fund for design, engineering, and/or construction expenses to carry out the project(s) identified in Section 1.

Section 3: Within five (5) days after this ordinance is adopted, the Town Clerk shall file a copy of this ordinance with the Finance Director.

Section 4: This capital project ordinance shall be effective July 1, 2021.

This the 22<sup>nd</sup> day of June, 2021

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**A motion was made by Council Member Seils, seconded by Council Member Haven O'Donnell, to adopt the following ordinance:**

CAPITAL PROJECT ORDINANCE FOR FY2021-22 VEHICLE PURCHASES  
Ordinance No. 33/2020-21

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CARRBORO, UNDER GS 159-13.2, THAT:

Section 1: The 2022 Vehicle Purchases Capital Project is authorized to be undertaken for the purchases of the following vehicles:

Department	Vehicles/Equipment	Cost Estimate
Police	6 Vehicles @ \$56,000	\$ 336,000
Fire	Fire Engine	650,000
IT	Ford F-150	32,000
Public Works	Cat Mini-Excavator	72,000
Public Works	Cat 420 Backhoe Loader	155,000
	<b>Total</b>	<b>\$ 1,245,000</b>

Section 2. The amount appropriated in the Capital Fund for the ten vehicles listed in Section 1 shall not exceed \$1,245,000 with the understanding that the Town will seek installment financing for the estimated vehicle costs.

Section 3: Within five (5) days after this ordinance is adopted, the Town Clerk shall file a copy of this ordinance with the Finance Director.

Section 4: This capital project ordinance shall be effective July 1, 2021.

This the 22<sup>nd</sup> day of June, 2021

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**A motion was made by Council Member Seils, seconded by Council Member Haven O'Donnell, to adopt the following resolution:**

**REIMBURSEMENT RESOLUTION FOR EQUIPMENT AND VEHICLES**

WHEREAS, the Town Manager, has described to the Town Council the desirability of adopting a resolution, as provided under federal tax law, to facilitate the Town's use of financing proceeds to restore its funds when the Town makes capital expenditures prior to closing on a lease-purchase installment financing.

BE IT RESOLVED by the Town of Carrboro Town Council that:

Section 1. The equipment and vehicles budgeted for purchase in FY 2021-22 include the following:

Department	Vehicles/Equipment	Cost Estimate
Police	6 Vehicles @ \$56,000	\$ 336,000
Fire	Fire Engine	650,000
IT	Ford F-150	32,000
Public Works	Cat Mini-Excavator	72,000
Public Works	Cat 420 Backhoe Loader	155,000
	<b>Total</b>	<b>\$ 1,245,000</b>

Section 2. The expected type of financing (which may be subject to change) for the above equipment and vehicles is installment purchase financing as allowed in North Carolina General Statutes Section 160A-20.

Section 3. Funds that have been advanced, or may be advanced, from the General Fund for the aforementioned items are intended to be reimbursed from the financing proceeds up to an amount of \$1,245,000.00.

Section 4. The adoption of this resolution is intended as a declaration of the Town Council's official intent to reimburse project expenditures from financing proceeds.

Section 5. This resolution shall become effective upon adoption.

This the 22<sup>nd</sup> day of June, 2021

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**A motion was made by Council Member Seils, seconded by Council Member Haven O'Donnell, to approve the following resolution:**

RESOLUTION APPROVING THE MISCELLANEOUS FEES AND CHARGES SCHEDULE

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CARRBORO:

Section 1: The Town Council hereby approves the attached Miscellaneous Fees and Charges Schedule (Attachment G-1) for FY 2021-22.

Section 2: This resolution shall become effective on July 1, 2021.

This the 22<sup>nd</sup> day of June, 2021

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**A motion was made by Council Member Seils, seconded by Council Member Haven-O'Donnell, to approve the following resolution:**

A RESOLUTION TO APPROVE NONSTOP WELLNESS AS THE TOWN'S THIRD-PARTY ADMINISTRATOR FOR MEDICAL INSURANCE SERVICES

WHEREAS, the Town has provided employees and eligible pre-65 retirees with a medical insurance plan for many years with medical insurance provider Blue Cross Blue Shield of North Carolina (BCBSNC); and,

WHEREAS, the Town has incurred steep medical insurance rate increases over the past few years; and,

WHEREAS, staff have reviewed cost saving options for insurance plans and recommend a change in the Town's insurance plan to a high deductible health plan (HDHP) in order to save on premiums costs; and,

WHEREAS, a third party administrator, Nonstop Wellness (NSW) will assist with creating a medical expense reimbursement plan (MERP), in conjunction with the BCBSNC plan, to provide additional benefits to Town employees and eligible pre-65 retirees; and,

WHEREAS, Town employees will maintain the vast in-network provider pool for medical services with no changes in covered services and/or prescription medications.

