

ARTICLE XII

DENSITY AND DIMENSIONAL REGULATIONS

Section 15-181 Minimum Lot Size Requirements.

- (a) Subject to the provisions of Sections 15-186 (Cluster Subdivisions) and 15-187 (Architecturally Integrated Subdivisions), all lots in the following zones shall have at least the amount of square footage indicated in the following table: **(AMENDED 5/12/81; 12/7/83; 2/4/86; 11/14/88; 05/15/90; 04/16/91)**

ZONE	MINIMUM SQUARE FEET
R-2	4,000 except that the size may be reduced to 2,000 square feet in an architecturally integrated subdivision on a tract of at least 40,000 square feet.
R-3	3,000
R-7.5	7,500
R-10	10,000
R-S.I.R.	10,000
R-15	15,000
R-20	20,000
RR	43,560 (one acre)
WR	217,800 (subject to subsection (b))
C	No Minimum
B-1(c)	None
B-1(g)	3,000 for residential; otherwise no minimum
B-2	7,500
B-3	7,500 if used for residential purposes; otherwise no minimum
B-3-T	7,500 if used for residential purposes, but no minimum lot size for other permitted uses.
B-4	Same as B-1(g)
B-5	43,560 (1 acre)
M-1	No Minimum
M-2	No Minimum
WM-3	40,000
CT	40,000
O	7,500
O/A	7,500

- (b) Within the WR district, not more than five lots containing a minimum of two acres each may be created out of any lot that existed on the effective date of this section (05/15/90). **(AMENDED 05/15/90)**

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- (c) Lots within the JLWP overlay district (see Section 15-141.1) shall be subject to the limitations set forth in Subsections 15-266(e) and (f). **(AMENDED 10/15/96)**
- (d) The minimum lot size requirement within the R-2 Conditional district (R-2-CZ), may be reduced to 1,500 square feet in an architecturally integrated subdivision (AIS) on a tract containing at least 20,000 square feet. **(AMENDED 06/28/16)**

Section 15-182 Residential Density.

- (a) Subject to the other provisions of this section and the provisions of Section 15-186 (Cluster Subdivisions), 15-187 (Architecturally Integrated Subdivisions) and 15-182.1 (Density in R-SIR Zoning), every lot developed for residential purposes shall have the number of square feet per dwelling unit indicated in the following table. In determining the number of dwelling units permissible on a tract of land (by dividing the total number of square feet the tract contains by the minimum per dwelling unit), fractions shall be dropped. **(AMENDED 4/24/84; 1/22/85; 2/4/86; 11/14/88; 05/15/90; 04/26/91)**

ZONE	MINIMUM SQUARE FEET PER DWELLING UNIT, MULTI-FAMILY AND DUPLEX
R-2	2,000
R-3	3,000
R-7.5	7,500
R-10	10,000
R-S.I.R.	10,000
R-15	15,000
R-20	20,000
RR	43,560 (one acre)
B-1(c)	None
B-1(g)	3,000
B-2	7,500
B-3	7,500
B-3-T	7,500
CT	7,500
O	7,500
O/A	7,500

- (b) Two-family conversions and primary residences with an accessory apartment, and primary residences with an accessory detached dwelling, shall be allowed only on lots having at least 150% of the minimum square footage required [under subsection (a)] for one dwelling unit on a lot in such district. With respect to multi-family conversions into three or four dwelling units, the minimum lot size shall be 200% and 250% respectively of the minimum required [under subsection (a)] for one dwelling unit. **(AMENDED 4/24/84; 5/28/02)**

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- (c) Within the zoning districts named below, lots that were created before the effective date of this section and that are less than one acre in size may be developed for two-family and multi-family residential purposes at a density such that the lot contains at least the following number of square feet for each dwelling unit constructed thereon. In determining the number of dwelling units permissible on a tract of land (by dividing the total number of square feet the tract contains by the minimum per dwelling unit), fractions shall be dropped. (AMENDED 4/24/84; 1/22/85; 11/14/88)

<u>ZONE</u>	<u>MINIMUM SQUARE FEET PER DWELLING UNIT</u>
R-7.5	5,625
R-10, R-SIR	7,500
R-15	11,250
R-20	15,000

- (d) In any district where such use is permitted, a use that falls within the 1.400, 1.520, or 1.600 classifications and is designed to accommodate not more than seven residents is permissible on a lot having at least the minimum number of square feet for a lot in that district (see Section 15-181). If a lot is larger than the minimum lot size required for that particular district, then, subject to the definitional limitations, the number of residents that any of the foregoing uses may have on such lot is seven plus the number derived from the following formula: (AMENDED 4/24/84)

$$\frac{\text{(amount of square footage in lot)} - \text{(minimum lot size for that district)}}{(.5) \times \text{(Minimum square feet per dwelling unit for multi-family development in that district)}}$$

Fractions shall be rounded to the nearest whole number.

- (e) Notwithstanding any other provisions of this chapter, if a conditional use permit authorizing the construction of a phased residential development was issued after July 1, 1980 and, as of April 24, 1984 one or more but less than all of the phases of such project had been completed and the permit to complete the remaining phase or phases has expired under Section 15-62, then the land within the remaining phases or phases may be developed for two-family or multi-family residential purposes at a density such that such area contains at least the following number of square feet for each dwelling unit constructed thereon: (AMENDED 4/9/85; 11/14/88)

<u>Zone</u>	<u>Minimum Square Feet Per Dwelling Unit</u>
R-7.5	5,625
R-10, R-SIR	7,500
R-15	11,250
R-20	15,000

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- (f) The table set forth in subsection (a) contains no reference to the WR (watershed residential) zoning district because only single-family detached residences are permitted within this district, and therefore residential density is established by the minimum lot size requirements in Section 15- 181. **(AMENDED 05/15/90)**
- (g) Lots within the JLWP overlay district (see Section 15-141.1) shall be subject to the limitations set forth in subsections 15-266(e) and (f). **(AMENDED 10/15/96)**
- (h) Notwithstanding the foregoing, the minimum square feet per dwelling unit required for any residential development consisting solely of single-room occupancy units shall be 500 square feet in the B-1(g) and R-2 districts. **(AMENDED 10/10/00)**
- (i) Notwithstanding the foregoing, density in the B-1(g) – CZ district may be determined in accordance with the provisions of Section 15-141.4(f). **(AMENDED 11/09/11)**

Section 15-182.1 Residential Density in R-SIR Zoning.

