

MINUTES OF A MEETING OF THE MAYOR AND COUNCIL OF THE TOWN
OF CHAPEL HILL, MUNICIPAL BUILDING, MONDAY, MAY 11, 1981, 7:30 P.M.

Mayor Nassif called the meeting to order. Present were:

Marilyn Boulton
Joe Herzenberg
Jonathan Howes
Beverly Kawalec
R. D. Smith
Joe Straley
Bill Thorpe
Jim Wallace



Also present were Town Manager E. Shipman and Town Attorney E. Denny.

Proposed Private Sale of CD Lot at 609 Bynum Street to Mr. and Mrs. Louis Edwards - Public Hearing

Mr. Shipman stated the Housing Authority had requested the public hearing with consideration later in the evening of a resolution authorizing private sale of property to Mr. and Mrs. Edwards. The Edwards were homeowners residing in the Community Development area. Two years ago, the Town had bought land from the Edwards which was used for road improvements.

There were no questions from the Council or from citizens.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, TO REFER THE MATTER TO THE MANAGER. THE MOTION WAS CARRIED UNANIMOUSLY.

Petitions

Mr. Tony Lathrop asked to speak on item 8, the proposed noise ordinance.

Ms. Dee Gamble submitted a petition from the Committee to Support the Chapel Hill Human Services Department. The Committee wanted the Council to establish an advisory board for Human Services and had many citizens willing to serve on this committee, which would help evaluate the functions of the department. They also urged continued funding of the Human Services Department.

COUNCILMEMBER HERZENBERG MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO RECEIVE THE PETITION. THE MOTION WAS CARRIED UNANIMOUSLY.

Mr. Baker asked to speak on item 4, the proposed zoning ordinance.

Mr. Behrends asked that he and several others be allowed to speak on item 8.

The Inter-Faith Council asked to make a presentation on item 13, endorsement of an application by the Inter-Faith Council to HUD.

Mayor Nassif informed the Council he had received a letter from Ms. Barnes, the Chairman of the County Commissioners. The Commissioners wanted to know if the Council would explore the possibilities of further recycling at the Landfill.

Councilmember Howes suggested the matter be referred to the Manager for a report. Councilmember Smith inquired whether the Council could have information on the price of equipment required for the recycling.

Councilmember Straley informed the Council he had received a letter from Ms. Gloria Williams requesting Council support for Ms. Gaitha Lassiter as a delegate to the 1981 White House Conference on Aging. Councilmember Straley moved, seconded by Councilmember Wallace, that a letter be prepared to North Carolina representatives, supporting Ms. Gaitha Lassiter as a delegate to the 1981 White House Conference on Aging. The motion was carried unanimously.

Minutes

On motion by Councilmember Smith, seconded by Councilmember Wallace, the minutes of April 27, 1981, were approved as corrected.

Chapel Hill Zoning Ordinance

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER KAWALEC, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE REVISING THE CHAPEL HILL ZONING ORDINANCE (81-O-34)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council hereby amends Chapter 24 of the Code of Ordinances, Town of Chapel Hill, to read as follows:

Section I

ARTICLE 1. GENERAL PROVISIONS

1.1 Short Title

This chapter shall be known as and may be cited as the Chapel Hill Zoning Ordinance.

1.2 Authority

This chapter is adopted pursuant to the authority contained in Chapter 160A, Article 19; Chapter 143, Article 21 (Part 6) and Article 33C; Chapter 13A, Article 4; Chapter 136, Article 34; and Chapter 63, Article 4 of the N.C. General Statutes; as well as Chapter 473 of the Session Laws of 1975 and Chapter 278 of the Session Laws of 1965.

1.3 Jurisdiction

This chapter shall be effective throughout the Town's planning jurisdiction. The planning jurisdiction of the Town comprises the area described by Chapter 473 of the Session Laws of 1975, as modified from time to time in accordance with Section 160A- 360 of the N.C. General Statutes.

1.4 Intent

1.4.1 Declaration of Necessity

In order to protect and promote the health, safety, and general welfare of the town and its extraterritorial area, this chapter is adopted by the Town Council to regulate and restrict by means of zoning regulations the height, number of stories, and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, and other purposes.

1.4.2 Purpose

The purpose of the regulations set forth in this chapter shall be to accomplish compatible development of the land within the planning jurisdiction of the Town in a manner which will best promote the health, safety, and general welfare; to promote efficiency, energy conservation, and economy in development; to make adequate provisions for traffic; to secure safety from fire, flooding, panic, and other hazards; to provide for adequate light and air; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to promote desirable living conditions and the stability of neighborhoods; to protect property against blight and depreciation; to ensure accessibility for handicapped persons; and to achieve other purposes in accord with the Comprehensive Plan for the Town's planning jurisdiction.

1.5 Required Conformance to Chapter Provisions

Except as otherwise specifically provided in this chapter, no land or structure shall hereafter be used or occupied, and no excavation, removal of soil, clearing of a site, or placing of fill shall take place on lands contemplated for development, and no structure, or part thereof, shall be constructed, erected, altered, renovated, or moved, except in compliance with all of the applicable provisions of this chapter.

1.6 Fees

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice, and similar matters may be charged to applicants for Zoning Compliance Permits, Special Use Permits, Certificates of Appropriateness, zoning amendments, appeals, variances, and other administrative relief. The amount of such fees shall be fixed by the Council.

1.7 Effective Date

The provisions of this chapter shall become effective on May 12, 1981.

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ARTICLE 2 ADMINISTRATIVE MECHANISMS

2.1 Council

In considering proposed amendments to the text of this chapter or to the Zoning Atlas, the Council acts in its legislative capacity and shall observe the procedural requirements set forth in Article 19 of this chapter.

In considering Special Use Permit applications, the Council acts in a quasi-judicial capacity and, accordingly, shall observe the procedural requirements set forth in Article 8 of this chapter.

In considering site plan review applications, the Council acts in an administrative capacity and, accordingly, shall observe the procedural requirements set forth in Article 15 of this chapter.

Unless otherwise specifically provided in this chapter, the Council, in acting upon Special Use Permit and site plan review applications or in considering amendments to this chapter or the Zoning Atlas, shall observe the quorum, voting, and other requirements set forth in Chapter 2 of the Town Code of Ordinances.

2.2 Planning Board

2.2.1 Establishment of the Board; Qualifications

A Planning Board, consisting of ten (10) members, is hereby established. Seven (7) members, appointed by the Council, shall reside within the corporate limits of Chapel Hill. Three (3) members, appointed by the Orange County Board of Commissioners, shall reside within the Town's extraterritorial planning jurisdiction. Members shall serve without compensation, but may be reimbursed for actual expenses incidental to the performance of their duties within the limit of funds available to the Board.

2.2.2 Tenure

Members of the Board shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

2.2.3 Officers

The Board shall elect one member to serve as Chairman and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the Chairman and other offices shall be one year, with eligibility for re-election to a second term.

2.2.4 Powers of the Board

The Planning Board shall have the following powers and duties:

- 1. To develop a Comprehensive Plan for the orderly growth and development of Chapel Hill and its environs. Such plan shall set

forth goals, objectives, and policies designed to manage the quantity, type, cost, location, timing, and quality of development and redevelopment in the Chapel Hill community.

2. To seek to coordinate the activities of individuals and public or private agencies and organizations whose plans, activities, and programs bear on the general development of the community.
3. To undertake, on its own or in collaboration with any other board, commission, agency, society, or organization, any programs of information, research, or analysis relating to any matters under its purview;
4. To cooperate with other commissions, boards, or agencies of the Town or other governmental unit in offering or requesting assistance, guidance, or advice concerning matters under the Board's purview or of mutual interest;
5. To make studies of the general development characteristics and problems of the community, including surveys and inventories of an appropriate nature, and to recommend standards and policies of development for the entire community or any portion or neighborhood thereof, or any project to be undertaken therein;
6. To request from the proper officials of any public agency or body its plans for public buildings, facilities, or projects to be located within the Town's jurisdiction, and to review such plans as to conformity with the Comprehensive Plan to make recommendations regarding such plans to the appropriate agency or body, or to the Council. The Board shall review all such plans in a prompt and expeditious manner, and shall make all recommendations with regard to any public project in writing, and shall promptly transmit copies of the recommendation to the appropriate agency or body, and to the Council;
7. To formulate and recommend to the Council the adoption or amendment of ordinances that, in the opinion of the Board will serve to promote the orderly development of the community in accord with the Comprehensive Plan;
8. To direct the attention of appropriate Town officials to needed enforcement of any ordinance that may affect the general development of the community;
9. To enter, at reasonable times, upon private lands and make examinations or surveys as necessary for the performance of its official duties;
10. To promote public interest in and understanding of its recommendations, studies, and plans, and to prepare, publish, and distribute to the public such studies and reports that, in the opinion of the Board, will promote the orderly development of the community in accord with the Comprehensive Plan;
11. To request the Council to hold public hearings on matters within the purview of the Board;

- 12. To conduct public meetings and hearings, giving reasonable notice to the public thereof;
- 13. To review and make recommendations to the Council on proposed plats of land subdivision, applications for Special Use Permits, and proposed amendments to development ordinances,
- 14. To review site plans for conformity with land development regulations, in accord with Article 15 of this chapter;
- 15. To recommend to the Council suitable arrangement for the procurement or provision of staff or technical services for the Board;
- 16. To establish an advisory council or other committees within its membership as it may deem necessary; and
- 17. To accept funds from private agencies, foundations, organizations, individuals, the State or federal government, or any other source, and to disburse such funds for any purpose within the scope of its authority.
- 18. To exercise such other powers and to perform such other duties as are authorized or required elsewhere by this chapter, the N.C. General Statutes, or by the Council.

2.2.5 Meetings

The Board shall establish a regular meeting schedule, and shall meet at least monthly and more often as it shall determine and require.

All meetings of the Board shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public, in accord with Chapter 143, Article 33C of the N.C. General Statutes.

The Board shall keep a record of its meetings, including attendance of its members, its resolutions, findings, recommendations, and actions. In the case of a divided vote on any question on which the Board is required to act, the record shall include the vote of each member.

2.2.6 Attendance at Meetings

Any member of the Board who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Board, and shall be replaced or reappointed by the Council or Orange County Commissioners, as appropriate. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

2.2.7 Quorum and Voting

A quorum of the Board, necessary to take any official action, shall consist of five (5) members.

The concurring vote of a simple majority of those members present shall be necessary to take any official action.

2.2.8 Annual Report and Meeting with the Council

The Board shall jointly meet with the Council by January 31 of each year. An annual report shall be prepared and submitted to the Council at this annual meeting. Such report shall include a report of the Board's activities and a statement of its expenditures.

2.2.9 Comprehensive Review of Chapter

The Planning Board shall from time to time, at intervals of not more than three (3) years, examine the provisions of this chapter and the location of zoning district boundary lines, and shall submit a report to the Council recommending amendments, if any, which are desirable in the interest of public health, safety, and general welfare, mindful of the intent expressed in Section 19.1 of this chapter.

2.3 Board of Adjustment

2.3.1 Establishment of the Board; Qualifications

A Board of Adjustment, consisting of ten (10) members, is hereby established. Seven (7) members, appointed by the Council, shall reside within the corporate limits of Chapel Hill. Three (3) members, appointed by the Orange County Board of Commissioners, shall reside within the town's extraterritorial planning jurisdiction. Members shall serve without compensation.

The Council or County Board of Commissioners, as appropriate, may appoint alternate members to serve on the Board in the absence of any appointed members. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

2.3.2 Tenure

Members of the Board shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

2.3.3 Officers

The Board shall elect one member to serve as Chairman and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the Chairman and other offices shall be one year, with eligibility for re-election to a second term. The Chairman or any member temporarily acting as Chairman is authorized to administer oaths to any witnesses in any matter coming before the Board.

2.3.4 Powers of the Board

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals from any decision or determination made by the Town Manager in the performance of his or her duties in the enforcement of this chapter;
2. To hear and decide appeals from any decision of the Council or Planning Board in granting or denying site plan approval or of the Appearance Commission in granting or denying sign plan approval or of the Historic District Commission or Appearance Commission in granting or denying a Certificate of Appropriateness;
3. To hear and decide requests for variances from the dimensional regulations of this chapter, in accord with Article 16 of this chapter;
4. To make interpretations of the Zoning Atlas, including disputed questions of zoning district boundary lines or lot lines, and similar questions as they arise in the administration of this chapter;
5. To enter, at reasonable times, upon private lands and make examinations or surveys as necessary for the performance of its official duties;
6. To request the Council to hold public hearings on matters within the purview of the Board; and
7. To hear and decide any other matter as required by the provisions of this chapter and Article IV, Chapter 5 of the Town Code of Ordinances.

2.3.5 Meetings

The Board shall establish a regular meeting schedule and shall meet frequently enough so that it may take action as expeditiously as reasonably possible.

All meetings of the Board shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public in accord with Chapter 143, Article 33C of the N.C. General Statutes.

The Board shall adopt rules of procedure and regulations for the conduct of its affairs.

In considering appeals, variance requests, and interpretations, the Board shall observe the quasi-judicial procedural requirements set forth in Article 16 of this chapter.

The Board shall keep a record of its meetings, including attendance of its members, the vote of each member on every question, a complete summary of the evidence submitted to it, documents submitted to it, and all official actions.

2.3.6 Attendance at Meetings

Any member of the Board who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Board, and shall be replaced or reappointed by the Council or County Board of Commissioners, as appropriate. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

2.3.7 Quorum and Voting

A quorum of the Board, necessary to take any official action, shall consist of five (5) members.

The concurring vote of four-fifths (4/5) of the membership of the Board shall be necessary in order to:

- a) approve an application for a variance;
- b) reverse or modify a decision of the Town Manager, Planning Board, Historic District Commission, or Appearance Commission in the case of applications for appeal; or
- c) decide in favor of the applicant in any other matter on which the Board is required to act by this chapter.

The concurring vote of a majority of those members present shall be necessary to conduct routine business of the Board, to deny applications for variances, and, in the case of appeals, to affirm the decision of the Town Manager, Planning Board, Historic District Commission, or Appearance Commission.

2.3.8 Appeals of Board of Adjustment Actions

Every decision of the Board of Adjustment may be appealed to the Superior Court by any aggrieved party. Such appeal shall be in the nature of certiorari and must be filed within thirty (30) days of the filing of the decision in the office of the Planning Department or the delivery of the notice required in Subsection 16.4.4, whichever is later.

2.4 Historic District Commission

2.4.1 Establishment of the Commission

A Historic District Commission, consisting of ten (10) members appointed by the Council, is hereby established.

2.4.2 Qualifications

All members of the Commission shall reside within the planning jurisdiction of Chapel Hill, and a majority of the members shall have demonstrated special interest, experience, or education in history or architecture. Members shall serve without compensation.

2.4.3 Tenure

Members of the Commission shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

2.4.4 Officers

The Commission shall elect one member to serve as Chairman and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the Chairman and other officers shall be one year, with eligibility for re-election to a second term.

2.4.5 General Responsibilities of the Commission

The Commission shall seek to promote, enhance, and preserve the character of the Chapel Hill Historic District, provided the Commission shall not require the reconstruction or restoration of individual or original buildings, structures, or portions thereof. In considering new construction, the Commission shall encourage design which is harmonious with the character of the Historic District, but shall not discourage either contemporary or traditional design.

2.4.6 Powers of the Commission

The Commission is authorized and empowered to undertake actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this chapter and in Chapter 160A, Article 19, Part 3A of the N.C. General Statutes, including but not limited to the following:

1. To recommend to the Planning Board and Council areas for designation by ordinance as Historic Districts;
2. To recommend to the Planning Board and Council that designation of any areas as a Historic District be revoked or removed;
3. To recommend to the Planning Board, Council, and the State of North Carolina structures, sites, objects, or districts worthy of local, state, or national historical recognition;
4. To propose to the Council amendments to this chapter or to any other ordinance relating to the Historic District, and to propose new ordinances or laws relating to the Historic District or to a program for the development of the historical resources of the Chapel Hill community;
5. To request the Council to hold public hearings on matters within the purview of the Commission;
6. To hear and decide applications for Certificates of Appropriateness in accord with Article 12 of this chapter;

7. To establish guidelines under which the Town Manager or the Manager's designees shall approve applications for Certificates of Appropriateness covering minor modifications on behalf of the Commission;
8. To undertake, on its own or in collaboration with any other commission, board, agency, society, or organization, any programs of information, research, or analysis relating to any matters under its purview;
9. To cooperate with other commissions, boards, or agencies of the Town or other governmental unit in offering or requesting assistance, guidance, or advice concerning matters under the Commission's purview or of mutual interest;
10. To participate in negotiations with owners and other parties in an effort to find means of preserving historic buildings scheduled for demolition;
11. To provide advice to owners of property located within the Historic District concerning the treatment of the historical and visual characteristics of their properties, such as color schemes, gardens and landscape features, and minor decorative elements;
12. To publish information or otherwise inform owners of property located within the Historic District about any matters pertinent to the Commission's duties, organization, procedures, responsibilities, functions, or requirements;
13. To contract, in accord with established Town policies and procedures, for services or funds from agencies or departments of the State of North Carolina and the United States government;
14. To accept funds granted to the Commission from private or non-profit organizations;
15. To organize itself and conduct its business by whatever legal means it deems proper;
16. To report violations of this chapter or related ordinances to the local official responsible for the enforcement thereof;
17. To exercise, within the Historic District, all the powers and duties of the Chapel Hill Appearance Commission;
18. To exercise such other powers and to perform such other duties as are authorized or required elsewhere by this chapter, the N.C. General Statutes, or by the Council.

2.4.7 Meetings

The Commission shall establish a regular meeting schedule, and shall meet at least quarterly and more often as it shall determine and require.

All meetings of the Commission shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public, in accord with Chapter 143, Article 33C of the N.C. General Statutes.

The Commission shall adopt rules of procedure and regulations for the conduct of its affairs.

