

**\*\*DRAFT 03-19-04\*\***

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE  
TO MODIFY THE REQUIREMENTS TO MANDATE THE CONSTRUCTION  
OF SOME SMALLER SINGLE FAMILY HOMES AND TO PROMOTE  
AFFORDABLE HOUSING

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Section 15- 188 (Restrictions Designed to Mandate the Construction of Some Smaller Single Family Homes) of the Carrboro Land Use Ordinance is amended by revising subsections "a," "b," "c," "d," "e," "f," "g," "h," "i," and adding one new subsection "j." The amended section (with changes and new language shown in bold text) reads as follows:

Section 15-188 Restrictions Designed to Mandate the Construction of Some Smaller **New Homes for Sale**

(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 subdivision contain not more than 1,350 square feet of heated floor area at the time such units are initially conveyed, and an additional ten percent of the dwelling units contain not more than 1,100 square feet of heated floor area at the time such units are initially conveyed. Every residential **development** containing twenty-one or more units **for sale** shall be developed in such a manner that at least fifteen percent of the dwelling units constructed within such **development** contain not more than 1,100 square feet of heated floor area at the time such units are initially conveyed, and an additional ten

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

(c) The number of dwelling units that can be constructed within an architecturally integrated subdivision **or unsubdivided 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 unsubdivided 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 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 2. Section 15- 182.4 (Residential Density Bonuses for Affordable Housing) of the Carrboro Land Use Ordinance is amended by revising subsection “a” and adding two new subsections “h” and “i.” The revised and new subsections read as follows:

(a) For purposes of this section, an affordable housing unit means a dwelling unit (i) that is offered for sale at a price that does not exceed two and a half times an amount equal to eighty percent of the annual median income level for a family of four in the Raleigh-Durham-Chapel Hill Metropolitan Statistical Area or is offered for rent at a monthly rate that does not exceed an amount equal to 12 percent of the monthly median income level for a family of four in the **Metropolitan Statistical Area to which the Town of Carrboro is assigned**, and (ii) with respect to which the developer has arranged for the affordable housing units to remain affordable as described herein for a period of not less than 100 years, commencing from the date of initial occupancy of the units, by including provisions to ensure such continued affordability in legally binding agreements (including but not limited to a ground lease, a deed restriction or other covenant) running with the unit. Such agreements shall be reviewed and approved by the Town of Carrboro prior to initial occupancy of the units. The units may not be occupied and the agreements may not be recorded or filed until such agreements are reviewed and approved by the Town of Carrboro, and (iii) that conforms to the town’s recommended “Village Mixed Use and Affordable Housing Vernacular Architectural Standards.” For the purposes of determining whether the subdivision requires a zoning permit, special use permit, or conditional use permit under Subsection 15-147(a), the number of units shall exclude the bonus units associated with this Section.

(h) **In lieu of providing for the construction of affordable housing units as described above, the permit-issuing authority may authorize the developer to take advantage of the provisions of this section by making a payment to the town in lieu of providing up to one-third of the number of affordable housing units provided within the development. The amount of the payment-in-lieu shall be determined annually by the Board of Aldermen and adopted as part of the Miscellaneous Fees and Charges Schedule.**

(i) **Any fees collected in accordance with this section shall be reserved and used exclusively to meet the purposes for which they have been obtained as specified in this section.**

Section 3. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 4. This ordinance shall become effective upon adoption.

- 6.11 The town should review all vacant municipally owned land for the purpose of making unneeded tracts available for housing programs.
  - 6.12 The town should continue to advocate for inclusionary zoning techniques to increase the local stock of affordable housing.
  - 6.13 The town should pursue the development of density bonus provisions for projects incorporating environmentally sensitive development and building practices.
  - 6.14 With our growing population of senior citizens, the town should support the creation of more housing that allows our senior citizens to interact fully with the larger community. Senior access to public transit will become an increasingly important concern.
  - 6.15 The town should interact with non-profit groups that work to provide affordable housing, including but not limited to the Land Trust, Orange Community Housing Corporation, Empowerment Inc., and Habitat for Humanity.
  - 6.16 A minimum of 15 percent of the residential units in any residential development should meet the affordability criteria specified in Section 15-182.4 of the Carrboro Land Use Ordinance. **(AMENDED 02-24-04)**
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**Section 15-188 Restrictions Designed to Mandate the Construction of  
Some Smaller Single Family Homes (AMENDED  
06/22/99)**

(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 1,500 square feet in heated floor area and 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 subdivision containing between thirteen and twenty lots shall be developed in such a manner that at least fifteen percent of the dwelling units constructed within such subdivision contain not more than 1,350 square feet of heated floor area at the time such units are initially conveyed, and an additional ten percent of the dwelling units contain not more than 1,100 square feet of heated floor area at the time such units are initially conveyed. Every residential subdivision containing twenty-one or more units shall be developed in such a manner that at least fifteen percent of the dwelling units constructed within such subdivision contain not more than 1,100 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 subdivisions 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 is determined at the time the preliminary subdivision plat 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 special or conditional use permit shall indicate which lots the developer proposes to develop with a size-limited unit. The subdivision preliminary and final plats shall indicate clearly each lot on which a size-limited unit must be constructed, and, subject to the provisions of subsection (e), purchasers of such lots shall be bound by the limitation.

(e) No zoning or building permit may be issued for the construction of any dwelling unit on any lot that has been designated as a lot on which a size-limited unit must be constructed unless the dwelling conforms to the limitations of this section. Notwithstanding the foregoing, this section shall not prevent the purchaser of any size-limited unit, or any successor to such purchaser, from enlarging the dwelling unit at any time following one year after the issuance of the initial certificate of occupancy for the unit.