- (a) Land that is zoned R-SIR may be developed in the same manner and at the same density as land within an R-10 zoning district. However, the provisions of this section are designed to encourage development that furthers the town’s housing goals by offering density bonuses for such development.
- (b) A major housing goal of the town is to obtain in the community a sufficient number of housing units by type, style and price to afford residents a suitable dwelling of their choice. To the degree that a development meets one or more of the performance criteria set forth below, it helps to further this housing goal and therefore should be entitled to a density bonus determined in accordance with subsection (c).
 - (1) The development consists of at least thirty but less than eighty percent ownership units. Each undeveloped lot in a residential subdivision as well as each single-family residence shall be considered an ownership unit. Condominiums shall also be considered ownership units.
 - (2) The development offers at least three different number-of-bedroom options, with each type comprising at least ten percent of the total number of dwelling units. Lots intended for sale in their undeveloped state shall not be considered for purposes of this performance criterion.
 - (3) The development offers a variety of the following six residential building styles: (i) single-family on lots 7,500 square feet or greater, (ii) single-family on lots smaller than 7,500 square feet, (iii) one-story multi-family or duplex, (iv) two or three-story multi-family or duplex, each unit having a

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separate ground level entrance, (v) two or three-story multi-family or duplex, each unit not having a separate ground level entrance, and (vi) multi-family high rise (i.e., four or more stories). This performance criteria may be satisfied at the following three levels:

- a. Two building styles (thirty percent minimum, each style).
 - b. Three building styles (twenty five percent minimum, each style).
 - c. Four or more building styles (fifteen percent minimum for each of at least four styles).
- (c) Residential development in the R-SIR zoning district that meet one or more of the performance criteria described in subsection (b) may be developed according to the density set forth below. Notwithstanding subsection 15-154(b), the total density of the development shall be determined by dividing the total area of the lot to be developed by the appropriate figure of square feet per dwelling unit, and rounding off to the nearest whole number.

MINIMUM SQUARE FEET PER DWELLING UNIT				
	No (b)(3) Criteria Met	(b)(3)(a) met	(b)(3)(b) met	(b)(3)(c) met
Neither (b)(1) nor (b)(2) met		6,500 sq. ft.	5,000 sq. ft.	3,500 sq. ft.
(b)(1) or (b)(2) met	7,000 sq. ft	6,000 sq. ft.	4,000 sq. ft.	3,000 sq. ft

- (d) When a developer takes advantage of the density bonuses offered in this section and part of the development consists of a single-family residential subdivision, the 10,000 square foot minimum lot size may be reduced pursuant to Sections 15-186 (cluster subdivisions) and 15-187 (Architecturally Integrated Subdivisions).
- (e) Land that is zoned R-S.I.R.-2 may be developed in the same manner as that which is zoned R-S.I.R. except that the minimum square feet per dwelling unit shall in no case be less than 6,000 square feet. **(AMENDED 5/12/81)**

Section 15-182.2 Effect of Public Acquisition of Property On Density, Setback and Height Requirements, (AMENDED 4/2/02;5/28/02;4/8/03)

- (a) Subject to other provisions of this section, if (i) any portion of a lot lies within an area designated on any officially adopted town plan as part of a proposed public park, greenway, or bikeway, or the town or the N.C. Department of Transportation otherwise seeks to acquire a portion of a lot for any public use, and (ii) before the lot is developed, the owner of the lot, with the concurrence of the town, dedicates to the town or the N.C. Department of Transportation that portion of the lot so designated or sought to be acquired, or the town or the N.C. Department of Transportation

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condemns the same, then, when the remainder of the lot is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development. **(AMENDED 11/26/85; 11/28/89)**

- (b) If the portion of the lot that remains after dedication as provided in subsection (a) is divided in such a way that the division either does not constitute a subdivision or constitutes only a minor subdivision (as these terms are defined in Section 15-15), then, when each of the lots so created is later developed for residential purposes, the permissible density at which each lot may be developed shall be calculated in the following manner:
 - (1) Divide the area of the particular lot in question by the total area of the portion of the original lot not dedicated to the town.
 - (2) Multiply the fraction derived from step (1) above times the total area of the dedicated portion of the original lot.
 - (3) Regard the area derived from the calculation in step (2) above as if it were part of the lot in question and calculate the density on the basis of this combined area.
- (c) In no case may the density permitted under this section exceed a level of fifteen dwelling units per acre.
- (d) Notwithstanding any other provisions of this ordinance, the town may condemn additional right-of-way along an existing street even though such condemnation creates a nonconforming lot, and the property owner may at the request of the town dedicate additional right-of-way along an existing street even though such dedication creates or results in the creation of nonconforming lots. **(AMENDED 11/26/85)**
- (e) Notwithstanding any other provisions of this chapter, a property owner may dedicate to the town or the town may otherwise acquire a right-of-way over or a fee simple interest in a portion of a lot, even though such acquisition creates a situation where a building or sign is so located on the remainder of the lot that it is inconsistent with the setback requirements set forth in Section 15-184. The setback situation so created shall be regarded as in conformity with the setback requirements of this chapter (rather than as a nonconforming situation) except in relation to the provisions of Section 15-92.1(e). **(AMENDED 4/2/02)**
- (f) Notwithstanding any other provisions of this chapter, if a property owner dedicates of the town or the State otherwise acquires from a property owner additional right-of-way along an existing street, then to the extent that the height of a building is dependent on the distance a building is set back from a street right-of-way, the

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maximum building height permitted under Section 15-185 shall be calculated as if such dedication or acquisition had not been made, provided that this provision shall not be applicable if right-of-way is dedicated pursuant to subsection 15-185(a)(3)(a).
(AMENDED 4/8/03)

Section 15-182.3 Residential Density of Major Developments in Certain Districts
AMENDED 05/25/99

- (a) Notwithstanding the provisions of Section 15-182, when any tract of land within the R-10, R-15, R-20, and RR districts is developed under circumstances requiring the issuance of a special or conditional use permit, the maximum number of dwelling units that may be placed on that tract shall be determined in accordance with the provisions of this section.
- (b) If the development is to be served by OWASA owned water and sewer lines, then the maximum number of dwelling units for any type of residential development shall be determined by dividing the adjusted tract acreage [calculated in accordance with the provisions of subsection (c) below] by the “minimum square feet per dwelling unit” associated with the zoning district of the property to be developed as set forth in Section 15-182. **(AMENDED 06/22/99)**
- (c) The adjusted tract acreage shall be calculated by deducting from the gross acreage of the tract the sum total of each of the following areas that may be located within the tract in question. If an area within the tract qualifies under more than one of the following categories, then that area shall be included only within the one category that involves the most restrictive (i.e. the greatest) deduction.
 - (1) Floodways: multiply the area within a floodway by a factor of 1.0.
 - (2) Wetlands: multiply the area of designated wetlands by a factor of 0.95.
 - (3) Major Rock Formations: multiply the area of major rock formations by a factor of 0.90.
 - (4) Steep Slopes: multiply the area of land with natural ground slopes exceeding 25 percent by a factor of 0.80.
 - (5) Land traversed by high-tension electrical transmission lines (69kv or higher): multiply the area within the power easement by a factor of 0.75.
 - (6) Floodplains: multiply the 100-year floodplain by a factor of 0.5.
 - (7) Moderately steep slopes: multiply the area with natural ground slopes of between 15 and 25 percent by a factor of 0.4.
 - (8) Land traversed by underground utility lines (not within a street right of way): multiply the area within the easement (or if no easement exists, the area within ten feet on either side of the line) by a factor of 0.3.