The Commission shall keep a record of its meetings, including attendance of its members, and its resolutions, findings, recommendations, and actions.

2.4.8 Attendance at Meetings

Any member of the Commission who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Commission, and shall be replaced or reappointed by the Council. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Commission except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

2.4.9 Quorum and Voting

A quorum of the Commission, necessary to take any official action, shall consist of five (5) members.

The concurring vote of a simple majority of those members present shall be necessary to take any official action.

2.4.10 Annual Report and Meeting with the Council

The Commission shall meet jointly with the Council by July 31 of each year. An annual report shall be prepared and submitted to the Council at this annual meeting. Such report shall include a comprehensive and detailed review of the activities, expenditures, problems, and actions of the Commission.

2.4.11 Historical and Architectural Significance Maps

The Commission shall prepare, maintain, and consult maps showing the historic and architectural significance of structures within the Historic District. Such maps shall be updated at least every five (5) years.

A structure is deemed to have historic and/or architectural significance if it possesses integrity of location, design, setting, materials, workmanship, feeling, and association, and if it:

- a) is associated with events that have made a significant contribution to the broad patterns of local, state, or national history; or
- b) is associated with the lives of persons significant in the past; or

- c) embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
- d) has yielded, or may be likely to yield, information important in prehistory or local, state, and national history.

2.5 Appearance Commission

2.5.1 Establishment of the Commission

A Community Appearance Commission, consisting of ten (10) members appointed by the Council, is hereby established.

2.5.2 Qualifications

All members of the Commission shall reside within the planning jurisdiction of Chapel Hill, and a majority of the members shall have demonstrated special training or experience in a design field, such as architecture, landscape design, horticulture, city planning, or a closely related field. Members shall serve without compensation, but may be reimbursed for actual expenses incidental to the performance of their duties within the limit of funds available to the Commission.

2.5.3 Tenure

Members of the Commission shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

2.5.4 Officers

The Commission shall elect one member to serve as Chairman and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the Chairman and other officers shall be one year, with eligibility for re-election to a second term.

2.5.5 Powers of the Commission

The Commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this chapter, in Chapter 160A, Article 19, Part 7 of the N.C. General Statutes, and in Chapter 278 of the N.C. Session Laws of 1965, including but not limited to the following:

1. To initiate, promote, and assist in the implementation of programs of general community beautification in the Chapel Hill community;
2. To seek to coordinate the activities of individuals and public or private agencies and organizations whose plans, activities, and programs bear on the appearance of the community;

3. To provide leadership and guidance in matters of community design and appearance to individuals and public or private agencies and organizations;
4. To make studies of the visual characteristics and problems of the community, including surveys and inventories of an appropriate nature, and to recommend standards and policies of design for the entire community or any portion or neighborhood thereof, or any project to be undertaken therein;
5. To prepare both general and specific plans for the improved appearance of the entire community or any portion thereof, including private as well as public property. Such plans shall set forth desirable standards and goals for the aesthetic enhancement of the community or any portion thereof, including public ways and areas, open spaces, and public and private buildings and projects;
6. To request from the proper officials of any public agency or body its plans for public buildings, facilities, or projects to be located within the Town's jurisdiction, and to review such plans and to make recommendations regarding their aesthetic suitability to the appropriate agency or body, or to the Council. The Commission shall review all such plans in a prompt and expeditious manner, and shall make all recommendations with regard to any public project in writing, and shall promptly transmit copies of the recommendation to the appropriate agency or body, and to the Council;
7. To formulate and recommend to the Planning Board and Council the adoption or amendment of ordinances that, in the opinion of the Commission, will serve to enhance the appearance of the community;
8. To direct the attention of appropriate Town officials to needed enforcement of any ordinance that may affect the appearance of the community;
9. To seek voluntary adherence to the standards and policies of its plans;
10. To hear and decide applications for Certificates of Appropriateness in accord with Article 13 of this chapter;
11. To enter, at reasonable times, upon private lands and make examinations or surveys as necessary in the performance of its official duties;
12. To promote public interest in and understanding of its recommendations, studies, and plans, and to prepare, publish, and distribute to the public such studies and reports that, in the opinion of the Commission, will advance the cause of improved community appearance;
13. To conduct public meetings and hearings, giving reasonable notice to the public thereof;

14. To conduct an annual meeting at which the programs, problems, and policies of the Commission shall be presented, and at which the public at large shall be invited to express itself on matters relating to the appearance of the community;
15. To recommend to the Council suitable arrangement for the procurement or provision of staff or technical services for the Commission;
16. To establish an advisory council or other committees within its membership as it may deem necessary; and
17. To accept funds from private agencies, foundations, organizations, individuals, the State or federal government, or any other source, and to disburse such funds for any purpose within the scope of its authority.

2.5.6 Meetings

The Commission shall establish a regular meeting schedule, and shall meet at least quarterly and more often as it shall determine and require.

All meetings of the Commission shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public, in accord with Chapter 143, Article 33C of the N.C. General Statutes.

The Commission shall keep a record of its meetings, including attendance of its members, and its resolutions, findings, recommendations, and actions.

2.5.7 Attendance at Meetings

Any member of the Commission who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Commission, and shall be replaced or reappointed by the Council. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Commission, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

2.5.8 Quorum and Voting

A quorum of the Commission, necessary to take any official action, shall consist of five (5) members.

The concurring vote of a simple majority of those members present shall be necessary to take any official action.

2.5.9 Annual Report and Meeting with the Council

The Commission shall jointly meet with the Council by April 15 of each year. An annual report shall be prepared and submitted to the Council at this annual meeting. Such report shall include a report of the Commission's activities and a statement of its expenditures.

2.6

Town Manager

The provisions of this chapter shall be administered by the Town Manager or his designee. All references in this chapter to "Town Manager" shall be construed to mean "Town Manager or his designee."

The Town Manager shall have the following powers and duties in the administration of the provisions of this chapter:

1. To grant Zoning Compliance Permits;
2. To make inspections of buildings or premises as necessary in the performance of his or her duties in the enforcement of this chapter;
3. To make all necessary determinations and interpretations as required by this chapter; and
4. To propose and promulgate administrative regulations necessary to implement the provisions of this chapter.

Under no circumstance is the Town Manager permitted to make changes in this chapter or to grant exceptions to the actual meaning of any clause, standard, or regulation contained in this chapter.

ARTICLE 3 ZONING DISTRICTS

3.1 Establishment and Intent of Zoning Districts

The Town and its extraterritorial planning jurisdiction is hereby divided into zoning districts as enumerated below. The use regulations and intensity regulations applicable for such zoning districts are designated in Articles 4 and 5.

3.1.1 Town Center Districts (TC-2, TC-1)

The Town Center (TC) districts are intended to provide for the development of the commercial, service, and social center of Chapel Hill while maintaining its character, its pedestrian-oriented scale, and its nature as a concentration of business, administrative, financial, governmental, and support functions serving the community; and to encourage further residential development in the central area of Chapel Hill.

3.1.2 Community Commercial District (CC)

The Community Commercial (CC) district is intended to provide for the development of high-intensity commercial and service centers that serve community-wide or regional commercial and service needs.

3.1.3 Neighborhood Commercial District (NC)

The Neighborhood Commercial (NC) district is intended to provide for the development of low-intensity commercial and service centers that are accessible by pedestrians from the surrounding neighborhoods, serve the daily convenience and personal service needs of the surrounding neighborhood, and are of such a nature as to minimize conflicts with surrounding residential uses.

3.1.4 Office/Institutional - 3 District (OI-3)

The Office/Institutional - 3 (OI-3) district is intended to provide for major educational, research, public service, and office uses, and their necessary support functions, while minimizing conflicts with adjacent land uses.

3.1.5 Office/Institutional - 2 (District (OI-2)

The office/institutional-2 (OI-2) district is intended to provide for medium - intensity office and institutional development.

3.1.6 Office/Institutional - 1 District (OI-1)

The Office/Institutional - 1 (OI-1) district is intended to provide for low-intensity office and institutional development and, where appropriate, to serve as a buffer zone between residential zoning districts and high-intensity nonresidential zoning districts.

3.1.7 Industrial District (I)

The Industrial (I) district is intended to provide for public and private uses of a wholesale, distribution, limited processing, and

production nature serving the needs of the Chapel Hill community, and to ensure the compatibility of such uses with their surroundings.

3.1.8 Residential Districts (R-6, R-5, R-4, R-3, R-2, R-1)

The Residential (R-) districts are intended to provide for residential development of appropriate intensities consonant with the suitability of land, availability of public services, accessibility to major activity centers and transportation systems, and compatibility with surrounding development.

3.1.9 Rural Transition Districts (RT)

The Rural Transition (RT) district is intended to be applied to land which is used for agricultural, very low-intensity residential, or open space uses, but which is projected in the Comprehensive Plan for conversion to more intensive urban uses at such time as community services are available and community needs for such uses are present.

3.1.10 Overlaying Districts

It is the intent of this chapter to provide for Airport Hazard (AH) districts, Flood Hazard (FH), Historic Districts, and Special Appearance Districts, which shall overlay the zoning districts enumerated in Section 3.1.1 through 3.1.10 above, and which shall provide for special review of development within such overlay districts in accord with the intents, procedures, and standards established for the districts in Articles 10, 11, 12 and 13.

3.2 Zoning Atlas

The boundaries of the above zoning districts are hereby established as shown on the official Zoning Atlas which accompanies this ordinance and which, with all notations, references, and other information shown thereon, shall be as much a part of this ordinance as if fully described herein.

3.2.1 Authentication

The official Zoning Atlas shall be authenticated by the Planning Director and shall be retained in the office of the Planning Department.

3.2.2 Status of Copies

Copies of the Zoning Atlas, or portions thereof, may be made. However, the official Zoning Atlas is the final and sole authority as to the zoning status of land within the Town and its extraterritorial jurisdiction.

3.2.3 Amendment Entries

Amendments to the official Zoning Atlas shall be entered by the Planning Director within five (5) working days of the effective date of such amendments. Maps and descriptions accompanying enacted amendments

shall be displayed in the office of the Planning Department until such time as such amendments are entered on the official Zoning Atlas.

3.2.4 Authentication of Amendment Entries

The Planning Director shall authenticate the entry of each amendment on the official Zoning Atlas and shall maintain a record of the nature and date of entry of each amendment. Changes to the official Zoning Atlas other than those authorized by duly approved amendments to this chapter shall be prohibited.

3.2.5 Zoning Atlas Replacement

When all or part of the official Zoning Atlas becomes damaged, lost, destroyed, worn, or difficult to interpret because of its age, condition, number of changes, or otherwise, replacement may be authorized by resolution of the Council. A new edition of the official Zoning Atlas shall not change the zoning status of any property, but it may correct previous errors or omissions. Such replacements shall be authenticated by the Planning Director and shall bear the date and number of the authorizing resolution.

ARTICLE 4 USE REGULATIONS

4.1 Intent

It is the intent of this article to provide for patterns of land use in accord with the Comprehensive Plan, and to promote the organization of land uses so as to minimize conflicts between different types of land use activities while recognizing the community's need for such activities.

4.2 Establishment of Use Regulations

Except as otherwise specifically provided in this chapter, regulations governing the use of land and structures within the various zoning districts and classifications of planned developments are hereby established as shown in Section 4.3, Schedule of Use Regulations.

4.4 Applicability of Use Regulations

Uses of land or structures which are not expressly listed in Section 4.3 as permitted principal uses, permitted accessory uses, or permitted special uses in a zoning district or planned development are prohibited uses and shall not be established in that district or planned development.

Uses listed as permitted special uses in a zoning district may be established in that district only after issuance and recordation of a Special Use Permit in accord with the procedures and conditions specified in Article 8. Planned developments may be established in any zoning district only after the issuance and recordation of a Special Use Permit in accord with the procedures and conditions specified in Article 8.

4.5 Use Groups

The division of permitted uses into use groups as shown in Section 4.3 is intended to differentiate such uses by their intrinsic intensity relative to other uses. This intensity is related to the general character and the traffic generation characteristics of the particular principal use. It is further intended that the division of uses into use groups form a basis for the differential application of the intensity regulations established in Article 5.

4.6 Modified Use Regulations for Certain Uses

Each of the following principal uses shall be permitted in R-1 and R-2 zoning districts only if the zoning lot on which such use is located fronts on either an arterial or collector street:

- a) Church
- b) School, Elementary or Secondary
- c) Public Cultural Facility

4.3 Schedule of Use Regulations

Uses*	Zoning Districts												Planned Developments (See Article 8) - PD use regulations supercede underlying zoning district use regulations)					
	TC-1 and TC-2	CC	NC	Ol-1 and Ol-2	I	R-5	R-6	R-4	R-3	R-2 and R-1	RT	PD-H	PD-SC(N)	PD-SC(C)	PD-O1	PD-MU	PD-1	
<u>Use Group A</u>																		
Accessory Use Customarily Incidental to a Permitted Group A Principal or Special Use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Agriculture, Non-Livestock	A	A	A	A	A	A	A	A	A	A	P,A	A	A	A	A	A	A	A
Agriculture, Livestock	---	---	---	---	---	---	---	---	---	---	P,A	---	---	---	---	---	---	---
Cemetery	---	---	S	---	S	S	S	S	S	S	S	---	---	---	---	---	---	---
Dwelling, Single Family	P	P	P	P	---	P	P	P	P	P	P	P	---	---	---	P	---	---
Dwelling, Two Family	P	P	P	P	---	P	P	P	P	P	P	P	---	---	---	P	---	---
Dwelling, Multi-Family-- 3 to 7 Dwelling Units	P	P	P	P	---	P	P	P	P	---	---	P	---	---	---	P	---	---
Dwelling, Multi-Family-- Over 7 Dwelling Units	P	P	P	P	---	P	P	P	P	---	---	P	---	---	---	P	---	---
Essential Services	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A
Home Occupation	A	A	A	A	---	A	A	A	A	A	A	A	---	---	---	A	---	---
Mobile Home, Class A	P	P	P	P	---	P	P	P	P	P	P	P	---	---	---	P	---	---
Mobile Home, Class B	---	---	---	---	---	---	---	---	---	---	P	---	---	---	---	---	---	---
Mobile Home Park	---	---	---	---	---	---	---	---	---	---	---	P	---	---	---	P	---	---

*KEY: "----" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use; "S" Permitted as a Special Use.

4-N

Uses*	Zoning Districts											Planned Developments (See Article 8) - PD use regulations supercede underlying zoning district use regulations)							
	TC-1 and TC-2	CC	NC	OI-3	OI-1 and OI-2	I	R-5	R-6	R-4	R-3	R-1 and R-2	RT	PD-H	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I	
<u>Use Group B</u>																			
Accessory Use Customarily Incidental to a Per- mitted Group B Principal or Special Use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Business, Office-Type	P,A	P,A	P,A	P,A	P,A	P,A	---	---	---	---	---	---	---	P,A	P,A	P,A	P,A	---	---
Child Day Care Facility	P,A	P,A	P,A	P,A	---	---	A	A	A	A	A	A	A	P,A	P,A	P,A	P,A	---	---
Church (see Article 4.6)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	---	---
Clinic	P	P,A	---	P,A	P	---	---	---	---	---	---	---	---	---	P,A	P,A	P,A	---	---
Club	P,A	P,A	P,A	P,A	P,A	---	---	---	---	---	---	---	A	P,A	P,A	P,A	P,A	---	---
College or University	P	P	---	P	P	---	---	---	---	---	---	---	---	---	---	P	---	---	---
Fraternity or Sorority Dwelling	S	S	---	P	S	---	S	---	---	---	---	---	---	---	---	---	---	---	---
Funeral Home	P	P,A	---	P,A	P	---	---	---	---	---	---	---	---	---	P	---	P	---	---
Group Care Facility	P	P	P	P	P	---	S	S	S	S	S	S	A	---	---	P	P	---	---
Hospital	---	P	---	P	---	---	---	---	---	---	---	---	---	---	---	P	---	---	---
Hotel or Motel	P	P	---	P	---	---	---	---	---	---	---	---	---	---	P	P	P	---	---
Public Cultural Facility	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A
Public Use Facility	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A
Research Activities	P,A	P,A	---	P,A	P,A	---	---	---	---	---	---	---	---	---	P,A	P,A	P,A	P,A	P,A
Residence Hall	P	---	---	P	---	---	---	---	---	---	---	---	P	---	---	---	P	---	---
Rooming House	P	P	P	P	P	---	P	P	P	P	P	P	P	---	---	---	P	---	---
School, Elementary or Secondary (see Article 4.6)	P	P	P	P	P	---	P	P	P	P	P	P	P	P	P	P	P	P	---
Tourist Home	P	P	---	P	P	---	---	---	---	---	---	---	---	---	P	P	P	P	---

* KEY: "----" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use; "S" Permitted as a Special Use.

Uses*	Zoning Districts												Planned Developments (See Article B) - PD use regulations supercede underlying zoning district use regulations)						
	TC-1 and TC-2	CC	NC	OI-3	OI-1 and OI-2	I	R-5	R-6	R-4	R-3	R-1 and R-2	RT	PD-H	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I	
<u>Use Group C</u>																			
Accessory Use Customarily Incidental to a Permitted Group C Principal or Special Use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Automotive Repair	P,A	P,A	---	---	---	P,A	---	---	---	---	---	---	---	---	P,A	---	P,A	P,A	P,A
Automotive, Trailer, and Farm. Implement, Sales or Rental	P,A	P,A	---	---	---	---	---	---	---	---	---	---	---	---	P,A	---	P,A	---	---
Bank	P,A	P,A	P,A	P,A	P,A	---	---	---	---	---	---	---	---	P,A	P,A	P,A	P,A	---	---
Business, Convenience	P,A	P,A	P,A	A	---	A	---	---	---	---	---	---	---	P,A	P,A	---	P,A	---	---
Business, General	P,A	P,A	P,A	A	---	---	---	---	---	---	---	---	---	P,A	P,A	---	P,A	---	---
Business, Wholesale	A	P,A	---	---	---	---	---	---	---	---	---	---	---	---	P,A	---	P,A	---	---
Extraction of Earth Products	---	---	---	S	---	---	---	---	---	---	---	S	---	---	---	---	---	---	---
Hangar, Medical Aircraft	---	---	---	---	P	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Kennel	---	P,A	---	A	---	---	---	---	---	---	---	---	---	---	P,A	---	P,A	---	---
Landfill	---	---	---	---	---	---	---	---	---	---	---	S	---	---	---	---	---	---	---
Maintenance and/or Storage Facility	---	A	---	P,A,	---	P,A	---	---	---	---	---	---	---	---	A	---	A	P,A	P,A
Manufacturing, Light	A	P,A	---	---	---	P	---	---	---	---	---	---	---	---	A	---	A	P	P
Parking, Off-Street	P,A	A	A	P,A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

* KEY: "-----" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use; "S" Permitted as a Special Use.