**NOW THEREFORE, BE IT RESOLVED** that the Town Council of the Town of Carrboro hereby approves the following as a part of the Annual Budget for FY 2021-22:

Section 1: The Town shall offer all employees and eligible pre-65 retirees a HDHP and MERP through BCBSNC medical insurance provider, and Nonstop Wellness, third party administrator.

Section 2: The Town Manager is authorized to negotiate and enter into a separate contract, upon Town Attorney review, with the providers stated in Section 1 for fiscal year 2021-22.

The Town Manager shall approve vendor service fees and employee premiums as appropriated in the adopted budget.

Section 3: Within five (5) days after this resolution is adopted, the Town Clerk shall file a copy of this resolution with the Town Manager, Finance Director, and Human Resources Director.

Section 4: This resolution shall be effective July 1, 2021.

This the 22<sup>nd</sup> day of June, 2021

Ayes: Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

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**APPOINTMENT TO THE STORMWATER ADVISORY COMMISSION**

The purpose of this agenda item was for the Town Council to make appointments to the Stormwater Advisory Commission.

The following ballot votes were cast via email directly to the Town Clerk:

Jeanette O'Connor – Lavelle, Gist, Foushee, Seils, Romaine, Slade, O'Donnell

Michael Paul- Lavelle, Gist, Foushee, Seils, Romaine, Slade, O'Donnell

John Cox – Lavelle, Gist, Foushee, Seils, Romaine, Slade, O'Donnell

Margot Lester – Lavelle, Gist, Foushee, Seils, Slade, O'Donnell

Aja Kelleher – Lavelle, Gist, Foushee, Seils, Romaine, O'Donnell

Satya Kallepalli – Romaine, Slade

The Town Clerk read that the applicants receiving the most ballot votes by email were John Cox, Michael Paul, Jeanette O'Connor, Margot Lester and Aja Kelleher.

**A motion was made by Council Member Gist, seconded by Council Member Haven-O'Donnell, to approve the following resolution:**

A RESOLUTION MAKING AN APPOINTMENT TO THE STORMWATER ADVISORY COMMISSION THE TOWN COUNCIL HEREBY APPOINTS THE FOLLOWING APPLICANT(S) TO THE STORMWATER ADVISORY COMMISSION:

Appointee	Term Expiration
John Cox	2/2024
Jeanette O'Connor	2/2024
Michael Paul	2/2024
Aja Kelleher	2/2025
Margot Lester	2/2025

Section 2. This resolution shall become effective upon adoption

This the 22<sup>nd</sup> day of June, 2021.

**Ayes:** Mayor Lydia Lavelle, Council Member Barbara Foushee, Council Member Jacquelyn Gist, Council Member Randee Haven-O'Donnell, Council Member Susan Romaine, Council Member Damon Seils, Council Member Sammy Slade

**MOTION WAS MADE BY COUNCIL MEMBER GIST, SECONDED BY COUNCIL MEMBER SLADE, FOR STAFF TO PREPARE AN ORDINANCE AMENDING THE TOWN CODE TO ADD TWO SEATS TO THE STORMWATER ADVISORY COMMISSION. VOTE: AFFIRMATIVE ALL**

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**CHECK-IN ON THE COMPREHENSIVE PLAN PROCESS - REVIEW OF DRAFT GOALS, STRATEGIES, PROJECTS - CARRBORO CONNECTS**

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

Trish McGuire, the Town’s Planning Director, provided the staff report.

Scott Goldstein, representing TESKA Consultants, provided the update.

There was no formal action taken by the Town Council. Staff should continue with the plan as presented.

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**MATTERS BY COUNCIL MEMBERS**

Council Member Gist discussed a proposed meeting with the Barred Owl Neighborhood group. Town Manager Andrews said he would work on scheduling a meeting.

Council Member Haven-O’Donnell discussed the possibility of the town purchasing the Carliss property to preserve it as a wetlands reserve/green space and wants to investigate if ARPA funds could be used.

Council Member Slade discussed the possibility of the Town lending money to help a family that has had flooding affect their property. Mayor Lavelle suggested checking into the legality of this.

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**ADJOURNMENT**

**MOTION WAS MADE BY COUNCIL MEMBER FOUSHEE, SECONDED BY COUNCIL MEMBER SLADE, TO ADJOURN THE MEETING. VOTE: AFFIRMATIVE ALL**

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**Town Clerk**

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**Mayor**