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- (d) If the development is not to be served by OWASA owned water and sewer lines, then the maximum number of dwelling units shall be determined in reference to an actual yield plan prepared by the developer in accordance with the provisions of this subsection. The yield plan shall be a conceptual layout of a single-family residential subdivision (containing proposed lots that meet the minimum lot size requirements of the district where the property is located, streets, easements, and other pertinent features) that could be developed within the tract in question in accordance with the provisions of this chapter. Although the yield plan must be drawn to scale, it need not reflect any great degree of site engineering. However, it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the topography of the land and natural constraints, existing easements and encumbrances, and the applicable provisions of this chapter, particularly those relating to open space, recreational facilities, and street rights of way. In addition, the yield plan shall be prepared under the assumption that each lot will be served with an individual septic tank located on the same lot as the house it serves. The applicant shall submit evidence (in the form of a preliminary soils evaluation from Orange County or comparable information from a qualified source) that there appears to be sufficient suitable soil within each of the proposed lots to support a septic tank system serving at least a three-bedroom house. When a yield plan meeting the requirements of this subsection has been submitted, the zoning administrator shall confirm this in a letter to the developer, which letter shall indicate the maximum number of dwelling units that can be developed on the tract in accordance with this subsection.

Section 15-182.4 Residential Density Bonuses for Affordable Housing (AMENDED 05/25/99, 8/22/06, 1/22/08, 3/20/12, 4/22/14, 6/24/14, 1/27/15; REWRITTEN 6/26/07)

- (a) The Board of Aldermen has established as a policy goal that at least fifteen percent of the housing units within all new residential developments should consist of affordable housing units as described in this section. The remaining provisions of this section are designed to provide incentives to encourage developers to comply with this policy goal either by providing affordable housing units or lots or, under the circumstances set forth in subsection (j), by making payments in lieu of providing such affordable housing units. **(AMENDED 1/22/08, 1/27/15)**
- (b) For purposes of this section, an affordable housing unit means a dwelling unit that satisfies the requirements of the following subsections (c) through (f): **(AMENDED 1/27/15)**
- (c) The appropriately-sized affordable housing unit must be offered for sale or rent at a price that does not exceed an amount that can be afforded by a family whose annual gross income equals 80 percent of the median gross annual family income, as most recently established by the United States Department of Housing and Urban Development, for a family of a specific size within the Metropolitan Statistical Area where the Town of Carrboro is located; provided that a for-sale housing unit

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that is offered for sale at a price that exceeds the foregoing limit but does not exceed an amount that can be afforded by a family whose annual gross income equals 115% of the median gross annual family income shall also be regarded as affordable so long as (i) such unit otherwise qualifies as an affordable housing unit under this section, and (ii) units that qualify as affordable under this exception do not constitute more than 25% of the affordable housing units provided within any development **(AMENDED 3/20/12, 1/27/15)**

- (d) It is conclusively presumed that a family can afford to spend 30% of its annual gross income on housing costs. In the case of housing units that are for sale, the term “housing costs” shall mean the costs of principal and interest on any mortgage, real property taxes, insurance, fees paid to a property owners association, and any ground lease or maintenance fees. In the case of rental housing units, the term “housing costs” shall mean the cost of rent plus utilities. In making the calculation called for in this subsection, it shall be conclusively presumed that a unit is appropriately sized when an efficiency or one bedroom housing unit serves a family of one, that a two bedroom housing unit serves a family of two; that a three bedroom housing unit serves a family of three, and that a housing unit containing four or more bedrooms serves a family of four. **(AMENDED 1/27/15)**

- (e) The developer shall also establish or provide for arrangements to ensure that each such affordable unit is made available for sale or rent only to a family whose annual gross income does not exceed (i) 80% of the median gross annual income of a family of the same size within the Metropolitan Statistical Area where the town of Carrboro is located, or (ii) 115% of the median gross annual income of a family of the same size within the Metropolitan Statistical Area where the town of Carrboro is located if the unit is one that qualifies as affordable under the 115% exception provided for in subsection (c). **(AMENDED 3/20/12, 1/27/15).**

- (f) The developer of the affordable housing unit must establish or provide for arrangements to ensure that, for a period of not less than 99 years from the date of initial occupancy of the unit, such unit shall remain affordable (as provided in subsection (c)) and shall be offered for sale or rent only to families that satisfy the income criteria set forth in subsection (e). Such arrangements may include but shall not be limited to a ground lease, a deed restriction, or other covenant running with the unit. The documents establishing such arrangements shall be reviewed and approved by the Town of Carrboro prior to final plat approval if the units are located on subdivided lots or prior to the issuance of a certificate of occupancy if the units are not located on unsubdivided lots. The provisions of this subsection shall be considered satisfied if units are transferred to the Orange Community Housing and Land Trust at or below a price that is consistent with the provisions of subsection (c) above. **(AMENDED 1/27/15)**

- (g) Notwithstanding the other provisions of this section, if a dwelling unit is transferred to the Orange Community Housing and Land Trust or other non-profit housing pro-

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vider in order to qualify such unit as “affordable” under the provisions of this section, and the financial institution that provides a loan to the buyer requires that such loan be secured by a deed of trust or other instrument that allows the unit to be sold upon default free and clear of the affordability restrictions set forth in this section, then the Land Trust or other non-profit housing provider may agree to such financing terms. Should foreclosure under such a deed of trust occur, this shall not render nonconforming or otherwise have an adverse effect upon either the affordable unit or the development that created the affordable unit. **(AMENDED 1/27/15)**

- (h) For purposes of this section, an affordable housing lot shall mean a lot that (i) is designed and approved for the construction of a single family dwelling, and (ii) upon creation of such lot by the recording of a final plat, is donated (without additional consideration) to a non-profit agency that is in the business of constructing on such lots affordable housing units that meet the affordability criteria set forth in subsections (c) through (f) above. **(AMENDED 1/27/15)**

- (i) The maximum residential density permissible within a development whose maximum density would otherwise be determined in accordance with the applicable provisions of this Article XII shall be increased by two dwelling units for every one affordable housing unit constructed within the development, up to a maximum of 150% of the density otherwise allowable. Similarly, the maximum number of single family detached residential building lots that could otherwise be created within a development tract under the applicable provisions of this Article XII may be increased by two such lots for every one affordable housing lots created within such development, up to a maximum of 150% of the maximum density otherwise allowable. To illustrate, if the maximum density of a tract would be 100 dwelling units (or single family lots), a developer who chooses to construct 10 affordable housing units (or create 10 affordable housing lots) as part of the development of that tract would be allowed to construct 10 additional dwelling units (or create 10 additional lots) that did not satisfy the “affordability” criteria set forth in subsections (c) or (f), for a total density of 120 dwelling units (or lots). In this illustration, the maximum possible density that could be achieved would be 150 dwelling units if the developer constructed at least 25 affordable housing units (or created 25 affordable housing lots). **(AMENDED 1/27/15)**