Uses*	Zoning Districts													Planned Developments (See Article B) -- PD use regulations supercede underlying zoning district use regulations)					
	TC-1 and TC-2	CC	NC	OI-3	OI-1 and OI-2	I	R-5	R-6	R-4	R-3	R-1 and R-2	RT	PD-H	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I	
Park/Ride Terminal	---	P,A	P,A	P,A	P,A	P,A	S	S	S	S	S	S	A	P,A	P,A	P,A	P,A	P,A	P,A
Personal Services	P,A	P,A	P,A	A	---	---	---	---	---	---	---	---	A	P,A	P,A	---	P,A	---	---
Place of Assembly--Up to 2,000 Seating Capacity	P,A	P,A	A	P,A	A	---	---	---	---	---	---	---	A	A	P,A	P,A	P,A	---	---
Place of Assembly--Over 2,000 Seating Capacity	S	S	---	S	---	---	---	---	---	---	---	---	---	---	P	P	---	---	---
Public Service Facility	P,A	P,A	P,A	P,A	P,A	P,A	S	S	S	S	S	S	A	P,A	P,A	P,A	P,A	P,A	P,A
Publishing and/or Printing	P,A	P,A	---	P,A	P,A	P,A	---	---	---	---	---	---	---	---	P,A	P,A	P,A	P,A	P,A
Radio or Television Transmitting and/or Receiving Facility	---	S	---	S	S	S	---	---	---	---	---	---	---	---	P,A	P,A	P,A	P,A	P,A
Recreation Facility, Non-Profit	---	---	---	P,A	---	---	P	P	P	P	P	P	A	---	---	---	P,A	---	---
Recreation Facility, Commercial	P,A	P,A	P,A	P,A	---	A	---	---	---	---	---	---	A	P,A	P,A	P,A	P,A	P,A	A
Service Station	S	S	S	A	---	A	---	---	---	---	---	---	---	P	P	---	P	---	A
Supply Yard	---	P,A	---	---	---	P,A	---	---	---	---	---	---	---	---	P,A	---	P,A	P,A	P,A
Temporary Portable Building, Construction-Related	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Temporary Portable Building, Other than Construction-Related	S	S	S	S	S	S	---	---	---	---	---	---	---	---	---	---	---	---	P

* KEY: "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use; "S" Permitted as a Special Use.

Planned Developments (See Article 8) -
PD use regulations supercede underlying
zoning district use regulations)

Uses*	Zoning Districts											PD-H	PD-SC(IN)	PD-SC(C)	PD-OI	PD-MU	PD-I
	TC-1 and TC-2	CC	NC	Ol-3	Ol-1 and Ol-2	I	R-5	R-6	R-4	R-3	R-1 and R-2						
Veterinary Hospital or Clinic	---	P,A	---	A	---	---	---	---	---	---	---	---	---	P,A	---	P,A	---
Vocational School	P,A	P,A	---	P,A	---	---	---	---	---	---	---	---	---	P,A	P,A	P,A	---
Water and Wastewater Treatment Plant	---	---	---	---	---	P,A	---	---	---	---	---	---	---	---	---	---	P,A
Window, Drive-In, as an Accessory Use to a Permitted Principal Use	S	S	S	S	S	---	---	---	---	---	---	---	---	A	A	A	A

* KEY: "----" Not Permitted; "A" Permitted as an Accessory Use; "p" Permitted as a Principal Use; "s" Permitted as a Special Use.

ARTICLE 5 INTENSITY REGULATIONS

5.1 General Intent

It is the intent of this article to provide for performance standards which serve to define the development character of an area, and to ensure the compatibility of development both with the environmental characteristics, accessibility levels, and special amenities offered by the development site and with surrounding land uses and development intensities. It is further intended that the establishment of intensity regulations reflect the protection of critical environmental areas and the suitability of land for a particular level of development intensity, in accord with the goals and objectives of the Comprehensive Plan.

5.2 Establishment of Intensity Regulations

Except as otherwise specifically provided in this chapter, regulations governing the intensity of development are hereby established as shown in Section 5.3, Schedule of Intensity Regulations.

5.3.1 Use Group A		Land Use Intensity (LUI) Ratios										Minimum Setbacks (ft.)			Maximum Height (ft.)	
District	Minimum Gross Land Area (sq.ft.)	Minimum Lot Width (ft.)	Bonus Level	LUI Rating	Floor Area (FAR)			Livability Space (LSR)		Recreation Space (RSR)		Street	Interior	Solar	Primary	Secondary
					Floor Area (FAR)	Open Space (OSR)	Living Space (LSR)	Living Space (LSR)	Recreation Space (RSR)							
TC-2	2,000	15	0	75	.226	.72	.50	.136	0	0	0	0	0	44	90	
			1	77	.60	.76	.52	.145	0	0	0	0	0	44	90	
TC-1	2,000	15	2	78	.279	.83	.57	.150	0	0	0	0	0	44	90	
			0	75	.226	.72	.50	.136	0	0	0	0	0	44	44	
C-1	5,500	50	1	77	.260	.76	.52	.145	0	0	0	0	0	44	44	
			2	78	.279	.83	.57	.150	0	0	0	0	0	44	44	
C-2	5,500	50	0	55	.566	.71	.40	.062	22	8	9	9	34	90		
			1	57	.690	.70	.40	.065	22	8	9	9	34	90		
C-3	5,500	50	2	58	.696	.69	.40	.070	22	8	9	9	34	90		
			0	48	.348	.73	.45	.049	24	8	11	11	29	60		
O1-3	2,000	15	1	50	.400	.72	.44	.052	24	8	11	11	29	60		
			2	51	.429	.72	.43	.055	24	8	11	11	29	60		
O1-2	5,500	50	0	55	.566	.71	.40	.062	0	0	0	0	N/A	N/A		
			1	57	.690	.70	.40	.065	0	0	0	0	0	N/A	N/A	
O1-1	5,500	50	2	58	.696	.69	.40	.070	0	0	0	0	0	N/A	N/A	
			0	55	.566	.71	.40	.062	22	8	9	9	34	90		
R-6	5,500	50	1	57	.650	.70	.40	.065	22	8	9	9	34	90		
			2	58	.696	.69	.40	.070	22	8	9	9	34	90		
R-5	5,500	50	0	48	.348	.73	.45	.049	24	8	11	11	29	60		
			1	50	.400	.72	.44	.052	24	8	11	11	29	60		
R-4	5,500	50	2	51	.429	.72	.43	.055	24	8	11	11	29	60		
			0	41	.214	.76	.51	.039	26	11	13	13	26	50		
R-3	5,500	50	1	43	.246	.75	.49	.039	26	11	13	13	26	50		
			2	44	.264	.74	.48	.042	26	11	13	13	26	50		
R-2	10,000	65	0	55	.566	.71	.40	.062	20	6	8	8	39	90		
			1	57	.650	.70	.40	.065	20	6	8	8	39	90		
R-1	17,000	80	2	58	.696	.69	.40	.070	20	6	8	8	39	90		
			0	55	.566	.71	.40	.062	20	6	8	8	39	90		
RT	100,000	200	0	48	.348	.73	.45	.049	22	8	9	9	34	70		
			1	50	.400	.72	.44	.052	22	8	9	9	34	70		
			2	51	.429	.72	.43	.055	22	8	9	9	34	70		
			0	41	.214	.76	.51	.039	24	8	11	11	29	60		
			1	43	.246	.75	.49	.039	24	8	11	11	29	60		
			2	44	.264	.74	.48	.042	24	8	11	11	29	60		
			0	34	.132	.76	.55	.029	26	11	13	13	26	50		
			1	36	.152	.76	.53	.030	26	11	13	13	26	50		
			2	37	.162	.77	.53	.032	26	11	13	13	26	50		
			0	27	.081	.83	.68	.023	28	14	17	17	24	40		
			1	29	.093	.81	.66	.024	28	14	17	17	24	40		
			2	30	.100	.80	.65	.025	28	14	17	17	24	40		
			0	13	.031	.90	.80	.014	30	16	20	20	21	35		
			1	15	.035	.89	.78	.015	30	16	20	20	21	35		
			2	16	.038	.88	.78	.016	30	16	20	20	21	35		

5.3.2 Use Group 15

District	Minimum Gross Land Area (sq.ft.)	Minimum Lot Width (ft.)	Bonus Level	LUI Rating	Land Use Intensity (LUI) Ratios				Minimum Setbacks (ft.)			Maximum Height (ft.)	
					Floor Area (FAR)	Open Space (OSR)	Habitability Space (LSR)	Recreation Space (RSR)	Street	Interior	Solar	Primary	Secondary
TC-2	2,000	15	0	72	1.84	.28	.12	.115	0	0	0	44	67
			1	74	2.11	.28	.12	.127	0	0	0	44	90
			2	75	2.26	.28	.12	.136	0	0	0	44	90
TC-1	2,000	15	0	72	1.84	.28	.12	.115	0	0	0	44	44
			1	74	2.11	.28	.12	.127	0	0	0	44	44
			2	75	2.26	.28	.12	.136	0	0	0	44	44
CC	5,500	50	0	48	.348	.75	.27	.049	22	8	9	34	90
			1	50	.400	.72	.27	.052	22	8	9	34	90
			2	51	.429	.72	.27	.055	22	8	9	34	90
NC	5,500	50	0	41	.214	.76	.40	.039	24	8	11	29	60
			1	43	.246	.75	.40	.039	24	8	11	29	60
			2	44	.264	.74	.40	.042	24	8	11	29	60
01-3	2,000	15	0	48	.348	.75	.27	.049	0	0	0	N/A	N/A
			1	50	.400	.72	.27	.052	0	0	0	N/A	N/A
			2	51	.429	.72	.27	.055	0	0	0	N/A	N/A
01-2	5,500	50	0	48	.348	.75	.27	.049	22	8	9	34	90
			1	50	.400	.72	.27	.052	22	8	9	34	90
			2	51	.429	.72	.27	.055	22	8	9	34	90
01-1	5,500	50	0	41	.214	.76	.40	.039	24	8	11	29	60
			1	43	.246	.75	.40	.039	24	8	11	29	60
			2	44	.264	.74	.40	.042	24	8	11	29	60
1	17,000	60	0	34	.132	.78	.50	.029	26	11	13	26	50
			1	36	.152	.78	.50	.030	26	11	13	26	50
			2	37	.162	.77	.50	.032	26	11	13	26	50
R-6	5,500	50	0	48	.348	.75	.45	.049	20	6	8	39	50
			1	50	.400	.75	.45	.053	20	6	8	39	50
			2	51	.429	.72	.45	.055	20	6	8	39	50
R-5	5,500	50	0	48	.348	.75	.45	.049	20	6	8	39	90
			1	50	.400	.72	.44	.052	20	6	8	39	90
			2	51	.429	.72	.43	.055	20	6	8	39	90
R-4	5,500	50	0	41	.214	.76	.51	.039	22	8	9	34	70
			1	43	.246	.75	.49	.039	22	8	9	34	70
			2	44	.264	.74	.48	.042	22	8	9	34	70
R-3	5,500	50	0	44	.132	.78	.55	.029	24	8	11	29	60
			1	36	.152	.78	.53	.030	24	8	11	29	60
			2	37	.162	.77	.53	.032	24	8	11	29	60
R-2	10,000	65	0	27	.083	.85	.68	.023	26	11	13	26	50
			1	29	.095	.81	.66	.024	26	11	13	26	50
			2	30	.103	.80	.65	.025	26	11	13	26	50
R-1	17,000	80	0	20	.050	.87	.75	.018	28	14	17	24	40
			1	22	.058	.87	.74	.019	28	14	17	24	40
			2	23	.062	.86	.73	.020	28	14	17	24	40
PT	100,000	200	0	6	.019	.93	.85	.010	30	16	20	21	35
			1	8	.022	.92	.83	.011	30	16	20	21	35
			2	9	.023	.92	.82	.012	30	16	20	21	35

District	Use Group C			Land Use Intensity (LUI) Ratios				Minimum Setbacks (ft.)			Maximum Height (ft.)		
	Minimum Gross Land Area (sq.ft.)	Minimum Lot Width (ft.)	Bonus Level	LUI Rating	Floor Area (FAR)	Open Space (OSR)	Livability Space (LSR)	Recreation Space (RSR)	Street	Interior	Solar	Primary	Secondary
TC-2	2,000	15	0	72	1.84	.28	.12	N/A	0	0	0	44	67
			1	74	2.11	.28	.12	N/A	0	0	0	44	90
			2	75	2.26	.28	.12	N/A	N/A	0	0	0	44
TC-1	2,000	15	0	72	1.84	.28	.12	N/A	0	0	0	44	44
			1	74	2.11	.28	.12	N/A	0	0	0	44	44
			2	75	2.26	.28	.12	N/A	N/A	0	0	0	44
CC	5,500	50	0	41	.214	.76	.27	N/A	22	8	9	34	90
			1	43	.246	.75	.27	N/A	22	8	9	34	90
			2	44	.264	.74	.27	N/A	22	8	9	34	90
NC	5,500	50	0	34	.132	.78	.40	N/A	24	8	11	29	60
			1	36	.152	.78	.40	N/A	24	8	11	29	60
			2	37	.162	.77	.40	N/A	24	8	11	29	60
O1-3	2,000	15	0	41	.214	.76	.27	N/A	0	0	0	N/A	N/A
			1	43	.246	.75	.27	N/A	0	0	0	N/A	N/A
			2	44	.264	.74	.27	N/A	0	0	0	N/A	N/A
O1-2	5,500	50	0	41	.214	.76	.27	N/A	22	8	9	34	90
			1	43	.246	.75	.27	N/A	22	8	9	34	90
			2	44	.264	.74	.27	N/A	22	8	9	34	90
O1-1	5,500	50	0	34	.132	.78	.40	N/A	24	8	11	29	60
			1	36	.152	.78	.40	N/A	24	8	11	29	60
			2	37	.162	.77	.40	N/A	24	8	11	29	60
I	17,000	80	0	27	.081	.83	.50	N/A	26	11	13	26	50
			1	29	.093	.81	.50	N/A	26	11	13	26	50
			2	30	.100	.80	.50	N/A	26	11	13	26	50
R-6	5,500	50	0	41	.214	.76	.51	N/A	20	6	8	39	50
			1	43	.246	.75	.49	N/A	20	6	8	39	50
			2	44	.264	.74	.48	N/A	20	6	8	39	50
R-5	5,500	50	0	41	.214	.76	.51	N/A	20	6	8	39	90
			1	43	.246	.75	.49	N/A	20	6	8	39	90
			2	44	.264	.74	.48	N/A	20	6	8	39	90
R-4	5,500	50	0	34	.132	.78	.55	N/A	22	8	9	34	70
			1	36	.152	.78	.53	N/A	22	8	9	34	70
			2	37	.162	.77	.53	N/A	22	8	9	34	70
R-3	5,500	50	0	27	.081	.83	.68	N/A	24	8	11	29	60
			1	29	.093	.81	.66	N/A	24	8	11	29	60
			2	30	.100	.80	.65	N/A	24	8	11	29	60
R-2	10,000	65	0	20	.050	.87	.75	N/A	26	11	13	26	50
			1	22	.058	.87	.74	N/A	26	11	13	26	50
			2	23	.062	.86	.73	N/A	26	11	13	26	50
R-1	17,000	80	0	13	.031	.90	.80	N/A	28	14	17	24	40
			1	15	.035	.89	.78	N/A	28	14	17	24	40
			2	16	.038	.88	.78	N/A	28	14	17	24	40
RT	100,000	200	0	6	.019	.93	.85	N/A	30	16	20	21	35
			1	8	.022	.92	.83	N/A	30	16	20	21	35
			2	9	.023	.92	.82	N/A	30	16	20	21	35

5.4 General Applicability of Intensity Regulations

No land or structure shall be used or occupied, and no structure, or part thereof, shall be constructed, erected, altered, or moved except in compliance with the intensity regulations herein specified for (a) the general use group to which the principal use of the land or structure belongs (as shown in Section 4.3), (b) the zoning district in which the land or structure is located, and (c) the bonus level, if any, for which such development is eligible.

No portion of land used in connection with an existing or proposed structure or use of land and necessary for compliance with the intensity regulations of this article shall also be used, through sale or otherwise, as part of the land required in connection with any other development.

Except as otherwise provided in this chapter, intensity regulations applicable to OI-3 zoning districts and planned development zoning lots shall be applied to the district or lot as a whole and not to individual parts thereof.

5.5 Bonus Intensities

5.5.1 Intent

It is the intent of this section to provide for increased levels of allowable development intensities as incentive for the provision of certain public benefits beyond those normally required by this chapter or provided by private developers.

5.5.2 Applicability

The intensity regulations established in Section 5.3 for Bonus Level 1 and Bonus Level 2 may be applied, at the option of the developer, to any development which ensures the provision of one or more of the public benefits enumerated below such that the sum of the points assigned to each benefit provided equals or exceeds the threshold of eligibility for the applicable bonus level, as established below.