(f) This section shall not apply to any subdivision where each of the lots so created contains on the date the final plat is approved a dwelling unit for which a certificate of occupancy had been issued at least three years prior to the date of final plat approval. Nor shall this section apply to modifications of previously approved subdivisions.

(g) Size-limited units may not be located apart from the remainder of the subdivision 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 subdivision.

(h) This section shall not apply to the subdivision 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 subdivision of land for which a conditional or special use permit authorizing the subdivision of such land was approved prior to the effective date of this section.

**Section 15-189 through 15-195 Reserved.**

**Section 15-182.4 Residential Density Bonuses for Affordable Housing (AMENDED 05/25/99)**

(a) For purposes of this section, an affordable housing unit means a dwelling unit (i) that is offered for sale at a price that does not exceed two and a half times an amount equal to eighty percent of the annual median income level for a family of four in the Raleigh-Durham-Chapel Hill Metropolitan Statistical Area or is offered for rent at a monthly rate that does not exceed an amount equal to 12 percent of the monthly median income level for a family of four in the Raleigh-Durham-Chapel Hill Metropolitan Statistical Area, and (ii) with respect to which the developer has arranged for the affordable housing units to remain affordable as described herein for a period of not less than 100 years, commencing from the date of initial occupancy of the units, by including provisions to ensure such continued affordability in legally binding agreements (including but not limited to a ground lease, a deed restriction or other covenant) running with the unit. Such agreements shall be reviewed and approved by the Town of Carrboro prior to initial occupancy of the units. The units may not be occupied and the agreements may not be recorded or filed until such agreements are reviewed and approved by the Town of Carrboro, and (iii) that conforms to the town's recommended "Village Mixed Use and Affordable Housing Vernacular Architectural Standards." For the purposes of determining whether the subdivision requires a zoning permit, special use permit, or conditional use permit under Subsection 15-147(a), the number of units shall exclude the bonus units associated with this Section.

(b) The maximum residential density permissible within a development whose maximum density would otherwise be determined in accordance with the provisions of subsection 15-182, 15-182.1, or 15-182.3(b) shall be increased by two dwelling units for every one affordable housing unit included within the development, up to a maximum of 150% of the density otherwise allowable. To illustrate, if the maximum density of a tract would be 100 dwelling units, a developer who chose to construct 10 affordable housing units as part of the development of that tract would be allowed to construct 10 additional dwelling units that did not satisfy the "affordability" criteria set forth in subsection (a), for a total density of 120 dwelling units. 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. **(Amended 5/14/02)**

(c) Within any development that provides affordable housing units, 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, subject to a maximum reduction of 10 percent in the amount of open space otherwise required.

(c) Affordable housing units constructed in accordance with this section shall be segregated from the other dwellings that do not satisfy the "affordability" criteria set interspersed throughout the development rather than isolated in one area and forth in subsection (a).



- (d) 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 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 units” may not be issued 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 subsection (a).
- (e) If, by using the affordable housing density bonus provided for in this section, the number of dwelling units within a development increases to the point where the type of permit required for the project based on the number of units 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 5/14/02)**
- (g) 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 5/14/02)**

**5.40 Construction**

- 5.41** The town should encourage the reduction of waste materials in the course of new construction or renovation. The town should promote, be a leader in, and require, where practical, the use of recycled building materials, recycling plans for construction and demolition materials, and the extent to which “green building” techniques are being employed.

**5.50 Energy**

- 5.51** The town should publicly promote every available means of energy conservation. The town’s own alternative and renewable energy targets should include passive and active solar, and composted waste co-generation to fuel public vehicles and the heating of town facilities
- 5.52** The town should set a goal of reduced energy costs in all town buildings and increased fleet mileage for all town vehicles.

**5.6 Farmland Preservation**

- 5.61** The town should adopt incentives to help limit the conversion of farmland to developed uses that bridge the transition areas. These incentives should be designed to preserve small farms, farm co-ops, and organic farming within new conservation subdivisions and elsewhere.

**5.7 Toxic Use**

The town will work to reduce its use of hazardous and toxic products in town operations and will expand, promote, and provide public education on such efforts as with its least toxic integrated pest management policy.

**6.0 HOUSING**

The town should develop a comprehensive housing policy that seeks to provide housing for all of Carrboro’s citizens.

**6.1 Housing for a Diverse Population**

- 6.11** Town policy should accomodate a variety of housing styles, sizes and pricing. It should also address issues of density, funding and rezoning to allow for more non-detached housing, mixed-use development, and communal living options.
- 6.12** The variety of strategies to be considered should include the investigation of alternative public and private funding for construction and renovation of low and moderate income housing. A low interest loan pool for individuals and nonprofits that wish to buy and rehabilitate housing is desired.



# PLANNING BOARD

*301 West Main Street, Carrboro, North Carolina 27510*

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## R E C O M M E N D A T I O N

**MARCH 18, 2004**

LAND USE ORDINANCE TEXT AMENDMENT: MODIFY THE REQUIREMENTS  
TO MANDATE THE CONSTRUCTION OF SOME SMALLER SINGLE-FAMILY  
HOMES AND TO PROMOTE AFFORDABLE HOUSING

MOTION WAS MADE BY JAMES CARNAHAN AND SECONDED BY SUSAN POULTON TO  
RECOMMEND THAT THE BOARD OF ALDERMEN ADOPT THE ORDINANCE AS PROPOSED.

VOTE: AYES (8) (Babiss, Carnahan, Hammill, Ludwig, Marshall, Paulsen, Poulton, West); ABSENT/EXCUSED  
(2) (Haven-O'Donnell, Hogan); ABSTENTIONS (0).

*John Marshall* / *pp* 3/19/04  
*John Marshall, Chair* (date)