- (j) For purposes of determining the maximum density permissible within a development under subsection (i) of this section, the Board of Aldermen may allow the payment of an affordable housing payment in lieu fee (determined in accordance with the provisions of subsection 15-54.1(b)(4)) to be regarded as the equivalent of providing an affordable housing unit. The developer may request such authorization at any time following the submission of a development application. In exercising its discretion as to whether such a request should be granted, the Board shall consider the need for the particular type of units the payments in lieu would replace, the comparative need for cash resources to assist in the provision or maintenance of affordable housing, and such other factors as the Board deems relevant in determining whether and to what extent payments in lieu would better serve the Board’s goal of providing and maintaining affordable housing. **(AMENDED 1/22/08, 1/27/15)**

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- (k) Within any development that provides affordable housing units or affordable housing lots, the minimum area that must be set aside as open space to satisfy the requirements of Section 15-198 may be reduced by an amount equal to twice the land area consumed by all such affordable housing units or lots, except in no case may the required percentage of open space be less than 20 % (10 % in the ORMU and R-2 districts). **(AMENDED 1/27/15)**
- (l) Affordable housing units or lots constructed or created in accordance with this section shall not be unduly isolated or segregated from other dwellings or lots that do not satisfy the “affordability” criteria set forth in this section. **(AMENDED 1/27/15)**
- (m) In approving a special or conditional use permit for a development that proposes to utilize the density bonus provisions of this section, the permit issuing authority shall ensure, by approval of a condition, phasing schedule, or otherwise, that affordable housing units or lots, or payments in lieu thereof, are actually provided in accordance with the provisions of this section. Without limiting the generality of the foregoing, the permit issuing authority may impose a condition specifying that certificates of occupancy may not be issued for the market priced units until the corresponding affordable housing units are constructed and offered for sale or rent for an amount that is consistent with the definition set forth in this section, or payments in lieu thereof have been made to the town. **(AMENDED 1/22/08, 1/27/15)**
- (n) If, by using the affordable housing density bonus provided for in this section, the number of dwelling units or lots within a development increases to the point where the type of permit required for the project based on the number of units or lots would otherwise change from a zoning to a special use permit or from a special use to a conditional use permit in accordance with the provisions of Section 15-147, the developer may nevertheless seek approval for the project under the permit process that would be applicable if no density bonus was sought under this section. **(AMENDED 1/27/15)**
- (o) As provided in subsection 15-92.1(d), developments that use the affordable housing density bonus provisions of this section may be entitled to relief from the setback requirements under some circumstances. **(AMENDED 1/27/15)**
- (p) Notwithstanding the other provisions of this section, with respect to a development that (i) was approved prior to the amendments to this section adopted on June 26, 2007, and (ii) constructed dwelling units that satisfied the affordability criteria by recording covenants and including restrictions in the deeds that conveyed title to the affordable units limiting the sale or resale price of such units in accordance with a formula set forth in this section, and (iii) took advantage of the density bonus provisions of this section and constructed additional market rate units as authorized by this section:
 - (1) The Board of Aldermen may amend the conditional use permit that authorized such development to provide that those provisions that restrict the price

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at which the affordable units may be sold shall no longer be binding, (thereby allowing the units to be sold at market value) subject to and in accordance with the following provisions:

a. At the closing on the sale of such units, all fees and charges typically paid by the seller of other market rate units (such as loans secured by property, re-al estate commissions, prorated property taxes, excise taxes, etc.) shall be paid by the seller of a unit previously designated as affordable. The balance of the proceeds of the sale to which the seller is entitled shall be referred to in this section as the “net proceeds of the sale.”

b. To the extent that the price paid by the buyer of the unit exceeds the price paid by the seller when the seller purchased the unit, the difference between the two figures shall be referred to in this section as the “equity appreciation amount.” To the extent that the net proceeds of the sale are sufficient, the seller shall be allowed to keep the first five thousand dollars (\$5,000.00) of equity appreciation, plus an amount of the equity appreciation equal to the amount paid by the seller for additions to the home or significant upgrades to the home (routine maintenance, repairs, or replacements excluded).

c. If the net proceeds of the sale exceed the amount the seller is permitted to retain under the foregoing paragraph, the remainder of the net proceeds shall be split evenly between the Town and the seller. **(AMENDED 1/27/15)**

(2) The Board of Aldermen may also amend the conditional use permit that authorized such development to provide that those provisions that restrict the price at which the affordable units may be sold shall expire automatically on the twentieth anniversary of the recording date of the deed conveying the affordable unit to the party owning that unit on the effective date of this subsection. Thereafter, no restrictions on the sales price of such unit or the disposition of sales proceeds shall apply to such unit. **(AMENDED 1/27/15)**

(3) A development wherein affordable units are converted to market rate units under this subsection shall not be regarded as nonconforming with respect to density. **(AMENDED 06/24/14, 1/27/15)**

Section 15-183 Minimum Lot Widths.

- (a) No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:
 - (1) Could be used for purposes that are permissible in that zoning district; and
 - (2) Could satisfy any applicable setback requirements for that district.

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- (b) Without limiting the generality of the foregoing standard, the following minimum lot widths are recommended and are deemed presumptively to satisfy the standard set forth in subsection (a). The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the street intersects with lot boundary lines at opposite sides of the lot. (AMENDED 5/26/81; 12/7/83; 2/4/86; 11/14/88; 05/15/90; 04/16/91)

ZONE	LOT WIDTH
C	None
RR	100
R-20	100
R-15	85
R-10	75
R-S.I.R.	75
R-7.5	75
R-3	50
B-1(c)	None
B-1(g)	None
B-2	50
B-3	75
B-3-T	75
B-4	None
B-5	100
M-1	100
M-2	100
WM-3	100
WR	100
CT	100
R-2	100
O	75
O/A	75

- (c) No lot created after the effective date of this chapter that is less than the recommended width shall be entitled to a variance from any building setback requirement.

Section 15-184 Building Setback Requirements.