A minimum of ten (10) benefit-points shall be required in order to be eligible for application of the intensity regulations established for Bonus Level 1.

A minimum of fifteen (15) benefit-points shall be required in order to be eligible for application of the intensity regulations established for Bonus Level 2.

5.5.3 Benefits

1. Economically Mixed Housing (10 Benefit-Points) - the provision of new or substantially rehabilitated housing in which at least ten percent (10%) but not more than twenty percent (20%) of the total residential floor area is contained in dwelling units for which an agreement for rental assistance has been made between the developer and the U.S. Department of Housing and Urban Development (DHUD) in accord with DHUD's lower-income housing assistance

programs. The distribution of assisted dwelling units within the development shall avoid undue concentration of assisted persons. The range of size and type of dwelling units available as assisted housing shall be representative of that generally available in the development. The developer must supply such documentation as will assure commitment to the provision of the requisite amount of lower-income housing.

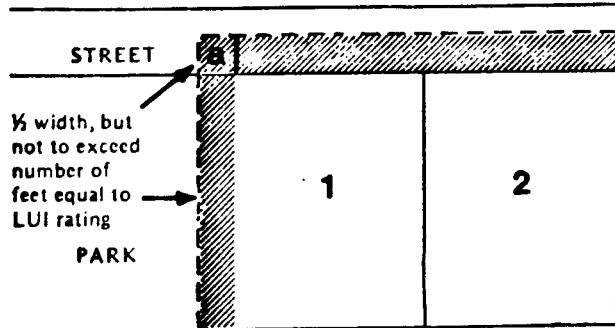
- 2. Scattered Small-Site Low-Income Housing (10 Benefit-Points) - the provision of new or substantially rehabilitated housing in which greater than twenty percent (20%) of the total residential floor area, up to a maximum of thirty thousand (30,000) square feet, is contained in dwelling units for which an agreement for rental assistance has been made between the developer and the federal Department of Housing and Urban Development (DHUD) in accord with DHUD's lower-income housing assistance programs. The location of such housing shall avoid undue concentration of assisted persons in areas already containing a high proportion of lower-income families and individuals. The developer must supply such documentation as will assure commitment to the provision of the requisite amount of lower-income housing.
- 3. Mixed Use Development in Town Center (10 Benefit-Points) - the provision of development in the Town Center districts in which at least fifty percent (50%) but not more than seventy-five percent (75%) of the total floor area is contained in dwelling or lodging units and the remaining floor area is devoted to nonresidential principal uses.

5.6 Gross Land Area

5.6.1 Gross Land Area Defined

The gross land area of a zoning lot shall be construed as all area within its boundaries (net land area) plus half of the adjoining permanent open space such as streets, parks, lakes, cemeteries and the like, provided the width of such credited open space shall be limited to a number of feet equal to the Land Use Intensity (LUI) rating applying to the lot (see Section 5.3). Where a zoning lot contains principal uses belonging to more than one use group, the applicable LUI rating shall be the greatest of those LUI ratings applicable to the represented use groups. Where such open space adjoins the lot on two (2) adjacent sides, the open space thus credited shall include the area required to complete the gap otherwise left at the intersection of the adjacent sides (See Figure 5-1).

Figure 5-1. Gross Land Area



The gross land area of Lot 1 is the area within its boundaries plus the hatched areas across its front and side, including the small rectangle marked a. The gross land area of Lot 2 is its net land area plus the hatched area across its front.

5.6.2 Minimum Gross Land Area

The minimum gross land area (GLA) of a zoning lot shall be as established in Section 5.3 for the zoning district in which such zoning lot is located.

The minimum gross land area required for a two-family dwelling shall be one and one-half (1.5) times the minimum gross land area established in Section 5.3.

The minimum gross land area required for a multi-family dwelling shall be two (2) times the minimum gross land area established in Section 5.3.

Where a zoning lot is located in more than one zoning district, the minimum gross land area required of such zoning lot shall be the sum of the areas derived by multiplying the minimum gross land area required for each represented district by the proportion of the zoning lot located within that district.

The minimum gross land area required for a zoning lot containing a planned development shall be as established in Article 8.

5.7 Lot Width and Street Frontage Width

5.7.1 Lot Width Defined

The width of a zoning lot is the horizontal distance measured along a straight line connecting the points at which a line demarcating the minimum street setback required from a street lot line intersects with interior lot lines and/or other street lot lines (See Figure 5-2).

5.7.2 Minimum Lot Width

The minimum width of a zoning lot shall be as established in Section 5.3 for the zoning district in which such zoning lot is located.

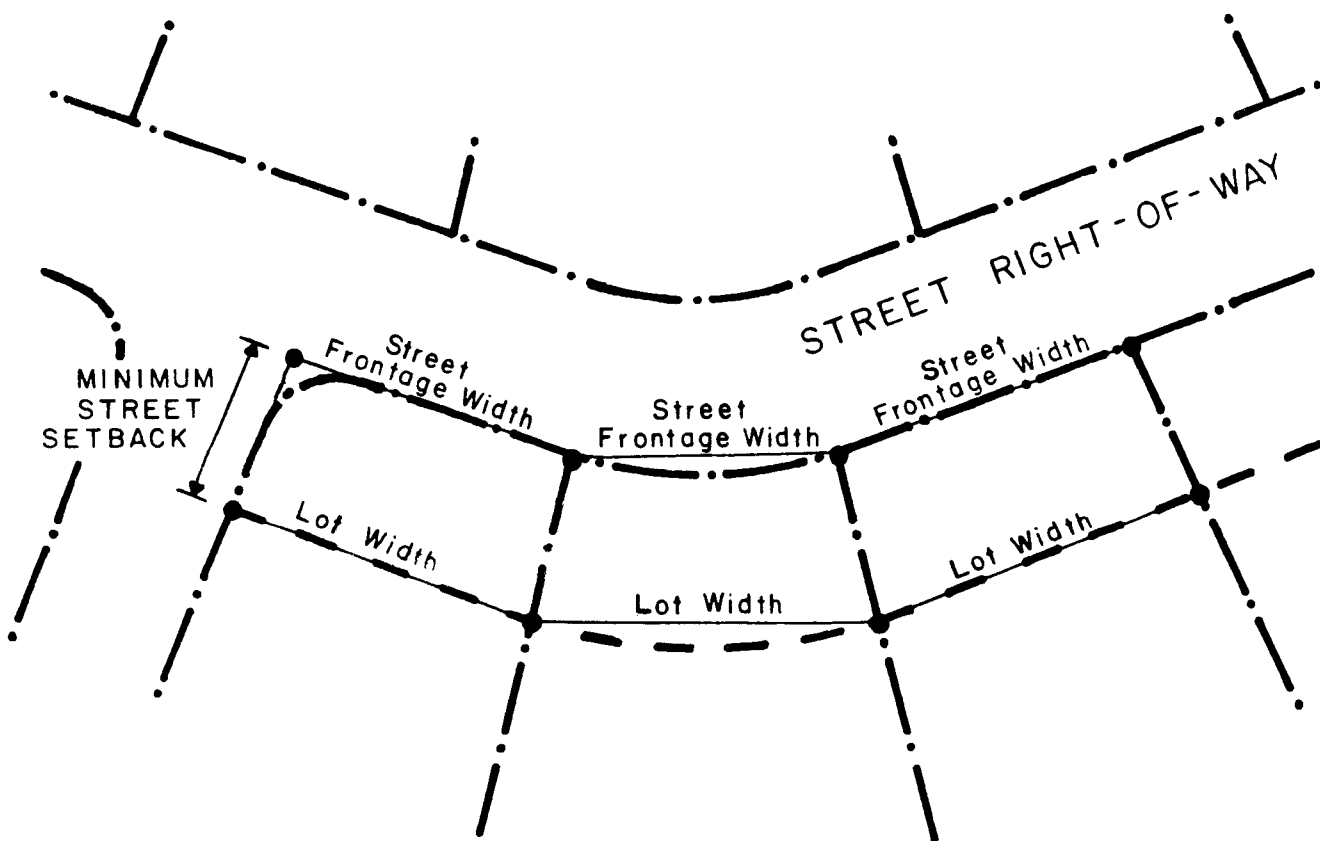
Where a zoning lot fronts or two (2) or more streets, minimum lot width requirements shall be considered met if the lot width at the street setback from any one of such streets meets the minimum lot width requirement.

5.7.3 Street Frontage Width Defined

The width of the frontage of a zoning lot on a street is the horizontal distance measured along a straight line connecting the points at which the street lot line abutting such street intersects with interior lot lines and/or street lot lines (See Figure 5-2).

(FIGURE 5-2)

LOT WIDTH AND STREET FRONTAGE WIDTH



5.7.4 Minimum Street Frontage Width

The minimum width of the frontage of a zoning lot on a street shall be eighty percent (80%) of the minimum lot width required for the zoning lot.

Where a zoning lot fronts on two (2) or more streets, minimum street frontage width requirements shall be considered met if the frontage along any one of such streets meets the minimum street frontage width requirements.

Where a zoning lot fronts on a turning circle of a cul-de-sac or at a point of a street where the radius of the curvature of the right-of-way is less than ninety (90) feet, the minimum street frontage width requirement shall not apply.

5.8 Land Use Intensity (LUI) Ratios

5.8.1 Applicability

The Land Use Intensity (LUI) ratios applicable to development on any zoning lot shall be those ratios established in Section 5.3 for the zoning district in which such zoning lot is located and for the use group to which the principal use of the zoning lot belongs, and shall be applied to the gross land area of the zoning lot.

Where a zoning lot does not contain a planned development and is located in more than one zoning district, the appropriate LUI ratios shall be applied individually to each portion of the gross land area located within the different districts, except that the floor area permitted in that portion of the gross land area located within one zoning district may be transferred to any other portion of the zoning lot's gross land area located within a zoning district with a higher LUI rating. Where a zoning lot containing a planned development is located in more than one zoning district, the appropriate LUI ratios shall apply to each portion of the gross land area located within the different zoning districts, and the sum of permitted intensities so derived shall apply to the zoning lot as a whole.

Where a zoning lot contains principal uses belonging to more than one use group, the appropriate LUI ratios shall apply to that portion of the number of square feet of gross land area allocated to each use group.

5.8.2 Floor Area Defined

Floor area is the sum of enclosed areas on all floors of a building or buildings measured from the outside faces of the exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor areas used for access and storage. Not countable as floor area are:

- a) Open terraces, patios, atriums, or balconies
- b) Carports, garages
- c) Breezeways



5.8.3 Maximum Floor Area

Maximum floor area allowed shall be the number of square feet derived by multiplying gross land area by the applicable floor area ratio (FAR), as shown in Section 5.3. Maximum floor area requirements shall not apply to single- or two-family dwellings or public cultural facilities located outside of a planned development.

5.8.4 Open Space Defined

Open space is the total horizontal area of uncovered open space plus one-half ($\frac{1}{2}$) the total horizontal area of covered open space, subject to the limitations set forth below:

- a) Uncovered open space is the total gross land area not covered by buildings, plus open exterior balconies, and roof areas improved as livability space.
- b) Covered open space is usable open space closed to the sky but having at least two (2) clear unobstructed open or partially open sides. Partially open is construed as fifty percent (50%) open or more. The horizontal area countable as covered open space shall not exceed the number of square feet equal to the sum of the vertical areas of the open sides. Examples of covered open space are covered balconies, covered portions of improved roof areas, or spaces under buildings supported on columns or posts, or cantilevered.

5.8.5 Minimum Open Space

Minimum open space required shall be the number of square feet derived by multiplying gross land area by the applicable open space ratio (OSR), as shown in Section 5.3.

5.8.6 Livability Space Defined

Livability space is that part of total open space appropriately located and, if necessary, improved as outdoor living space and for aesthetic appeal, including existing natural areas, lawns and other landscaped areas, walkways, paved terraces and sitting areas, outdoor recreational areas, and landscaped portions of street rights-of-way. Such space does not include open space used for motorized vehicles, except for incidental service, maintenance, or emergency actions.

5.8.7 Minimum Livability Space

Minimum livability space required shall be the number of square feet derived by multiplying gross land area by the applicable livability space ratio (LSR), as shown in Section 5.3.

5.8.8 Recreation Space Defined

Recreation space is that part of total open space and livability space plus enclosed floor area, which is appropriately improved for the common active recreational use of residents of multi-family developments and planned developments.

5.8.9 Minimum Recreation Space

Minimum recreation space required shall be the number of square feet derived by multiplying gross land area by the applicable recreation space ratio (RSR), as shown in Section 5.3. Recreation space is only required for multi-family dwellings, PD-H developments, and the residential portion of PD-MU developments.

In general, required recreation space shall have a least dimension of fifty (50) feet, an average dimension of at least one hundred (100) feet, and a minimum area of ten thousand (10,000) square feet. Smaller dimensions are acceptable if:

- a) less than ten thousand (10,000) square feet of recreation space is required, or
- b) the recreation space is suitably improved roof area or enclosed floor area, or
- c) anticipated needs of residents require smaller facilities, such as tot lots or shuffleboard courts.

Outdoor recreation space for common use shall be located at least twenty (20) feet from residential windows at the same general level.

5.9 Setback and Height Regulations

5.9.1 Intent

The setback and height regulations established in Section 5.3 are intended to ensure adequate solar access, privacy, and ventilation; access to and around buildings, offstreet parking areas, loading space, and service areas; space for landscaping; and spacing between buildings and portions of buildings to reduce potential adverse effects of noise, odor, glare, or fire. Adequate solar access is deemed to consist of varying levels of access ranging from rooftop solar access in high-intensity zoning districts to south wall solar access in low-intensity zoning districts.

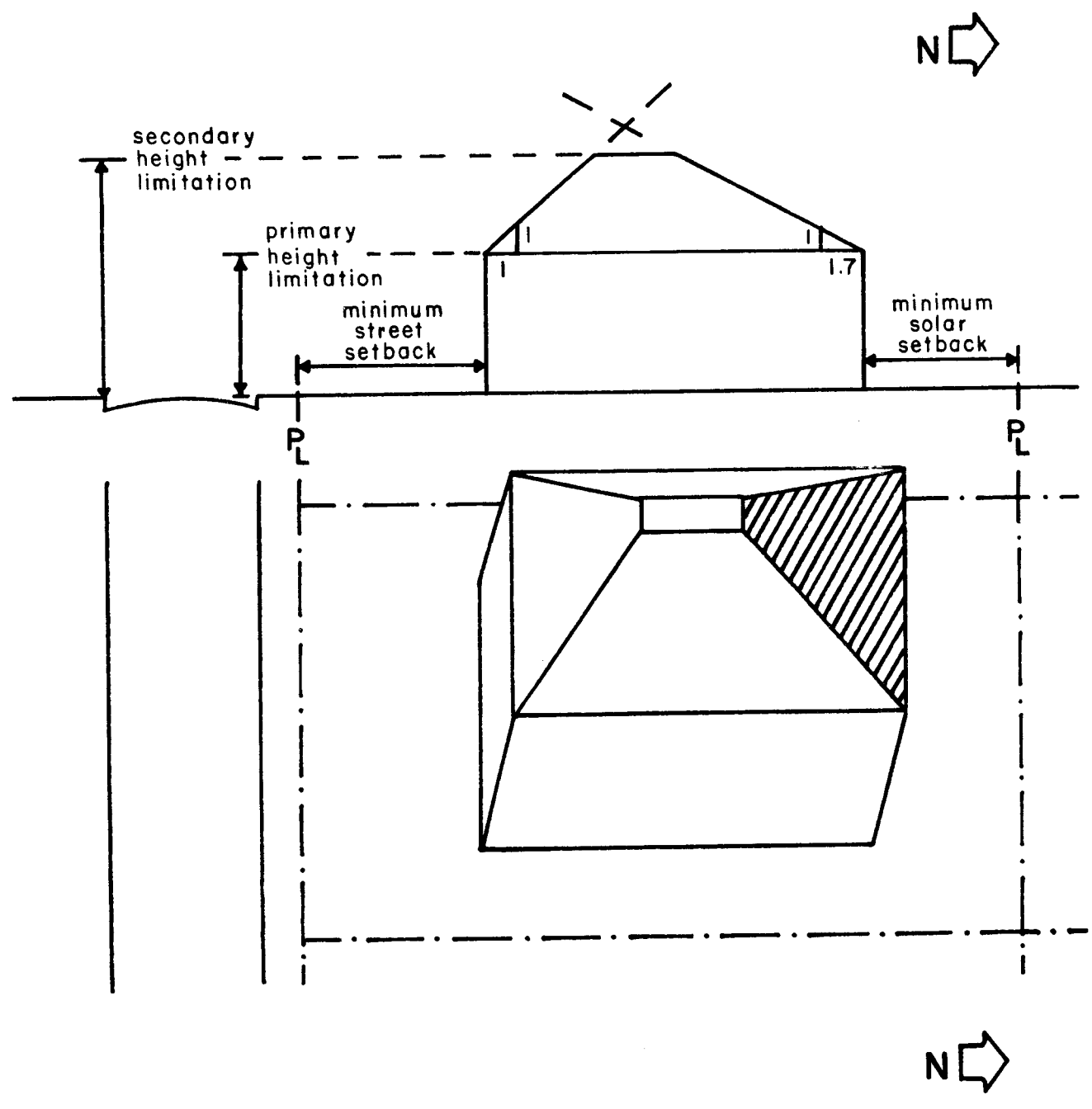
5.9.2 Applicability

Except where provided by Subsection 5.9.11, or where otherwise specifically provided by this chapter, no structure, or part thereof, shall project beyond the building envelope defined by the minimum street, interior, and solar setbacks and the maximum heights established in Section 5.3 for the zoning district in which such structure is located (See Figure 5-3).