- (a) Subject to Section 15-187 (Architecturally Integrated Subdivisions) and the other provisions of this section, no portion of any building or any freestanding sign may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the table set forth below: (AMENDED 1/22/85)

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- (1) If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline.
- (2) As used in this section, the term “lot boundary line” refers to lot boundaries other than those that abut streets.
- (3) As used in this section, the term “building” includes any substantial structure, which, by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:
 - a. Gas pumps and overhead canopies or roofs.
 - b. Fences, walls or berms running along lot boundaries adjacent to public street rights-of-way if such fences, walls or berms exceed three feet in height and are substantially opaque except that fences, walls or berms shall not be regarded as “buildings” within the meaning of this subsection if they are located along the rear lot line of lots that have street frontage along both the front and rear of such lots. **(AMENDED 05/19/98)**
 - c. Pergolas, except that a pergola will not be considered a “building” for purposes of this section if it consists merely of an insubstantial frame, no larger than 15 feet long on any side, presents itself visually more as a part of the landscape than as a building. **(AMENDED 10/22/13)**
- (4) Notwithstanding any other provision of this chapter, signs that do not meet the definition of freestanding signs may be erected on or affixed to structures (e.g., some fences) that are not subject to the setback requirements applicable to buildings only if such signs are located such that they satisfy the setback requirements applicable to freestanding signs in the district where located. **(AMENDED 5/26/81; 12/7/83; 2/4/86; 11/14/88; 05/15/90; 04/16/91; 01/16/01)**
- (5) Notwithstanding the foregoing, the first three feet of roof overhang on a residential structure constructed in a residential zoning district is not considered a building for the purposes of this section and is not subject to the building setback requirements. **(AMENDED 4/22/14)**

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ZONE	Minimum Distance from Street Right of Way line		Minimum Distance from Street Centerline		Minimum Distance from Lot Boundary Line
	Building	Freestanding Sign	Building	Freestanding Sign	Building and Freestanding Sign
C	25	12.5	55	42.5	20
WR	35	17.5	65	47.5	20
RR	40	20	70	50	20
R-20	40	20	70	50	20
R-15	35	17.5	55	47.5	20
R-10	25	12.5	55	42.5	12
R-S.I.R.	25	12.5	55	42.5	10
R-7.5	25	12.5	55	42.5	10
R-3	15	7.5	45	37.5	8
B-1(c)	--	--	30	--	--
B-1(g)	--	--	30		
B-2	15	7.5	45	37.5	10
B-3	15	7.5	45	37.5	15
B-3-T	15	7.5	45	37.5	15
B-4	30	15	60	45	10
CT	--	--	30	--	--
B-5	40	20	70	50	20
M-1	--	--	30	--	--
M-2	--	--	30	--	--
WM-3	30	15	60	45	20
O	15	7.5	45	37.5	15
O/A	15	7.5	45	37.5	15
R-2	15	7.5	45	37.5	8, plus 2 feet for every additional foot above 35 feet in height

(b) With respect to lots within the R-20 district that were in existence or had received preliminary plat approval by Orange County prior to November 14, 1988 and were outside the town's extraterritorial planning jurisdiction but that on or after that date became zoned R-20 as a result of the implementation of the Joint Planning Agreement:

- (1) The minimum set back distance from the lot boundary line shall be 15 feet rather than the 20 feet indicated in the table set forth in subsection (a);
- (2) On lots having frontage on more than one street, the building setback applicable to the street which the front of the principal building located on

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that lot faces shall be as set forth in subsection (a). The building setback from the other streets shall be 15 feet from the right-of-way line. **(AMENDED 04/25/89)**

- (c) Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, then the lot in the nonresidential district shall be required to observe the property line setback requirements applicable to the adjoining residential lot.
- (d) Setback distances shall be measured from the property line or street centerline to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.). Setbacks for berms shall be measured from the property line or street centerline to the point on the berm where it exceeds three feet in height. **(AMENDED 05/19/98)**
- (e) Whenever a private road that serves more than three lots or more than three dwelling units or that serves any nonresidential use tending to generate traffic equivalent to more than three dwelling units is located along a lot boundary, then:
 - (1) If the lot is not also bordered by a public street, buildings and freestanding signs shall be set back from the centerline of the private road just as if such road were a public street.
 - (2) If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes (as set forth above in the column labeled "Minimum Distance from Lot Boundary Line") shall be measured from the inside boundary of the traveled portion of the private road.
- (f) Notwithstanding any other provision of this section, on lots in residential zones used for residential purposes, a maximum of one accessory building may be located in the rear yard of such lot without regard to the setback requirements otherwise applicable to the rear lot boundary line if such accessory building does not exceed fifteen feet in height or contain more than 150 square feet of gross floor area. **(AMENDED 5/26/81)**
- (g) Reserved. **(REPEALED 3/24/09)**
- (h) Reserved. **(REPEALED 3/24/09)**
- (i) Notwithstanding any other provision of this section, no setback requirement shall apply to bus shelters erected by or at the direction of the town. **(AMENDED 1/22/85)**
- (j) Notwithstanding any provision in (a), no minimum distance from a lot boundary

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line for buildings or freestanding signs shall be required from any railroad right-of-way or other railroad property being used principally as a track bed or corridor. **(AMENDED 2/4/86)**

- (k) In addition to the overall density restrictions of the underlying zone, each mobile home unit in any mobile home community (use classification 1.122 or 1.123) must be placed such that it is at least 10 feet in any direction from any other mobile home unit within the community, in order to reduce the likelihood of the spread of fire. **(AMENDED 10/20/87)**
- (l) Notwithstanding the provisions of subsections (a) or (b), properties located in Carrboro's Transition Area II, and zoned R-R shall be required to maintain a 100-foot undisturbed, naturally vegetated setback along any common boundary line with Properties in Orange County's planning jurisdiction that are designated both Rural Buffer and Public/Private Open Space on the Joint Planning Area Land Use Plan. No structures or associated clearing shall be permitted within this setback. Utilities and associated clearing shall be permitted within this setback only to the extent that no reasonable alternative exists. **(AMENDED 06/05/89)**
- (m) When the neighborhood preservation district commission determines that an application for a permit under this ordinance involves a proposed authentic restoration, new construction or reconstruction in the same location and in the original conformation of a structure within a neighborhood preservation district that has architectural or historic significance, but that such proposed restoration, construction or reconstruction cannot reasonably be accomplished in conformity with the setback requirements set forth in this section, the neighborhood preservation district commission may recommend, and the permit issuing authority may allow, a deviation from these requirements to the extent reasonably necessary to accommodate such restoration, construction or reconstruction. **(AMENDED 09/26/89)**
- (n) Signs erected in connection with elections or political campaigns, as described in subsection 15-273(a)(5), shall not be subject to the setback requirements of this section. However, as provided in subsection 15-273(a)(5), such signs may not be attached to any natural or man-made permanent structure located within a public right-of-way, including without limitation trees, utility poles, or traffic control signs. **(AMENDED 08/25/92)**
- (o) When the appearance commission determines that (i) any new construction or any repair, renovation, or reconstruction of a pre-existing building is proposed within any commercial zoning district; and (ii) the appearance of the building would be substantially improved by the addition of or extension of an architectural feature; and (iii) the feature proposed by the appearance commission would violate the setback provisions of this section, then, subject to the following requirements, the commission may recommend, and upon such recommendation the applicant may

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amend his plans to propose and the permit issuing authority may authorize, an encroachment of such architectural feature into the required setback area.