(FIGURE 5-3)

BUILDING ENVELOPE

(AS DEFINED BY SETBACK & HEIGHT REQUIREMENTS)



For purposes of applying the following setback and height regulations to development within a OI-3 zoning district or within planned development, all contiguous land within the district or planned development shall be considered as a single zoning lot.

5.9.3 Street Setback Defined

Street setback is the horizontal distance between the street lot line of a zoning lot and any structure on such zoning lot. Street setback shall be measured perpendicular to the street lot line (See Figure 5-4).

Where a zoning lot fronts on a street with a right-of-way width not meeting the standards of this chapter, street setback shall be measured from a line running parallel to the centerline of the street at a distance from such centerline equal to one-half (1/2) the standard right-of-way width for the street.

5.9.4 Minimum Street Setback

Minimum street setback required for any structure, or part thereof, shall be the distance established in Section 5.3 for the zoning district in which such structure is located.

5.9.5 Interior Setback Defined

Interior setback is the horizontal distance between the interior lot line of a zoning lot and any structure on such zoning lot. Interior setback shall be measured perpendicular to the interior lot line (See Figure 5-4).

5.9.6 Minimum Interior Setback

Minimum interior setback required for any structure, or part thereof, shall be the distance established in Section 5.3 for the zoning district in which such structure is located.

5.9.7 Solar Setback Defined

Solar setback is the horizontal distance between the north lot line of a zoning lot and any structure on such zoning lot. Solar setback shall be measured along the North/South axis and in a southerly direction from the north lot line (See Figure 5-4).

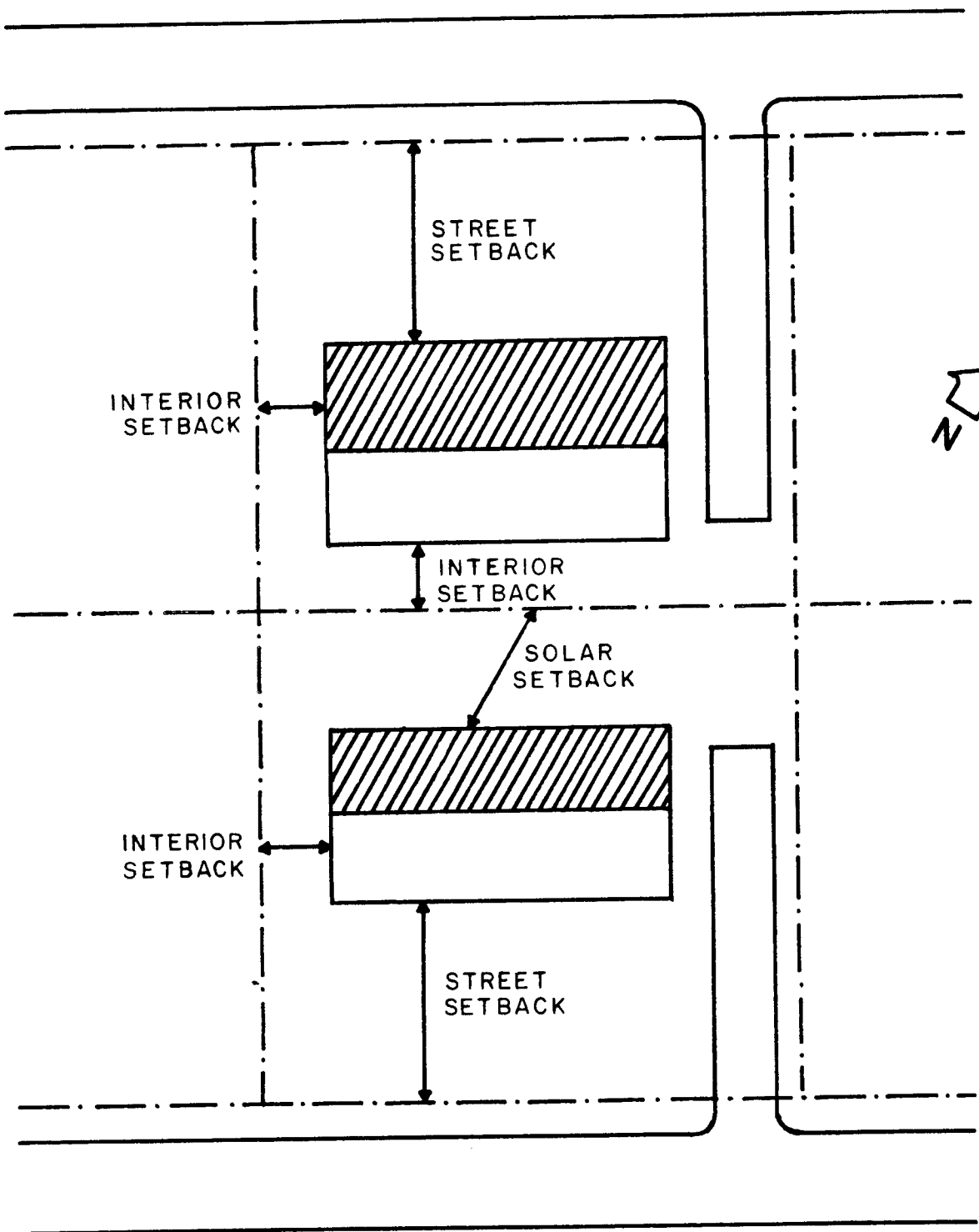
A north lot line shall be construed to include any portion of a lot's lot line which has an alignment within forty-five degrees (45°) of an East/West axis.

5.9.8 Minimum Solar Setback

Minimum solar setback required for any structure, or part thereof, shall be the distance established in Section 5.3 for the zoning district in which such structure is located.

(FIGURE 5-4)

SETBACKS



Minimum solar setback requirements shall not apply to any structure, or part thereof, where it is demonstrated to the Town Manager that the extent of the shadows projected for such structure at noon on the winter solstice does not exceed the maximum horizontal shadow pattern permitted by application of the minimum solar setback and maximum height limitations.

Where a solar setback and either a street or interior setback both apply to the same portion of a lot line, the required minimum setback shall be the greater of the two (2).

5.9.9 Height Defined

Height of a structure, or part thereof, is the vertical distance from the mean natural grade at the foundation to the highest portion of the structure, or part thereof (See Figure 5-5).

5.9.10 Maximum Height

Maximum height allowed for any structure, or part thereof, shall be the primary height limitation established in Section 5.3 for the zoning district in which such structure is located and for the use group to which the principal use of the structure belongs.

The height of a structure may exceed the primary height limitation established in Section 5.3 provided that for each foot the height of such structure exceeds the primary height limitation,

- a) the minimum street and interior setbacks applicable to that portion of the structure exceeding the primary height limitation shall be increased by one foot, and
- b) the minimum solar setback applicable to that portion of the structure exceeding the primary height limitation shall be increased by one and seven-tenths (1.7) feet (See Figure 5-3).

In no case shall the height of a structure exceed the secondary height limitation established in Section 5.3 for the zoning district in which such structure is located the use group to which the principal use of the structure belongs, and the bonus level for which such structure is eligible.

Where a structure contains principal uses belonging to use groups with different secondary height limitations, the secondary height limitation applicable to such structure shall be the sum of the heights derived by multiplying the secondary height limitation applicable to each represented use group by the proportion of floor area within the structure devoted to principal uses belonging to that use group.

If a structure is located in the vicinity of an airport, the height limitations set forth in Federal Aviation Regulations, Part 77, shall apply where such limitations are less than those established in this chapter.

(FIGURE 5-5)

HEIGHT



5.9.11 Exceptions to Setback and Height Regulations

The following features shall not be subject to the required minimum setbacks provided the Town Manager shall determine that such features do not significantly impair the degree of solar access provided adjacent properties through application of the appropriate solar setback requirements:

- a) free-standing signs and projecting signs, provided such signs comply with the sign standards established in Article 6;
- b) fences and walls not exceeding nine (9) feet in height; and
- c) flagpoles, bridges, and transmission poles, towers, and cables.

The following features may project above the building envelope defined by the maximum height limitations and additional setback requirements contained in Subsection 5.9.10 provided the Town Manager shall determine that such features do not significantly impair the degree of solar access provided adjacent properties through application of the appropriate solar setback requirements:

- a) chimneys, accessory radio or television antennas, flagpoles, monuments, or solar collectors, provided the projection of such structures above the building envelope does not exceed fifteen percent (15%) of the maximum height limitation that defines the portion of the building envelope penetrated by such structures;
- b) spires, smokestacks, water tanks, windmills, radio and television transmitting towers, or relay towers, provided such structures do not exceed in height the horizontal distance therefrom to the nearest lot line; and
- c) transmission poles, towers, and cables

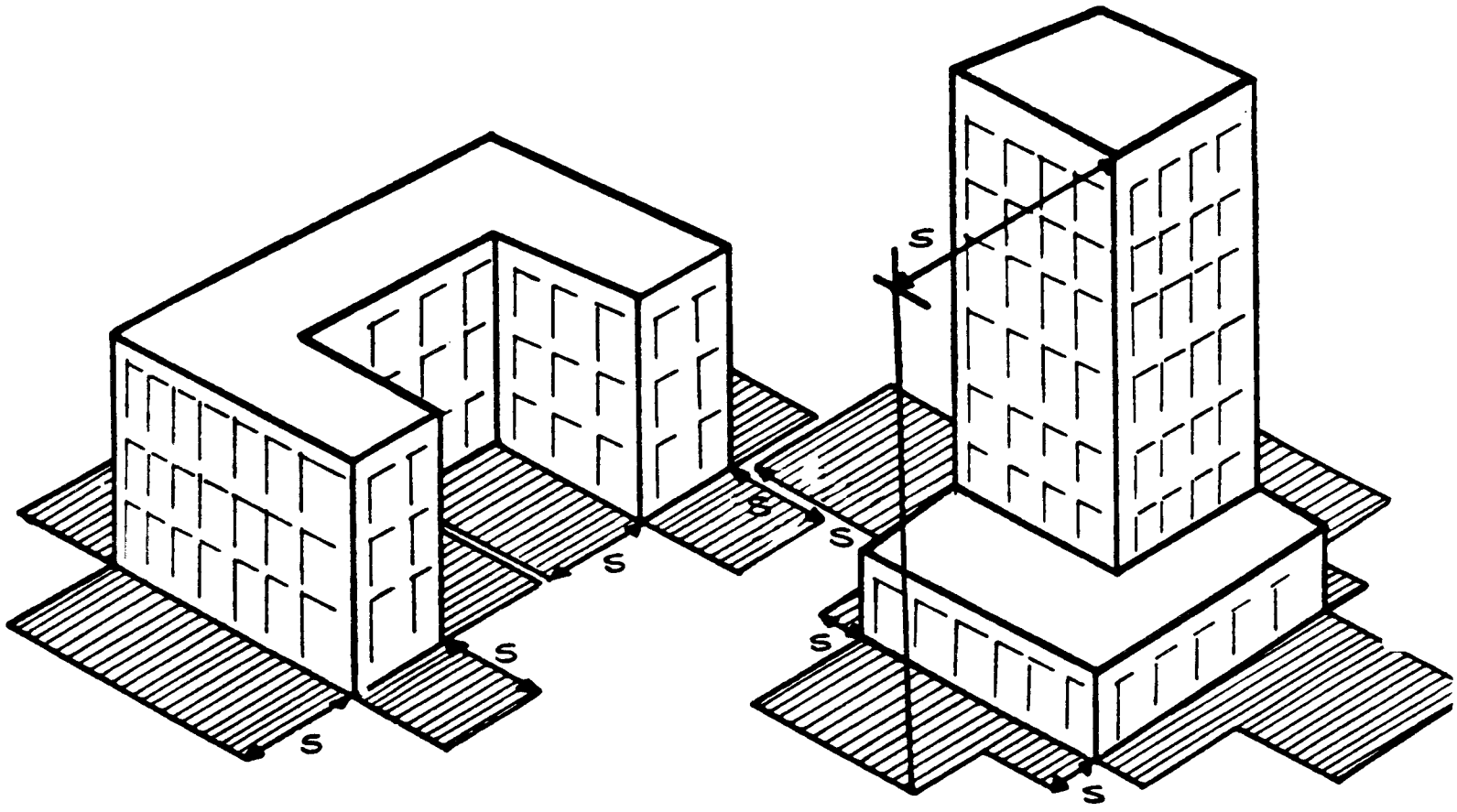
5.9.12 Minimum Building Spacing

Minimum spacing between any two (2) buildings located within a single zoning lot or OI-3 district and containing dwelling or lodging units, or between noncontiguous portions of a building containing dwelling or lodging units, shall be the sum of the spacing distances required for the walls of each such building or portion of a building (See Figure 5-6). The required spacing distance for any wall containing windows shall be the horizontal distance equal to the minimum interior setback applicable to the lot or district (See Section 5.3) plus one additional foot for each foot the height of the wall exceeds thirty-five (35) feet, and shall be measured perpendicular to the wall. The required spacing distance for a windowless wall shall be only that required for fire protection by applicable building codes.

Unless otherwise regulated by this chapter, spacing between structures or portions of structures not containing dwelling or lodging units shall be appropriate to the use of such structures or portions of structures, as related to anticipated amounts and timing of vehicular and pedestrian traffic and exposure of nearby living quarters to such use, and shall be determined with regard for the location of windows, the separation of spaces by walls, fences, or vegetative screening, the location of parking and service areas, fire protection requirements, and similar considerations.

(FIGURE 5-6)

BUILDING SPACING



$$S = \text{MINIMUM INTERIOR SETBACK} + (\text{HEIGHT} - 35 \text{ FT.})$$

5.10 Transitional Control Intensity Modifications

In Office/Institutional - 3 districts, all development located within one hundred (100) feet of a Residential district shall observe LUI ratios equal to those required for Office/Institutional - 1 districts, as shown in Section 5.3.

In all nonresidential zoning districts and planned developments (TC-2, TC-1, CC, NC, OI-3, OI-2, OI-1, I, PD-SC, PD-OI and PD-I), the following setback and height regulation modifications shall apply:

- a) Minimum street setback across a street from residentially zoned land shall be equal to the street setback applicable in the Residential district across the street.
- b) Minimum interior setback adjacent to residentially zoned land shall be equal to the interior setback applicable in the adjacent Residential district.
- c) Minimum solar setback adjacent to residentially zoned land shall be equal to the solar setback applicable in the adjacent Residential district.
- d) The primary height limitation applicable at any of the modified setbacks identified in a) - c) above shall not exceed thirty-five (35) feet.

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ARTICLE 6 DESIGN STANDARDS

6.1 Intent

It is the intent of this article to provide general performance standards to ensure that development within the Chapel Hill planning jurisdiction will be designed, arranged, and constructed in a safe, orderly, energy-efficient, and visually harmonious manner, and will reflect the basic character of the development site and its immediate surroundings as well as the nature of the proposed uses of the site.

6.2 Applicability

Except as otherwise specifically provided in this chapter, no land or structure shall be used or occupied, and no excavation, removal of soil, clearing of a site, or placing of fill shall take place on land contemplated for development, and no structure, or part thereof, shall be constructed, erected, altered, renovated, or moved except in compliance with the general performance standards specified herein and the specific standards contained in the design manual required below.

6.3 Design Manual

Within one hundred eighty (180) days of the enactment of this chapter, the Town Manager shall develop and make available a design manual which shall contain specific design and construction standards. Such standards shall be in accord with the general performance standards contained herein, and shall reflect, where applicable, generally accepted design and construction practices and techniques. The design manual shall contain sufficient flexibility in the application of specific standards so as to permit modifications of the standards where such modifications have been determined by the Town Manager to be equally or more appropriate to safe, orderly, energy-efficient, and visually harmonious development due to particular conditions of a development site, and that such modifications continue to be in conformance with the general performance standards contained herein.

6.4 General Site Arrangement

Structures shall be placed and arranged so as not to adversely affect adjacent property. Adverse effects shall include, but are not limited to, the removal of lateral support, the creation of hazard, nuisance danger, or inconvenience, unreasonable loss of light and air or solar access, or unreasonable loss of privacy or views.

Insofar as is practicable, developments shall be arranged so as to maximize energy efficiency and conservation.

Developments shall be arranged so as to be visually harmonious both within the development site and in relation to adjacent developments. Site design elements of the development shall be integrated to the degree of their compatibility with each other and shall be separated to the degree of their incompatibility. Insofar as is practicable, developments shall be arranged so as to preserve or enhance vistas.

6.5 Access and Circulation

6.5.1 External Circulation

The type and arrangement of streets and driveways within the development shall be in compliance with and coordinate to Chapel Hill's Major Street Plan.

Principal vehicular access points to the development shall be designed to encourage smooth traffic flow with minimum hazards to pedestrian, bicycle, and other vehicle traffic. Accommodations for controlled turning movements into and out of the development and improvement of the approach street shall be provided where existing or anticipated heavy traffic flows indicate need.

Whenever appropriate to the type, size, and location of development, the site shall be so arranged as to facilitate the future utilization or accommodation of public transportation.

Bicycle and pedestrian access to the site shall be in compliance with and coordinate to existing and future Town bicycle and pedestrian systems and the systems of adjacent developments.

Access for cyclists and pedestrians shall be by safe and convenient routes which need not be limited to the vicinity of vehicular access points. Accommodations for safe intersections of bicycle and/or pedestrian routes with adjacent vehicular routes shall be provided where existing or anticipated heavy traffic flows indicate need.

6.5.2 Internal Circulation

Internal circulation systems shall provide the types, amounts, and locations of accessibility appropriate to the type and size of the development, and shall be designed so as to facilitate the movement of persons, goods, services, and waste products in a safe and efficient manner, with maximum pedestrian orientation and a minimum of impermeable surface.

Safe and convenient vehicular access shall be provided for emergency and service vehicles.

Whenever appropriate to the type and size of the development, the provision of safe, efficient, and convenient bicycle and/or pedestrian circulation systems shall be required.

The integration or separation of circulation systems and patterns shall be provided as appropriate to the type and size of the development and to the existing or anticipated traffic flows.