- (1) For purposes of this subsection, the term “architectural feature” includes any part of a building other than a building wall or mechanical appurtenance.
- (2) The maximum encroachment that can be authorized under this subsection is two feet.
- (3) The encroachment may be allowed when the appearance commission and permit issuing authority both conclude that authorization of the encroachment would result in a building that is more compatible with the surrounding neighborhood than would be the case if the encroachment were not allowed. **(AMENDED 11/09/93)**

- (p) Notwithstanding the other provisions of this section, in the historic district, no portion of any new dwelling unit on a flag lot may be located any closer than fifteen (15) feet from any property line or any closer than thirty (30) feet from any existing dwelling unit located on the lot from which the flag lot was created (see Section 15-175.10). **(AMENDED 11/21/95)**

- (q) Notwithstanding the other provisions of this section, the base of a use classification 18.200 tower shall be set back from a street right-of-way line and a lot boundary lane a distance that is not less than the height of the tower. **(AMENDED 02/18/97)**

- (r) Notwithstanding any provision in this section with respect to use classification 1.340, single-room occupancy buildings may be set back from a street right-of-way line a distance that is consistent with the setbacks of other nearby buildings that front the same street. **(AMENDED 01/11/00)**

Section 15-185 Building Height Limitations **(AMENDED 9/13/83; 2/4/86; 11/14/88; 4/8/03; 6/22/04; 8/23/05; 10/25/05)**

- (a) Subject to the remaining provisions of this chapter:
 - (1) No building in any of the following zoning districts may exceed a height of thirty-five feet R-3, R-7.5, R-10, R-15, R-20, RR, C, B-5, M-2, WM-3, O, and O/A.
 - (2) No building in any of the zoning districts listed in the following table may exceed the height indicated.

ZONE	MAXIMUM HEIGHT
R-S.I.R.	100'
R-S.I.R.-II	100'

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ZONE	MAXIMUM HEIGHT
CT	Three Stories
B-2	Two Stories
B-3	28'
B-3-T	28'
B-4	50'
R-2	50'
M-1	Three Stories
WR	40'

(3) Buildings in the B-1(c) and the B-1(g) districts may be constructed to a maximum height of three stories where the lot on which the building is located abuts a street right-of-way of fifty feet or less and four stories where the lot on which the building is located abuts a street right-of-way of more than fifty feet or where the lot is located at least fifty feet from the nearest public street right-of-way, except that:

- a. If a property owner whose property in a B-1(c) or B-1(g) district abuts a street right-of-way of fifty feet or less dedicates additional right-of-way to more than fifty feet, then the developer of a building on such property may take advantage of the additional height authorized under this subsection for buildings on lots that abut street rights-of-way of more than fifty feet, so long as such dedication occurs before a building permit is issued for a building that takes advantage of such additional height.
- b. If a building in a B-1(c) or B-1 (g) district is located on a lot that abuts more than one street, then for purposes of determining the height limit under this subsection, the lot shall be treated as if it abutted only the street having the narrowest right-of-way.
- c. The maximum building height authorized in the first sentence of Subsection (a)(3) of this section may be increased by one story, up to a maximum height of five stories, for every ten feet that the additional story is set back from the street right-of-way beyond the setback specified in Section 15-184.
- d. Any portion of a building (located on lots within a B-1 (c) or B-1 (g) district) that exceeds thirty-five feet in height must be set back from the property line of any adjoining residentially zoned lot as least a distance equal to twice the lot boundary line setback requirement applicable to such adjoining lot.
- e. Notwithstanding the other provisions of this section, no building in excess of two stories shall be permitted on (i) any lot within the Town's National Register Commercial District upon which there exists on the

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effective date of this subsection s contributing building, or (ii) any lot upon which there exists on the effective date of this subsection a building listed on the National Register of Historic Places, if, after the effective date of this subsection, such contributing building or building listed on the National Register of Historic Places is demolished. This limitation shall not apply to the relocation of such building to another lot. For purposes of this subsection, a “contributing building” is a building or structure within the boundaries of the district that adds to the historic associations, historic architectural qualities, or archaeological values for which the historic district is significant. A contributing building must also retain its “integrity.” In other words, the property must retain enough of its historic physical features to convey its significance as part of the district. Alterations can damage a property’s historic appearance and its integrity.

- (4) Regardless of whether a building in a B-1 (c) or B-1 (g) district is set back from the street beyond the setback specified in Section 15-184, if a mansard, gable, or gambrel roof substantially conceals the existence of a story (i.e. the height of the space that constitutes the story is provided primarily by the roof the building rather than vertical exterior walls), that story shall not be counted toward the maximum number of stories otherwise allowed under this section, except that in no case shall the maximum building height (including the story contained within the mansard, gable, or gambrel roof) exceed five stories in the B-1 (c) or B-1 (g) district.
- (b) Subject to subsections (c) and (d) the features listed in this subsection, when attached to a principal building, may be constructed to a height that does not exceed the lesser of (i) 120% of the district height limitation set forth in subsection (a), or (ii) the district height limitation set forth in subsection (a) plus fifteen feet. By way of illustration, in a zoning district with a height limitation of thirty-five feet, the following features may be constructed to a height of forty-two feet, but such features may not exceed the forty-two feet height limit even if a height variance has also been granted for the principal building (unless a variance has also been granted regarding the height limitation affecting such features.)
 - (1) Chimneys, church spires, elevator shafts, and similar structural appendages not intended as places of occupancy or storage;
 - (2) Flagpoles and similar devices;
 - (3) Heating and air conditioning equipment, solar collectors, and similar equipment, fixtures and devices.
- (c) The exceptions set forth in subsection (b) to the height limitations set forth in subsection (a) shall not be allowed if and to the extent that the permit issuing

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authority, or the board of adjustment if the permit-issuing authority is the zoning administrator, concludes that such exception(s) would materially interfere with the legitimate use and enjoyment of neighboring properties (including public properties or rights-of-way) or would otherwise pose a danger to the public health and safety.

- (d) The features listed in subsection (b) may exceed the height limitation set forth in subsection (a) only in accordance with the following requirements:
- (1) Not more than one-third of the total roof area may be consumed by such features.
 - (2) The features described in subdivision (b)(3) above must be set back from the edge of the roof a minimum distance of one foot for every foot by which such features extend above the roof surface of the principal building to which they are attached.
 - (3) Enclosures for any of the features set forth in subsection (b) may not surround a greater area than is reasonably necessary to enclose such features.
 - (4) The permit issuing authority may authorize or require that parapet walls be constructed (up to a height not exceeding that of the features screened) to shield the features listed in subdivisions (b)(1) and (3) from view.
- (e) Towers and antennas shall not be subject to the maximum height limitations set forth in this section but shall be governed by the restrictions inherent on the definitions of such uses as well as the other provisions of this chapter applicable to use classification 18.000. The height of a tower or antenna attached to a structure other than an antenna shall be the vertical distance measured from the main elevation of the finished grade at the front of the building or structure to which the tower is attached to the top of the tower (or antenna, if the antenna extends above the tower). **(AMENDED 02/18/97)**
- (f) Notwithstanding the remaining provisions of this section, the maximum building height for structures utilized for 5.100 use classifications, elementary and secondary schools, may be increased to not more than 50 feet when the permit issuing authority concludes that the additional height is necessary to accommodate specific building elements (e.g. auditorium and support facilities) or to accommodate building designs that seek to minimize building footprints and/or maximize natural lighting. **(AMENDED 6/22/04)**
- (g) For purposes of this section:**(AMENDED 06/28/94; 04/08/03)**
- 1) Subject to subsection (g) (2), the height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building.