6.5.3 Reserved

6.5.4 Clear-Vision Areas

To assure safe sight distances at street intersections and driveway intersections with streets, a minimum clear-vision area shall be provided at each corner of such intersections. No structure or

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planting that would impede visibility between the heights of three (3) and ten (10) feet above the street or driveway centerline grade shall be established in the clear-vision area, provided that the above requirement shall not apply to the following features:

- a) An official traffic control sign or signal; and
- b) Any structure or planting having a maximum horizontal cross-sectional diameter of eighteen (18) inches between the heights of three (3) and ten (10) feet above the street or driveway grade, provided that an, combination of such structures or plantings which impedes the required cross-vision shall be prohibited.

Grading of land within the clear-vision area may be required where topography impedes the required cross-vision.

The minimum clear-vision area shall consist of a triangular area bounded by the intersecting roadway and driveway edges and a straight line connecting those points on said edge lines which are located at a specified distance from the projected intersection of such edge lines. Such specified distance shall be ten (10) feet for each intersecting street or driveway within the Town Center districts and twenty-five (25) feet for each intersecting street or driveway within all other zoning districts.

6.6 Off-Street Parking and Loading

6.6.1 Off-Street Parking and Loading Required

Off-street parking shall be provided for all uses of land, structures, and buildings as well as for any expansion of such uses or change in use in accord with the requirements of this section.

Off-street loading space shall be provided for all retail business, wholesale, and industrial uses having an enclosed floor area greater than five thousand (5,000) square feet, in accord with the requirements of this section.

In the case of mixed uses, the total requirements for off-street parking or loading space shall be the sum of the requirements for the various uses computed separately.

6.6.2 Methods of Providing Required Parking and Loading

All required parking or loading space shall be located on the same zoning lot as the principal use(s) it serves, except as provided for below. Where the number of parking spaces required for the use on a zoning lot located in either Town Center district is less than twenty (20), parking required for such uses shall be either combined with parking on another zoning lot, as provided for in a) below, or provided in accord with the provisions of b) below.

In lieu of actual construction of required on-site parking spaces, all or any portion of the off-street parking required in this section may be provided by the following means.

- a) Required parking for a use on a zoning lot may be located on another zoning lot, either by itself or combined with parking for other uses, subject to certification by the Town Manager that the following requirements have been met:
 - i) The use being served by the off-site parking shall be a permitted principal use, as established in Article 4, in the zoning districts within which the zoning lot containing such parking is located;
 - ii) The off-site parking spaces shall be located within five hundred (500) feet walking distance of a public entrance to the structure or land area containing the use for which such spaces are required. A safe, direct, attractive, lighted and convenient pedestrian route shall exist or be provided between the off-site parking and the use being served;
 - iii) The continued availability of off-site parking spaces necessary to meet the requirements of this section shall be ensured by an appropriate restriction on the title to the land providing the off-site parking spaces, in the form of a declaration, covenant, or contract; and
 - iv) For purposes of determining applicable minimum and maximum land use intensities, the land area devoted to off-site parking shall be added to the gross land area of the zoning lot containing the use being served by such parking and shall be subtracted from the gross land area of the zoning lot containing the off-site parking.
- b) For uses located within either Town Center zoning district, compliance with parking requirements may be achieved by making payments to the Town of Chapel Hill Parking Fund in accord with Chapter 11A of the Chapel Hill Code of Ordinances.

6.6.3 Combined Parking

Up to one-half ($\frac{1}{2}$) of the parking spaces required for one use may be used to satisfy the parking requirements for either a second use on the same zoning lot or a use for which the provisions of subsection 6.6.2 a) above are utilized, subject to certification by the Town Manager that such joint usage of parking complies with the following provisions:

- a) The peak usage of the parking facility by one use will be at night or on Sundays (such as with theaters, assembly halls, or churches), and the peak usage of the parking facility by the second use will be at other times; or
- b) The second use is an ancillary use to the first use, such as restaurants and meeting rooms to hotels and motels.

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6.6.4 Use Of Required Parking and Loading Space

Required parking areas shall be available for the parking of operable vehicles of residents, customers, and employees, and shall not be used for the storage of vehicles or materials, or for the parking of vehicles used for loading or unloading, or in conducting the use.

Required loading space shall be available for the loading and unloading of vehicles, and shall not be used for the storage of vehicles or materials, or to meet off-street parking requirements, or in conducting the use.

6.6.5 Parking Design Standards

All parking areas shall meet the following minimum design requirement:

- a) Ingress to and egress from parking areas shall conform to Town design standards.
- b) Except for single- or two-family dwellings, parking facilities shall observe a minimum setback of ten (10) feet from any public street right-of-way. Above-ground structures containing parking facilities (eg. parking decks, including ramps) shall observe the minimum setback requirements established in Article 5 or the ten-foot setback required above, whichever is greater.
- c) In the Town Center districts, if a setback is provided between a principal structure and a street such setback shall not be used for off-street parking.
- d) Except for single- or two-family dwellings, all parking spaces and maneuvering space shall be surfaced with an all-weather material, which shall be maintained in a safe, sanitary, and neat condition.
- e) No parking area or maneuvering space shall be located within a public street right-of-way. Parked vehicles in off-street parking spaces shall be prevented from intruding on travel lanes, walkways, public streets, or adjacent properties by means of walls, curbs, wheel stops, or other appropriate means.
- f) Except for single- or two-family dwellings or for attendant parking, each parking space shall be arranged so that any vehicle may be parked and unparked without moving another vehicle.
- g) The size of parking spaces shall be adequate for the safe parking of vehicles and maneuvering space shall be provided so that parking and unparking can be accomplished in one continuous maneuver. Parking facilities designed to accommodate five (5) or more vehicles shall be designed in accord with the standards for stalls and aisles as set forth in the drawings and table shown in Figure 6-1-A. However, where parking facilities are designed to accommodate more than ten (10) vehicles, up to sixty percent (60%) of the parking spaces provided may be designed in accord

with the stall and aisle standards shown in Figure 6-1.B., provided the smaller spaces are designated for use only by compact vehicles (manufacturers' frame classes 4 through 8).

- h) Curbed islands shall be required at the ends of or between parking aisles where necessary for traffic control or drainage control.
- i) Except for single- or two-family dwellings, parking spaces shall be provided with adequate aisles or turnaround areas so that all vehicles may enter adjacent streets in a forward manner.
- j) Parking facilities shall be designed to connect with parking facilities on adjacent zoning lots where appropriate to eliminate the need to use the abutting street(s) for cross movements.
- k) All off-street parking facilities shall be provided with a drainage system meeting the design standards contained in Section 6.7.
- l) All lighting of and within parking facilities shall conform to the lighting design standards contained in Section 6.14.
- m) Adequate provision shall be made for the ventilation of and dispersion and removal of smoke and gases from above-ground and below-ground parking structures.
- n) Parking facilities designed to accommodate five(5) or more vehicles shall provide areas as necessary for the parking of motorcycles, mopeds, and bicycles. Such areas shall be clearly defined and reserved for the exclusive use by motorcycles, mopeds, and bicycles.
- o) Parking facilities designed to accommodate twenty-five (25) or more vehicles shall provide, as part of the required number of parking spaces, one handicapped parking space at least twelve (12) feet in width for every fifty (50) standard parking spaces, or major fraction thereof. Such spaces shall be clearly defined and reserved for the exclusive use by handicapped persons.

6.6.5 Parking Landscaping Standards

It is the intent of this subsection to protect and promote the public health, safety, and general welfare by requiring the landscaping of parking areas which will serve to reduce radiant heat from surfaces, to reduce wind and air turbulence, to reduce noise, to reduce the glare of automobile lights, to ameliorate stormwater drainage problems, and to protect and preserve the appearance, character, and value of adjacent properties.

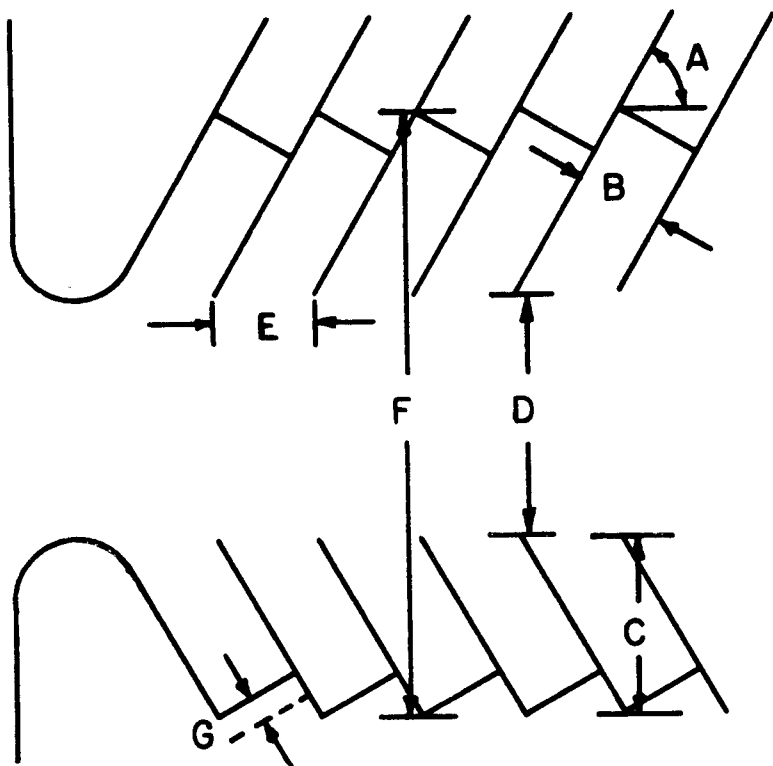
Except for one- or two-family dwellings, all parking facilities, unless located entirely underground, shall meet the following minimum landscaping requirements:

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- a) Parking facilities, unless located on or within a structure, shall be separated from the exterior wall of a structure, exclusive of paved pedestrian entrance ways or loading areas, by a buffer strip at least five (5) feet in width, which shall be landscaped in accord with Town landscaping standards.
 - b) Entryways into parking facilities shall be bordered by a buffer strip a minimum of eight (8) feet in width, which shall be landscaped in accord with Town landscaping standards.
 - c) Ground-level parking facilities and the ground level of parking structures shall be screened from adjacent streets by means of an effective screening device which is at least three (3) feet in height above the grade of the edge of the parking area. Ground-level parking facilities and the ground level of parking structures shall be screened from adjacent properties zoned Residential by means of an effective screening device which is at least six (6) feet in height above the grade of the edge of the parking area. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the required height within two (2) years of planting, or any combination of the above.
 - d) Vegetation shall be provided within and adjacent to ground-level parking areas which will, in the opinion of the Town Manager, be sufficient to achieve shading of at least thirty-five percent (35%) of the parking area surface on noon on August 21 within ten (10) years of the date the parking area is constructed.
 - e) In providing the vegetation required above, the retention of existing significant vegetation shall be encouraged.

Figure 6-1

A. Standard Automobiles

A	B	C	D*	E	F	G
0°	9.5'	N/A	12.0'	23.0'	31.0'	N/A
45°	9.0'	17.5'	12.0'	12.7'	47.2'	2.0'
60°	9.0'	19.0'	16.0'	10.4'	54.0'	2.5'
75°	9.0	19.5'	23.0'	9.3'	62.0'	2.5'
90°	9.0	18.5'	26.0'	9.0'	63.0'	3.0'



- A) Parking angle
- B) Stall Width
- C) Stall Depth
- D) Aisle width between stall lines
- E) Stall width parallel to aisle
- F) Module width
- G) Bumper overhang

B. Compact Automobiles

A°	B	C	D*	E	F	G
0°	8.0'	N/A	11.0'	19.0'	27.0'	N/A
45°	7.5'	16.0'	11.0'	10.5'	43.0'	2.0'
60°	7.5'	16.7'	14.0'	8.7'	47.4'	2.3'
75°	7.5'	16.3'	17.4'	7.8'	50.0'	2.5'
90°	7.5'	15.0'	20.0'	7.5'	50.0'	2.5'

*Additional width may be required where the aisle serves as a principal vehicular access to on-site uses or structures or serves two-way traffic.

6.6.7 Minimum Off-Street Parking Space Requirements

The following minimum parking space requirements shall apply for the appropriate use and zoning district. Parking space requirements shall not apply for uses located within the Office/Institutional-3 District.

A reduction of up to twenty percent (20%) of the minimum number of required parking spaces may be permitted through the granting of a variance by the Board of Adjustment if, based on substantial evidence in the record of its proceedings, the Board finds that compliance with the full minimum off-street parking space requirements of this section would necessitate the removal of or would seriously endanger significant specimen trees on or adjacent to the zoning lot on which such parking is required.

Use	Minimum Number of Parking Spaces	
	TC 1 and TC-2 Districts	Districts other than TC and OI-3
Dwelling, single-family	1 per dwelling unit	2 per dwelling unit
Dwelling, two-family or multi-family		
Efficiency	1 per dwelling unit	1 per dwelling unit
1 or 2 bedrooms	1 per dwelling unit	1.5 per dwelling unit
3 or more bedrooms	1 per dwelling unit	2 per dwelling unit
Mobile home	N/A	2 per unit
Mobile home park	N/A	1 per unit
Business, office-type	1 per 400 sq. ft. of floor area	1 per 350 sq. ft. of floor area
Church	1 per 4 persons the use is designed to accommodate	1 per 4 persons the use is designed to accommodate
Fraternity or sorority house	1 per resident	1 per resident
Group care facility	1 per 2 beds	1 per 2 beds
Hospital	1.5 per bed	1.5 per bed
Hotel or motel	1 per lodging unit	1 per lodging unit
Public cultural facility	1 per 500 sq. ft. of floor area	1 per 500 sq. ft. of floor area
Public use facility	1 per 400 sq. ft. of floor area	1 per 350 sq. ft. of floor area
Research activities	1 per 400 sq. ft. of floor area	1 per 350 sq. ft. of floor area

Residence Hall	1 per 2 residents	1 per 2 residents
Rooming house	1 per lodging unit	1 per lodging unit
School, elementary	1 per staff member	1 per staff member
School, secondary	1 per 4 students	1 per 4 students
Tourist home	1 per lodging unit	1 per lodging unit
Automotive, trailer, and farm implement sales or rental	1 per 500 sq. ft. of enclosed exhibit area	1 per 500 sq. ft. of enclosed exhibit area
Bank	1 per 400 sq. ft. of floor area	1 per 350 sq. ft. of floor area
Business, convenience Restaurant	1 per 400 sq. ft. of floor area	1 per 4 seats
Other convenience business	1 per 400 sq. ft. of floor area	1 per 250 sq. ft. of floor area
Business, general	1 per 400 sq. ft. of floor area	1 per 250 sq. ft. of floor area
Clinic	1 per 400 sq. ft. of floor area	1 per 250 sq. ft. of floor area
Maintenance and/or storage facility	N/A	1 per 2 employees of 2 largest shifts combined.
Manufacturing, light	N/A	1 per 2 employees of 2 largest shifts combined
Personal services	1 per 400 sq. ft. of floor area	1 per 250 sq. ft. of floor area
Place of assembly	1 per 4 persons the use is designed to accommodate	1 per 4 persons the use is designed to accommodate

In the case of a use not listed above, the minimum parking space requirement shall be determined by the Town Manager. In making such determinations, the Town Manager shall be guided by the requirements for similar uses, the number and kind of vehicles likely to be attracted to the use, and studies of minimum parking space requirements for such use in other jurisdictions.

6.6.8 Loading Space Design Standards

All loading spaces shall meet the following minimum design requirements:

- a) Off-street loading spaces shall be located and arranged so that a semi-trailer truck (WB 50 class) shall be able to gain access to and use such spaces by means of one continuous parking maneuver.
- b) Loading space shall observe the minimum street and interior setbacks established for structures in Article 5 of this chapter.
- c) All loading space and maneuvering space shall be surfaced with an all-weather material which shall be maintained in a safe, sanitary, and neat condition.
- d) No loading space shall be located so that a vehicle using such space intrudes on travel lanes, walkways, public or private streets, or adjacent properties.
- e) Each required off-street loading space shall have a minimum width of twelve (12) feet, a minimum depth of sixty (60) feet, and a vertical clearance of sixteen (16) feet above finished grade of the space.
- f) Loading areas shall be screened from adjacent streets and adjacent properties by means of an effective screening device which is at least six (6) feet in height above the grade of the loading area. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the required height within two (2) years of planting, or any combination of the above.

6.6.9 Minimum Off-Street Loading Space Requirements

The following minimum loading space requirements shall apply for the appropriate use.

<u>Use</u>	<u>Minimum Number of Loading Spaces</u>
Business, convenience or general	1 per 5,000 sq. ft. of floor area or major fraction thereof, not to exceed 2 spaces
Maintenance and/or storage facility, light manufacturing, or supply yard	1 per 10,000 sq. ft. of floor area or major fraction thereof, not to exceed 3 spaces

6.7 Drainage and Storm Water Management

Natural drainage systems and storm water management installations shall be designed, constructed, and maintained so as to 1) provide for natural infiltration of storm water; 2) control velocity of runoff flows; 3) extend the time of concentration of storm water runoff; and 4) to collect and transmit excess storm water flows into either the Town drainage system or into a natural drainage system.

6.8 Erosion and Sedimentation Control

All developments shall comply with the provisions of applicable soil erosion and sedimentation control regulations. Certification of compliance with or exemption from the plan requirements of such regulations shall be submitted to the Town Manager prior to issuance of any Zoning Compliance Permit for the development. No Development Improvements Construction Permit or Building Permit for a structure shall be issued until certification of the completion of control measures and facilities required for all land-disturbing activity associated with such structure and its ancillary construction has been submitted to the Town Manager.

6.9 Water and Sewerage

6.9.1 Service by Public Systems

All developments shall be served by a public water supply and a public sanitary sewer system wherever reasonably practicable.

Fire hydrants of sufficient water pressure to provide adequate fire protection shall be provided where necessary.

All proposed public water and sanitary sewer installations shall be approved by the Orange Water and Sewer Authority (OWASA). Certification of such approval shall be submitted to the Town Manager prior to issuance of any Zoning Compliance Permit for the development being served.

No Certificate of Occupancy for a structure shall be issued until the following documents have been submitted to the Town Manager:

- a) Certification from OWASA that all water and/or sewer facilities necessary to serve such structure have been completed to OWASA standards; and
- b) As-built construction drawings of those completed water and/or sewer facilities located within a public right-of-way or easement.

6.9.2 Service by Individual Systems

Individual water supply systems intended to provide potable water may be permitted for a single- or two-family dwelling on a zoning lot, subject to approval by the appropriate County Health Department. Certification of such approval shall be submitted to the Town Manager prior to issuance of any Zoning Compliance Permit for the development being served.

Individual subsurface sewage disposal systems may be permitted for a single- or two-family dwelling on a zoning lot, subject to approval by the appropriate County Health Department. Certification of such approval shall be submitted to the Town Manager prior to issuance of any Zoning Compliance Permit for the development being served.

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6.10 Other Utilities

All utility lines other than lines used only to transmit electricity between generating stations or substations and three-phase electric power distribution lines shall be placed underground, and all surface disruptions required for installation shall be rehabilitated to the original or an improved condition.

A letter or letters certifying the availability of immediate service from each of the other utilities (electric, gas, telephone, cable television) serving a structure shall be submitted to the Town Manager prior to issuance of a Zoning Compliance Permit for such structure.

No Certificate of Occupancy for a structure shall be issued until the following documents have been submitted to the Town Manager:

- a) Certification or certifications from the appropriate utilities that all facilities necessary to provide electric, gas, telephone, and/or CATV service to such structure have been completed to the standards of the appropriate utilities; and
- b) As-built construction drawings of those completed electric, gas, telephone, and CATV facilities located within a public right-of-way or easement.

6.11 Refuse Collection

All developments shall provide secure, safe, and sanitary facilities for the storage and pickup of refuse. Such facilities shall be convenient to collection and shall be appropriate to the type and size of the development being served.

Except for single- and two-family dwellings, all refuse storage facilities shall be screened by a solid wall, fence, tight evergreen hedge, or combination of the above. Such screening shall be of sufficient height and design to effectively screen the facility from the view from adjacent residential uses and streets, and from adjacent properties.

6.12 Buffers and Screening

In order to reduce the impacts of a use of land on adjacent uses which are of a significantly different type of use, buffers and screening shall be required in accord with the following provisions of this subsection.

6.12.1 Buffers Required

A buffer consists of a horizontal distance from a property line which may only be occupied by screening, utilities, access ways, and landscaping materials. The required buffering distance between land uses on adjoining zoning lots is set forth in the matrix shown in Figure 6-2. Such buffer shall be provided unless the abutting use has already provided a buffer in compliance with the provisions of this subsection.

6.12.2 Screening Required

Within buffers, screening is required and shall consist of at least the following:

- a) A row of deciduous and/or evergreen trees which are not less than fifteen (15) feet high at the time of planting and are spaced not more than fifteen (15) feet apart; and
- b) A row of evergreen shrubs spaced not more than five (5) feet apart which will grow to form a continuous hedge at least six (6) feet in height within two (2) years of planting; and
- c) Lawn, low-growing evergreen shrubs, evergreen ground cover, or vegetable or rock mulch covering the balance of the buffer.

All business, service, repair, processing, storage, or merchandise display conducted outside of an enclosed building shall be screened from adjacent streets and properties by means of an effective screening device of a height appropriate to its screening function. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the necessary height within two (2) years of planting, or combination of the above.

FIGURE 6-2 BUFFER MATRIX

Proposed Use	Dwelling, single or two-family	Dwelling, multi-family	Any use in Use Group B	Automotive repair, maintenance and/or storage facility, light manufacturing, supply yard	Any use in Use Group C other than the above
Dwelling, single- or two-family	0	5	10	20	15
Dwelling, multi-family	5	0	10	20	15
Any principal use in Use Group B	10	10	0	15	10
Automotive repair, maintenance and/or storage facility, light manufacturing, supply yard	20	20	15	0	5
Any principal use in Use Group C other than the above	15	15	10	5	0

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6.12.3 Alternative Buffers and Screening

In lieu of compliance with the above buffer and screening requirements, a developer may submit to the Appearance Commission for its approval a detailed plan and specifications for landscaping and screening which will afford a degree of buffering and screening equivalent to or exceeding that provided by the above requirements.

6.12.4 Existing Vegetation

The retention of existing vegetation shall be maximized to the extent practicable wherever such vegetation contributes to required buffering and screening or to the preservation of significant trees.

6.12.5 Maintenance of Landscaping

All landscaping and screening providing required buffering and screening shall be maintained so as to continue their effectiveness.

6.13 Signs

6.13.1 Intent

It is the intent of this section to authorize the use of signs whose types, sizes, and arrangements are compatible with their surroundings; appropriate to the type and intensity of activity to which they pertain, expressive of the identity of individual properties or occupants or of the community as a whole, legible in the circumstances in which they are seen, and appropriate to traffic safety.

6.13.2 Sign Defined

A sign is any device designed to inform or attract attention of persons not on the premises on which the device is located and which is related in its subject matter to the premises on which it is located.

6.13.3 Signs Subject to Control

Unless specifically exempted, no sign visible from a public right-of-way, whether exterior to or interior to a structure, shall be erected, displayed, or substantially altered except in accord with the provisions of this chapter and until a Zoning Compliance Permit has been issued therefor.

6.13.4 Signs Exempt from Regulation

The following signs are exempt from regulation and permit requirements under this section provided such signs comply with the provisions of Subsection 6.13.5.

- a) Signs bearing only property identification numbers and names, post office box numbers, names of occupants of the premises, or other identification of premises not of a commercial nature, provided such signs are not illuminated and do not exceed two (2) signs per zoning lot or two (2) square feet in area per display surface.

- b) Flags and insignia of a government, when not displayed in connection with a commercial promotion.
- c) Legal notices, identification and informational signs, and traffic directional or regulatory signs erected by or on behalf of a governmental body.
- d) Memorial signs or tablets, and names and construction dates of buildings when cut into any masonry surface.
- e) Signs directing and guiding traffic and parking on private property, provided such signs are non-illuminated or indirectly illuminated, bear no advertising matter, and do not exceed four (4) square feet in area per display surface.
- f) Real estate signs advertising the sale, rental, or lease of the premises on which said signs are located, provided such signs do not exceed one sign per street frontage or one sign per four hundred (400) feet of street frontage, or four (4) square feet in area per display surface, and are removed immediately after sale, rental, or lease of the premises.
- g) Construction site identification signs whose message is limited to identification of architects, engineers, contractors, and other individuals or firms involved with the construction, the name of the building, the intended purpose of the building, and the expected completion date, provided such signs do not exceed one sign per construction site or four (4) square feet in area per display surface, are not erected prior to issuance of a Building Permit, and are removed within seven (7) days of issuance of a Certificate of Occupancy.
- h) Temporary political signs advertising candidates or issues, provided such signs do not exceed one sign per zoning lot or four (4) square feet in area per display surface, are not erected prior to thirty (30) days before the appropriate election, and are removed within seven (7) days after the election.
- i) Yard or garage sale signs announcing yard or garage sales, provided such signs do not exceed one sign per site of such sale or four (4) square feet in area per display surface, and are removed within seven (7) days of erection.
- j) Public event announcements by public or non-profit organizations of special events or activities of interest to the general public, provided such signs do not exceed one sign per site of such events or activities or twelve (12) square feet in area per display surface, and are removed within fourteen (14) days of erection.
- k) Temporary signs announcing grand openings of new businesses only, provided such signs do not exceed thirty-two (32) square feet of display area per business site, and are removed within fourteen (14) days of the opening of the business.

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6.13.5 Traffic Safety Precautions

Notwithstanding any other provision in this chapter, the following restrictions shall apply to signs in order to preserve the safety of pedestrian, bicycle, and vehicular movement:

- a) No sign, or part thereof, shall be located within a clear-vision area established by Subsection 6.5.4.
- b) No sign shall make use of the words "STOP", "SLOW", "CAUTION", "DANGER", or any other word, phrase, symbol, or character in such manner as is reasonably likely to be confused with traffic directional and regulatory signs.
- c) No sign shall be erected so that by its location, color, nature, or message is likely to be confused with or obstruct the view of traffic signals or signs, or is likely to be confused with the warning lights of an emergency or public safety vehicle.
- d) Except as used to display time and temperature, no sign shall contain flashing lights.

6.13.6 General Limitations

Except where specifically exempted by this chapter, all signs, including the supports, frames, and embellishments thereto, shall not be located within any public right-of-way, nor shall any sign be attached, affixed, or painted on any utility pole, light standard, telephone or telegraph pole, any tree, rock, or other natural object.

No sign shall have more than two (2) display surfaces.

No display surface shall contain more than ten (10) items of information except where the name of the occupant of the premises contains more than ten (10) items of information and the display surface contains only the name of the occupant. An item of information means any of the following: a syllable of a word; an abbreviation; a number; a symbol; a geometric shape. In computing items of information, letters less than three (3) inches in height, if contained in a wall sign, shall not be counted. No source of illumination of a sign, such as flood-lights or spotlights, shall be directly visible from any public right-of-way, from any Residential district, or from adjacent properties. Internally illuminated signs shall consist of a dark background and a light message. Neon tube illumination shall be prohibited except as internal illumination.

Animated, rotating, or other moving or apparently moving signs shall be prohibited.

Devices consisting of banners, streamers, pennants, windblown propellers, strung light bulbs, and similar installations shall be prohibited.

6.13.7 Signs in Residential and Rural Transition Districts and in PD-H Developments

No sign shall be erected or displayed in any Residential or Rural Transition district or in any Planned Development - Housing except as allowed under subsection 6.13.4 or as provided below:

- a) Development identification signs containing the name only of a subdivision, multi-family development, or planned development, provided such signs are not illuminated and are limited to one free-standing sign at each principal point of access to the development, sixteen (16) square feet in area per display surface, and a maximum height of six (6) feet.
- b) Home occupation signs identifying a home occupation, provided such signs are not illuminated are are limited to one wall sign per zoning and a maximum display surface area of three (3) square feet.
- c) Nonresidential signs identifying nonresidential uses permitted as a principal or special use in Residential or Rural Transition districts or as an accessory use in PD-H developments provided such signs are not illuminated and are limited to one free-standing or wall sign per zoning lot and sixteen (16) square feet in area per display surface.

6.13.8 Signs in TC-2, TC-1, CC, NC, OI-3, OI-2, OI-1, and I Districts

No sign shall be erected or displayed in the Town Center districts or in any Community Commercial, Neighborhood Commercial Office/Institutional-3, Office/Institutional-2, Office/Institutional-1 or Industrial district except as allowed under Subsection 6.13.4 or as provided below for the type of sign and the zoning district in which it is located.

Where a zoning lot contains more than one principal use or establishment, the provisions below shall apply to the zoning lot as a whole, and the owner(s) of the zoning lot shall be responsible for allocating permitted signs and display surface areas among the individual uses or establishments. The sign plan submitted for such zoning lot shall show all signs located or proposed thereon and shall be designed so that all signs are in harmony and consistent with each other.

1. Free-Standing Signs

Free-standing signs may be erected and displayed on a zoning lot in compliance with the maximum area per display surface and the maximum height limitations contained in Subsection 6.13.9, provided:

- a) The zoning lot on which a free-standing sign is located shall be accessible by automobile and contains off-street parking for the principal use(s);

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- b) The buildings or structures housing the principal use(s) on a zoning lot on which a free-standing sign is located shall be set back at least twenty (20) feet from the abutting street right-of-way;
 - c) Free-standing signs shall be limited to one sign per street frontage of one hundred (100) feet or more, and shall not be located closer than one hundred (100) feet to any other free-standing sign;
 - d) No free-standing sign shall be permitted on the same street frontage along which there is a projecting sign;
 - e) Free-standing signs shall clear driveway and parking areas by a height of at least fourteen (14) feet and shall clear sidewalks and pedestrian paths by a height of at least eight (8) feet; and
 - f) The message of free-standing signs shall be limited to the name(s) of the establishment(s) located on the zoning lot and/or the name of a multi-use development located thereon, except that free-standing signs identifying theaters or service stations may also identify the current presentation(s) or fuel prices, as appropriate.

2. Projecting Signs

Projecting signs may be erected and displayed on a zoning lot in compliance with the maximum area per display surface limitations contained in Subsection 6.13.9, provided:

- a) The building to which a projecting sign is attached shall be twenty (20) feet or more in width;
- b) Projecting signs shall be limited to one sign per street frontage, and shall not be located closer than fifty (50) feet to any other projecting sign;
- c) No projecting sign shall be permitted on the same street frontage along which there is a free-standing sign;
- d) Projecting signs shall clear sidewalks and pedestrian paths by a height of at least eight (8) feet, and shall project no more than four (4) feet from the building to which they are attached;
- e) No projecting sign shall extend above the soffit, parapet, or eave line, as appropriate, of the building to which it is attached;
- f) Projecting signs shall not be located at the intersection of building corners except at right angles to a building facade; and
- g) The message of projecting signs shall be limited to the name(s) of the establishment(s) located on the zoning lot and/or the name of a multi-use development located thereon.

3. Wall Signs

Wall signs may be erected and displayed on a zoning lot in compliance with the maximum percentage of facade coverage limitations contained in Subsection 6.13.9, provided:

- a) Wall signs placed in the space between windows shall not exceed in height two-thirds (2/3) of the distance between the top of a window and the sill of the window above;
- b) No wall sign shall protrude more than twelve (12) inches from the wall to which it is attached;
- c) No wall sign shall extend above the soffit, parapet, or eave line, as appropriate, of the building to which it is attached. If the building consists of more than two (2) stories, wall signs shall not extend above the second story;
- d) The display area of wall signs painted on, affixed to, or otherwise displayed on or through a facade window shall not exceed fifteen percent (15%) of the area of the window;
- e) Wall signs, or portions thereof, placed between window spandrels shall not exceed in height two-thirds (2/3) the height of the spandrel; and
- f) Wall signs shall not cover or interrupt major architectural features.

6.13.9 Sign Area and Height Limitations

<u>District</u>	<u>Free-Standing Signs</u>		<u>Projecting Signs</u>	<u>Wall Signs</u>
	Maximum Area Per Display Surface (sq. ft.)	Maximum Height	Maximum Area Per Display Surface (sq. ft.)	Maximum Percentage of Facade Coverage (%)
TC-2	8	14	8	5
TC-1	8	14	8	5
CC	30	20	30	10
NC	20	16	20	10
OI-3	20	16	20	5
OI-2	20	12	20	5
OI-1	20	12	20	5
I	20	12	20	5

6.13.10 Signs in PD-SC, PD-OI, PD-MU and PD-I Developments

No sign intended to be read from outside a Planned Development - Shopping Center, Planned Development - Office/Institutional, Planned Development - Mixed Use or Planned Development - Industrial, or from public streets within the development, shall be permitted within such development except as allowed under Subsection 6.13.4 or as provided below:

- a) Development identification signs containing the name only of a planned development, provided such signs are limited to one

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free-standing sign at each principal point of access to the development, forty (40) square feet in area per display surface, and a maximum height of twenty (20) feet;

- b) Building identification signs containing only the name of a building or building complex and the nature of the establishments therein, provided such signs are limited to one wall sign per building with a display area not exceeding five percent (5%) of the area of the building facade to which it is attached, up to a maximum area of forty (40) square feet;
- c) Identification signs for individual establishments containing the name(s) only of the establishments, provided such signs are limited to wall signs with a maximum display area of thirty (30) square feet.

6.13.11 Sign Area and Number

The area of a display surface of a sign shall be computed as including the entire area, within a regular geometric form or combination of forms, comprising all the display area of the surface and including all of the elements of the matter displayed and the sign frame. Structural members not bearing advertising matter shall not be included in the computation of sign area.

For the purpose of determining number of signs, a sign shall be considered to be a single display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random matter without organized relationship of elements, each element shall be considered a single sign.

6.14 Outdoor Lighting

Except for single- and two-family dwellings, all streets, driveways, bikeways, sidewalks, pedestrian paths, parking areas, and other common areas and facilities shall be lighted where necessary to ensure the security of property and the safety of persons using such streets, driveways, bikeways, sidewalks, pedestrian paths, parking areas, and other common areas and facilities.

All principal entrances and exits to principal buildings used for nonresidential purposes or containing more than five (5) dwelling or lodging units shall be sufficiently lighted to ensure the safety of residents and the security of the building.

Lighting sources shall be shielded or arranged so as not to produce within any public right-of-way glare that interferes with the safe use of such right-of-way or constitutes a nuisance to the occupants of adjacent properties.

6.15 Accessibility for the Handicapped

Except for single- and two-family dwellings, all buildings and facilities shall be accessible to and usable by the physically handicapped, in accord with the building code provisions contained in Chapter 5 of the Town Code of Ordinances.

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ARTICLE 7 RESERVED

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ARTICLE 8. SPECIAL USE PERMITS

8.1 Intent

It is the intent of this article to recognize and permit certain uses and developments that require special review, and to provide standards by which applications for permits for such uses and developments shall be evaluated.

It is further intended that Special Use Permits be required for the following types of developments:

- a) Special use that, because of their inherent nature, extent; and external effects, require special care in the control of their location, design, and methods of operation in order to ensure protection of the public health, safety, and welfare; and
- b) Planned developments that require special review in order to provide the regulatory flexibility and performance criteria necessary to permit a creative approach to the development of land that will (i) accomplish a more desirable environment than would be possible through the strict application of the generally applicable requirements of this chapter; (ii) provide for an efficient use of land and arrangement of land uses, buildings, circulation systems, and utilities; (iii) promote an improved level of amenities; and (iv) provide an environment of stable character compatible with surrounding areas.