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- 2) With respect to single-family detached residences, the height of a building shall be the vertical distance measured from the floor of the main story of the residence at the front elevation to the top of the roof above the floor.
 - 3) The terms “story” and “floor” are defined in Section 15-15. **(AMENDED 04/08/03)**
- (h) Within the B-1(C), zoning district, all buildings constructed after the effective date of this subsection shall contain at least two stories if such buildings contain more than 1,000 square feet of gross floor area.

Within the B-1(C) zoning district, all new additions to existing buildings shall contain at least two stories if such additions amount to 25% or more of the square footage of the gross floor area of the pre-existing building. **(AMENDED 04/23/13)**

Section 15-185.1 Downtown Neighborhood Protection Overlay District Requirements
(AMENDED 8/23/05)

(a) Lots that are within the Downtown Neighborhood Protection (DNP) Overlay District shall be subject to the requirements of this section.

(b) Within the DNP district, the portion of any lot so zoned that lies within 50 feet of a boundary line that abuts or is located directly across the street from residentially zoned property, other than property that is zoned R-2, shall constitute an area referred to in this section as the DNP Buffer Area.

(c) Within the DNP Buffer Area:

- (1) A building or buildings constructed within such buffer area may not extend laterally along the affected boundary for more than 80% of the lot width at its narrowest point within the buffer area; and
- (2) The maximum horizontal run of a single building shall be 80 feet; and
- (3) If more than one building is constructed, there shall be a separation of at least 30 feet between one building and another.

(d) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the provisions of Subsection 15-185(a)(3) shall not apply and the provisions of subsections (f), (g) and (h) of this section shall apply in lieu thereof. **(AMENDED 1/23/07).**

- (1) A third story not exceeding a building height of 42 feet shall be permissible if a gable, or gambrel roof with a roof pitch no greater than 70 degrees and a continuous eave line substantially contains the third story (i.e. the height of the space that constitutes the story is provided primarily by the roof of the building rather than

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vertical exterior walls). When dormers are constructed on such roofs, the total width of all such dormers shall not exceed two-thirds of the width of the roof on which such dormers are constructed. **(AMENDED 2/27/07)**.

(2) A third story shall be permissible if:

a. All portions of such third story are set back at least ten feet from the second story façade of the building wall that faces a boundary line that abuts or is located directly across the street from residentially zoned property.

(3) Towers, cupolas, and similar architectural features intended to complement the building design may extend to a height of not more than 42 feet, so long as such features do not contain more than 400 square feet and no elevational width of such features exceeds 25 feet.

(e) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the provisions of Subsection 15-185(a)(3) shall not apply and the provisions of subsections (f), (g) and (h) of this section shall apply in lieu thereof.

(f) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the portion of such lots within the DNP Buffer Area shall be subject to a maximum height limitation of two stories, except as set forth below: **(AMENDED 1/23/07)**.

(1) A third story not exceeding a building height of 42 feet shall be permissible if a gable, or gambrel roof with a roof pitch no greater than 70 degrees and a continuous eave line substantially contains the third story (i.e. the height of the space that constitutes the story is provided primarily by the roof of the building rather than vertical exterior walls). When dormers are constructed on such roofs, the total width of all such dormers shall not exceed two-thirds of the width of the roof on which such dormers are constructed. **(AMENDED 2/27/07)**

(2) A third story shall be permissible if:

a. All portions of such third story are set back at least ten feet from the second story façade of the building wall that faces a boundary line that abuts or is located directly across the street from residentially zoned property; and

(3) Towers, cupolas, and similar architectural features intended to complement the building design may extend to a height of not more than 42 feet, so long as such features do not contain more than 400 square feet and no elevational width of such features exceeds 25 feet.

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(g) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the portion of such lots that lie outside the DNP Buffer Area shall be subject to a maximum height limitation of three stories except as set forth below:

- (1) A fourth story may be constructed if such fourth story is either set back at least ten feet from the edge of the DNP Buffer Area or is substantially contained within a mansard, gable, or gambrel roof with a roof pitch no greater than seventy degrees and a continuous eave line (i.e. the height of the space that constitutes the story is provided primarily by the roof of the building rather than vertical exterior walls).
- (2) If a fifth story is constructed, either all portions of such fifth story must be set back at least ten feet from the fourth story façade of the building wall that faces a boundary line that abuts or is located directly across the street from residentially zoned property, or the fifth story must be substantially contained within a mansard, gable, or gambrel roof with a roof pitch no greater than seventy degrees and a continuous eave line (i.e. the height of the space that constitutes the story is provided primarily by the roof of the building rather than vertical exterior walls).
- (3) In addition, if a fifth story is constructed, either all portions of such fifth story must be set back from any street right-of way line other than that associated with establishing the DNP buffer area a distance of ten feet beyond the setback specified in Section 15-184, or the fifth story must be substantially contained within a mansard, gable, or gambrel roof with a roof pitch no greater than seventy degrees and a continuous eave line (i.e. the height of the space that constitutes the story is provided primarily by the roof of the building rather than vertical exterior walls).

(h) Notwithstanding the permit requirements established in Sections 15-146 and 15-147, if a developer proposes to construct within those areas of the DNP district where the underlying zoning is B-1(c) a building that exceed two stories in height, or where the underlying zoning is B-1(g) a building that exceeds three stories, a conditional use permit must be obtained.

Section 15-186 Cluster Subdivisions.

(a) In any single-family residential subdivision in the zones indicated below, a developer may create lots that are smaller than those required by Subsection 15-181 if such developer complies with the provisions of this section and if the lots created are not smaller than the minimums set forth in the following table:

ZONE	MINIMUM SQUARE FEET
R-7.5	5,625
R-10	7,500

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R-S.I.R.	7,500
R-15	11,250
R-20	15,000
RR	20,000 (AMENDED 11/14/88)
WR	43,560 (AMENDED 05/19/90)

- (b) The intent of this section is to authorize the developer to decrease lot sizes and leave the land “saved” by so doing as usable open space, thereby lowering development costs and increasing the amenity of the project without increasing the density beyond what would be permissible if the land were subdivided into the size lots required by Section 15-181.
- (c) The amount of usable open space that must be set aside shall be determined by:
 - (1) Subtracting from the standard square footage requirement set forth in Section 15-181 the amount of square footage of each lot that is smaller than that standard;
 - (2) Adding together the results obtained in (1) for each lot.
- (a) The provisions of this section may only be used if the usable open space set aside in a subdivision comprises at least 10,000 square feet of space that satisfies the definition of usable open space set forth in Section 15-198 and if such usable open space is otherwise in compliance with the provisions of Article XIII. (AMENDED 06/27/95; REPEALED 09/05/95; REDESIGNATED 09/05/95)
- (b) The setback requirements of Section 15-184 shall apply in cluster subdivisions. (AMENDED 06/27/95; REPEALED 09/05/95; REDESIGNATED 09/05/95)

Section 15-187 Architecturally Integrated Subdivisions.

- (a) In any architecturally integrated subdivision, the developer may create lots and construct buildings without regard to any minimum lot size or setback restrictions except that: (AMENDED 2/22/83; 4/24/84)
 - (1) Lot boundary setback requirements shall apply where and to the extent that the subdivided tract abuts land that is not part of the subdivision; and
 - (2) Each lot shall be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this chapter.
- (b) The number of dwelling units in an architecturally integrated subdivision may not exceed the maximum density authorized for the tract under Section 15-182. (AMENDED 06/27/95; 06/22/99)

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- (c) The amount of land “saved” by creating lots that are smaller than the standards set forth in Section 15-181 shall be set aside as open space except that in no case shall a development be required to preserve more than forty percent of the development tract as open space. **(AMENDED 06/27/95)**
- (d) The purpose of this section is to provide flexibility, consistent with the public health and safety and without increasing overall density to the developer who subdivides property and constructs buildings on the lots created in accordance with a unified and coherent plan of development. **(REDESIGNATED 06/27/95)**
- (e) The Board of Aldermen may approve a conversion to an architecturally integrated subdivision of any multi-family project that was built in accordance with the standards of the zoning ordinance in effect at the time of construction despite the fact that the density of such project exceeds that permissible under this chapter. However, no increase in density may be allowed in connection with such conversion. **(REDESIGNATED 06/27/95)**
- (f) Architecturally integrated subdivisions shall not be allowed in the C or WR zoning districts. **(REDESIGNATED 06/27/95)**

Section 15-188 Restrictions Designed to Mandate the Construction of Some Smaller New Homes for Sale **(AMENDED 06/22/99; 03/23/04)**

- (a) The Board finds that:
 - (1) Construction of new, single-family homes within the town’s planning jurisdiction in recent years has been limited almost exclusively to homes that exceed 1,350 square feet in heated floor area and/or that sell for prices in excess of \$ 175,000;
 - (2) It is in the public interest to have available within the town’s planning jurisdiction a diversity of new housing stock such that at least some newly constructed single-family homes are potentially affordable to families other than those in the highest income brackets;
 - (3) The objective of providing some diversity in terms of the affordability of new housing stock within the town’s planning jurisdiction as described above can be advanced by mandating that a certain percentage of the homes within new subdivisions be limited to not more than 1,350 square feet in heated floor area.
- (b) Subject to the remaining provisions of this section, every residential development containing between thirteen and twenty units for sale shall be developed in such a manner that at least fifteen percent of the dwelling units constructed within such sub-

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division contain not more than 1,350 square feet of heated floor area at the time such units are initially conveyed, and an additional ten percent of the dwelling units contain not more than 1,100 square feet of heated floor area at the time such units are initially conveyed. Every residential development containing twenty-one or more units for sale shall be developed in such a manner that at least fifteen percent of the dwelling units constructed within such development contain not more than 1,100 square feet of heated floor area at the time such units are initially conveyed, and an additional ten percent of the dwelling units contain not more than 1,350 square feet of heated floor area at the time such units are initially conveyed. For purposes of this subsection the term “heated floor area” means any fully enclosed (not merely screened in or partially enclosed) space that is within or attached to a dwelling unit, where either (i) the room temperature of such space is controlled or affected by a man-made heating or cooling device, or (ii) such space, although unheated, is clearly designed to be living space (as opposed to storage space or a garage) and can readily be converted into a heated living area. Such units shall be referred to in this section as “size-limited units.” Notwithstanding the foregoing, the requirement for size-limited units shall not apply to residential developments located in the R-R or W-R zoning districts.

- (c) The number of dwelling units that can be constructed within an architecturally integrated subdivision or un-subdivided development is determined at the time the conditional use permit is approved. With respect to residential subdivisions other than architecturally integrated subdivisions, each lot that is large enough for only a single dwelling unit or that is limited by restrictive covenants to development only with a single dwelling unit shall be deemed to house one single-family detached dwelling unit. Lots that are large enough to accommodate more than one dwelling unit and are not so limited by restrictive covenants shall be deemed to house the largest number of duplex or multi-family units that could be approved under this chapter. The minimum number of size-limited units shall then be determined by multiplying the maximum number of dwelling units permissible within the subdivision as determined herein by the percentage specified in subsection (b) above (resulting fractions shall be dropped).
- (d) The developer’s plans submitted with the application for a conditional use permit shall indicate which lots in the case of residential subdivisions or which units in the case of un-subdivided residential developments the developer proposes to develop with size-limited units. The conditional use permit plans and any necessary final plats shall indicate clearly where a size-limited unit must be constructed, and, in the case of subdivisions subject to the provisions of subsection (e), purchasers of lots shall be bound by the limitation.
- (e) No zoning or building permit may be issued for the construction of any dwelling unit on any lot that has been designated as a lot on which a size-limited unit must be constructed unless the dwelling conforms to the limitations of this section. Notwithstanding the foregoing, this section shall not prevent the purchaser of any size-limited unit, or any successor to such purchaser, from enlarging the dwelling unit at any time

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following one year after the issuance of the initial certificate of occupancy for the unit.

- (f) This section shall not apply to any subdivision where each of the lots so created contains on the date the final plat is approved a dwelling unit for which a certificate of occupancy had been issued at least three years prior to the date of final plat approval. Nor shall this section apply to modifications of previously approved subdivisions.
- (g) Size-limited units may not be located apart from the remainder of the development in any manner designed to isolate such units or discourage the residents of such units from full participation in the enjoyment of all facilities and common properties available to other residents of the development.
- (h) This section shall not apply to the development of land that, on the effective date of this section, was subject to restrictive covenants that preclude the construction of dwellings as those prescribed in this section.
- (i) This section shall not apply to the development of land for which a conditional or special use permit authorizing the development of such land was approved prior to the effective date of this section.
- (j) A residential development that provides at least 85 percent of the maximum number of affordable housing units available under the provision of Section 15-182.4 (Residential Density Bonuses for Affordable Housing) shall not be subject to the requirements of this section.

Section 15-189 through 15-195 Reserved.