8.2 Special Use Permit Required

Those uses described in Section 8.7 and listed in Section 4.3 as permitted special uses in a zoning district may be established in that district only after issuance and recordation of a Special Use Permit.

Those planned developments described in Section 8.8 may be established in any zoning district and only after issuance and recordation of a Special Use Permit.

8.3 Findings of Fact

No Special Use Permit shall be recommended by the Town Manager or Planning Board for approval and no Special Use Permit shall be approved by the Council unless each of the following findings is made concerning the proposed special use or planned development:

- a) That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
- b) That the use or development complies with all required regulations and standards of this chapter, including all applicable provisions of Articles 4, 5, and 6 and the applicable specific standards contained in Sections 8.7 and 8.8, and with all other applicable regulations;

- c) That the use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity; and
- d) That the use or development conforms with the general plans for the physical development of the Town as embodied in this chapter and in the Comprehensive Plan.

8.4 Procedures for Approval of Special Use Permits

8.4.1 Application Submittal Requirements

Applications for Special Use Permits shall be filed with the Town Manager.

The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records.

No application shall be accepted by the Town Manager unless it complies with such requirements. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

8.4.2 Town Manager's Analysis

On acceptance of a complete application, the Town Manager shall cause an analysis to be made by qualified representatives of the Town and such other agencies or officials as appear appropriate in the circumstances of the case, to determine conformity with the Comprehensive Plan, the provisions of this chapter, and other regulations applicable in the case, and, in the case of planned developments, to define specifically the modifications of regulations which seem justified in view of equivalent service of public purposes.

8.4.3 Preliminary Conferences with Applicant

Following such analysis, unless complete conformity is found, the Town Manager shall notify the applicant, in writing, of deficiencies in the proposed development. Such notification shall also state the willingness of the Town Manager to confer for the purpose of assisting the applicant in bringing the proposed development into conformity with the Comprehensive Plan and applicable regulations.

If the applicant joins in such conferences, changes may be made in the original application, further conferences may be held, and additional material may be requested to guide in determinations. In the course of such preliminary conferences, any recommendations for changes shall be recorded in writing along with the reasons therefor. Such recommendations shall become part of the record in the case. Applicants shall indicate, in writing, their agreement or disagreement with such recommendations, and the reasons therefor. Such responses by applicants shall also be included in the record in the case.

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8.4.4 Town Manager's Report to Planning Board

The Town Manager shall prepare and submit to the Planning Board a written report containing findings as the determinations required in Section 8.3 and a recommendation for action on the application.

If the applicant does not participate in preliminary conferences with the Town Manager, such report shall be submitted to the Planning Board within thirty (30) days of the acceptance of the application, or within such further time consented to by written notice from the applicant or by Council resolution. Failure of the Town Manager to submit a report to the Planning Board within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation without conditions.

If the applicant participates in preliminary conferences with the Town Manager, such report shall be submitted to the Planning Board at such time as further conferences appear unnecessary. In order to allow sufficient time for the conferences, no time limits shall apply to the Town Manager's review in such case.

8.4.5 Planning Board Review

The Planning Board shall review the application and the Town Manager's report and shall prepare and submit to the Council a written recommendation for action based on findings as to the determinations required in Section 8.3

Such recommendation shall be submitted to the Council within thirty-five (35) days of the meeting at which the Town Manager's report is submitted to the Planning Board, or within such further time consented to by written notice from the applicant or by Council resolution.

Failure of the Planning Board to submit a recommendation to the Council within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation without conditions.

8.4.6 Public Hearing

After its receipt of the Planning Board's recommendation or, if applicable, the expiration of the time limit prescribed in Subsection 8.4.5, the Council shall hold a hearing on the application at the next available regularly scheduled public hearing. Public hearings on applications for Special Use Permits shall be held by the Council on the third Monday of January, March, May, September, and November. If two-thirds (2/3) of its total membership find that an emergency exists, the Council may schedule a public hearing at a date other than the times specified above.

Notice of the date, time, and place of the public hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two (2) successive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing.

The Public Hearing shall be open to the public and all interested persons shall be given the opportunity to present evidence and arguments and to ask questions of persons who testify. The Council may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the application may be heard without undue delay. All persons who intend to present evidence at the public hearing shall be sworn.

The applicant shall bear the burden of presenting evidence sufficient to establish conclusively that the proposed development will comply with the determinations required in Section 8.3.

A record of the proceedings of the hearing shall be made and shall include all documentary evidence presented at the hearing.

8.4.7 Town Manager's Report to Council

After completion of the public hearing, the Town Manager and Town Attorney shall review the record of the public hearing and the Town Manager shall prepare and submit to the Council a written report containing findings as to the determinations required in Section 8.3 and a recommendation for action.

Such report shall be submitted to the Council within thirty (30) days after completion of the public hearing, or within such further time consented to by written notice from the applicant or by Council resolution.

Failure of the Town Manager to submit a recommendation to the Council within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation without conditions.

8.4.8 Council Action

The Council shall review the record of the public hearing, the Planning Board's recommendation, and the Town Manager's report and shall take action on the application based on findings as to the determinations required in Section 8.3. All findings shall be based on reliable evidence presented at the public hearing.

Action on the application shall be one of the following:

- a) Approval;
- b) Approval subject to conditions; or
- c) Denial.

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8.4.9 Effect of Denial or Withdrawal on Subsequent Applications

When the Council shall have denied an application or the application shall have been withdrawn, by written notice, after publication of the first public hearing notice required in Subsection 8.4.6, the Town Manager shall not accept another application for approval of the same or similar special use or planned development, affecting the same property or a portion thereof, until the expiration of a twelve (12) month period extending from the date of denial or withdrawal, as appropriate.

8.4.10 Amended Applications

If the applicant proposes any substantial amendments to or modifications of the application subsequent to the Town Manager's initial review, an amended application shall be submitted and reviewed as an original application.

8.4.11 Notice of Decision and Issuance of Special Use Permit

The Town Manager shall cause notice of the disposition of the application to be delivered to the applicant by personal service or by registered or certified mail, return receipt requested, and shall cause a copy of the decision to be filed in the office of the Planning Department.

In the case of approval or approval with conditions, the Town Manager shall issue the necessary Special Use Permit in accord with the action of the Council. The applicant shall record such permit in the office of the appropriate County Register of Deeds.

The Special Use Permit, including all conditions attached thereto, shall run with the land and shall be binding on the original applicant as well as all successors, assigns, and heirs.

8.4.12 Appeal of Decision

A decision by the Council on an application for a Special Use Permit may be appealed to the Superior Court by an aggrieved party. Such appeal shall be in the nature of certiorari and must be filed within thirty (30) days of filing of the decision in the office of the Planning Department or the delivery of the notice required in Subsection 8.4.11, whichever is later.

8.4.13 Final Plan Approval

No Zoning Compliance Permit shall be issued for development approved in a Special Use Permit unless and until such Special Use Permit has been issued and recorded and the Town Manager has approved final plans for the development as a whole, or for phases thereof deemed satisfactory in relation to total development. The Town Manager shall prescribe the form and content of such final plans.

Approval of final plans shall be based in compliance with all applicable regulations and requirements, including all conditions attached to the Special Use Permit.

8.4.13 Issuance of Development Permits

After final plan approval, the Town Manager may issue Zoning Compliance Permits, Development Improvements Construction Permits, Building Permits, Sign Permits, and Certificates of Occupancy for development approved in a Special Use Permit, or an approved phase thereof, in the manner prescribed in Article 15, subject to compliance with the approved final plans and following additional requirements:

- a) Prior to issuance of a Building Permit for any new structures, additions, and exterior renovations or alterations, detailed architectural elevations of such structures, additions, and renovations or alterations shall be submitted to and approved by the Appearance Commission; and
- b) Prior to issuance of any Certificate of Occupancy for development approved in a Special Use Permit, a detailed landscape plan for such development, or an approved phase thereof, shall be submitted to and approved by the Appearance Commission.

8.5 Modifications of Special Use Permits

The Town Manager is authorized to approve minor changes in the approved final plans as long as such changes continue to be in compliance with the approving action of the Council and all other applicable requirements, but shall not have the authority to approve changes that constitute a modification of the Special Use Permit.

Any change requiring evidenciary support in addition to that presented at a public hearing on applications for the original Special Use Permit or subsequent Modifications of Special Use Permit shall constitute a modification of the Special Use Permit. Before making a determination as to whether a proposed action is a minor change or a modification, the Town Manager shall review the record of the proceedings on the original application for the Special Use Permit and subsequent applications for Modifications of Special Use Permit and shall use the following criteria in making the determination:

- a) A change from the use approved by the Council shall constitute a modification;
- b) An increase of five (5) percent or more in the floor area or number of parking spaces approved by the Council shall constitute a modification;
- c) Substantial changes in the location of principal and/or accessory structures approved by the Council shall constitute a modification;

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- d) Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown on the plans approved by the Council shall constitute a modification;
 - e) Substantial changes in pedestrian or vehicular access or circulation approved by the Council shall constitute a modification; and
 - f) Substantial change in the amount or location of landscape screens approved by the Council shall constitute a modification.

If the proposed action is determined to be a modification, the Town Manager shall require the filing of an application for approval of the modification.

Such application shall be made on forms prescribed by the Town Manager and shall contain any other materials which may be reasonably required to make the necessary determinations called for in the particular case.

An application for Modification of a Special Use Permit shall be reviewed in accord with the procedures established in Section 8.4.

8.6

Revocation of Special Use Permit

A Special Use Permit or Modification of Special Use Permit may be revoked by the Council after a finding of the existence of any one of the following conditions:

- a) That the physical construction or activity authorized by a Special Use Permit or Modification of Special Use Permit is not commenced within two (2) years of the issuance of such permit or modification;
- b) That the activity authorized by a Special Use Permit or Modification of Special Use Permit ceases for a continuous period of twelve (12) months;
- c) That the governmental licenses or permits required for the activity authorized by a Special Use Permit or Modification of Special Use Permit are not obtained or are subsequently terminated; and
- d) That any of the applicable requirements of this chapter or any conditions attached to the Special Use Permit or Modification of Special Use Permit are violated.

On request by the holder of a Special Use Permit, the Council may, for good cause shown, extend the time limits for commencement of authorized construction or activity by up to twelve (12) months.

The Council may reinstate a revoked Special Use Permit or Modification of Special Use Permit provided:

- a) A petition for reinstatement is submitted to the Council within ninety (90) days of the revocation;
- b) The conditions that were the cause of the revocation have been eliminated; and
- c) The development is in full compliance with all applicable requirements of this chapter.

8.7 Special Uses

Special uses may be established in accord with the procedures and general requirements set forth in Sections 8.1-8.6 above.

Except where more restrictive specific standards are required below, special uses shall comply with the intensity regulations established in Article 5 for the zoning district in which such use is located and the use group to which such use belongs, and with the design standards established in Article 6.

In addition to the general determinations required in Section 8.3 and the above requirements, the following specific supplemental standards shall be applicable for the designated special use.

8.7.1 Cemetery

- 1. A minimum gross land area of one hundred thousand (100,000) square feet shall be provided.
- 2. The zoning lot shall front on an arterial or collector street and have direct access thereto.
- 3. Adequate space for the parking and maneuvering of funeral entourage shall be provided within the site.
- 4. No interment shall be permitted within twenty (20) feet of any lot line.

8.7.2 Reserved

8.7.3 Fraternity or Sorority Dwelling

- 1. A minimum of two hundred fifty (250) square feet of floor area shall be provided for each resident.
- 2. Reserved.

8.7.4 Group Care Facility

- 1. The zoning lot on which a group care facility is proposed shall not be located within five hundred (500) feet of a zoning lot containing another existing or approved group care facility.
- 2. Reserved

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8.7.5 Reserved

8.7.6 Extraction of Earth Products

1. An Operations Plan and a Rehabilitation Plan, containing information as required by the Town Manager, shall be submitted as part of the application for a Special Use Permit.
2. All operations associated with the extraction shall conform to the following performance standards:
 - a) Direct illumination resulting from the operation shall not fall upon any land not covered by the application;
 - b) Equivalent sound levels at the boundaries of the extraction site shall not exceed the noise standards contained in Chapter 11, Article 3 of the Town Code of Ordinances; and
 - c) Reserved.
3. The permanent roads, defined as those to be used in excess of one year, within the excavation site shall be surfaced with a dust-free material, such as soil cement, bituminous concrete, or Portland Cement concrete.
4. Roads other than permanent roads shall be treated with dust inhibitors which will reduce to a minimum the generation of dust from the road surfaces as a result of wind or vehicular action.
5. Where the proposed extraction shall take place within three hundred (300) feet of a dwelling, school, church, hospital, commercial or industrial building, public building, or public land, a security fence at least six (6) feet high shall be installed.
6. Spoil piles and other accumulations of by-products shall not be created to a height more than thirty-five (35) feet above the original contour and shall be so graded that the vertical slope shall not exceed the material's natural angle of repose.
7. The Operations Plans and the Rehabilitation Plan shall be coordinated so that the amount of disturbed land is kept to the absolute minimum consonant with good practices and so that rehabilitation proceeds in concert with extraction.

8.7.7 Landfill -

1. An Operations Plan and a Rehabilitation Plan, containing information as required by the Town Manager, shall be submitted as part of the application for a Special Use Permit.
2. All operations associated with the landfill shall conform to the following performance standards:
 - a) Direct illumination resulting from the operation shall not fall upon any land not covered by the application;

b) Equivalent sound levels at the boundaries of the landfill site shall not exceeded the noise standard contained in Chapter 11, Article 3 of the Town Code of Ordinances; and

c) Reserved.

3. The permanent roads, defined as those to be used in excess of one year, within the landfill site shall be surfaced with a dust free material, such as soil cement, bituminous concrete or Portland Cement concrete.

4. Roads other than permanent roads shall be treated with dust inhibitors which will reduce to a minimum the generation of dust from the road surfaces as a result of wind or vehicular action.

5. Where the proposed fill shall take place within three hundred (300) feet of a dwelling, school, church, hospital, commercial or industrial building, public building, or public land, a security fence at least six (6) feet high shall be installed.

6. The Operations Plan and the Rehabilitation Plan shall be coordinated so that the amount of disturbed land is kept to the absolute minimum consonant with good practices and so that rehabilitation proceeds in concert with fill.

8.7.8 Reserved

8.7.9 Park/Ride Terminal

1. The proposed facility shall be accessible by public bus transportation and bus passenger shelters shall be provided.

2. The zoning lot on which a park/ride terminal is located shall front on an arterial or collector street and have direct access thereto.

8.7.10 Place of Assembly--Over 2,000 Seating Capacity

1. Equivalent sound levels at the boundaries of the zoning lot shall not exceed the noise standards contained in Chapter 11, Article 3 of the Town Code of Ordinances.

2. Reserved.

8.7.11 Reserved

8.7.12 Public Service Facility

1. Adequate security of the site, by means of fencing or otherwise, shall be provided.

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8.7.13 Radio or Television Transmitting and/or Receiving Facility

1. The zoning lot on which a radio or television transmitting and/or receiving facility is located shall have a minimum gross land area of one hundred fifty thousand (150,000) square feet.
2. Adequate security of the site, by means of fencing or otherwise, shall be provided.

8.7.14 Reserved

8.7.15 Service Station

1. The zoning lot on which a service station is located shall have a minimum gross land area of twenty thousand (20,000) square feet. If rental of trucks, trailers, etc. is proposed as an accessory use, the minimum gross land area required shall be increased by ten thousand (10,000) square feet.
2. The zoning lot shall front on an arterial or collector street and have direct access thereto.
3. Adequate provision shall be made for ventilation and the dispersion and removal of fumes, and for the removal of hazardous chemicals and fluids.
4. The zoning lot on which a service station is proposed shall not be located within three hundred (300) feet of any intersecting street centerlines or within seven hundred fifty (750) feet of a zoning lot fronting on the same street and containing another existing or approved service station.

8.7.16 Reserved

8.7.17 Temporary Portable Building, Other Than Related to Construction

1. Residential use of temporary buildings shall be prohibited.
2. Temporary buildings shall not be used as part of a drive-in business.
3. Temporary buildings shall be removed within a time period designated on approval, such time period not to exceed three (3) years.

8.7.18 Window, Drive-In, as Accessory Use to Permitted Principal Use

1. Pedestrian walkups shall be clearly separated and well-defined from service areas by curbs.
2. Reserved.

8.8 Planned Developments

8.8.1 Establishment of Planned Developments

Planned developments may be established in any zoning district in accord with the procedures and general requirements set forth in Sections 8.1-8.6 and with the requirements contained in this section.

Planned developments shall be appropriately located with respect to intended functions, to the pattern and timing of development indicated in the Comprehensive Plan, and to public and private facilities existing or clearly to be available by the time the development reaches the stage where they will be needed.

8.8.1.1 Relation to Major Transportation Facilities

Planned developments shall be so located with respect to major street, bicycle, and pedestrian networks, or public transportation facilities, and shall be so designed, as to provide direct access to the development without creating traffic in residential neighborhoods outside the development.

8.8.1.2 Relation to Public Utilities, Facilities, and Services

Planned developments shall be so located in relation to sanitary sewers, water lines, storm and surface drainage systems, and other utilities and installations that neither extension nor enlargement of such systems will be required in manner, form, character, location, degree, scale, or timing resulting in higher net public cost or earlier incursion of public cost than would development generally permitted under existing zoning and development policies.

Such developments shall be so located with respect to necessary public facilities (as for example, schools, parks, and playgrounds in the case of Planned Development-Housing) as to have access to such facilities in the same degree as would development permitted under general regulation, and shall be located, designed, and scaled so that access for public services is equivalent to, and net cost for such services is not greater than, access and net costs for public services for development permitted under general development controls.

However, planned developments failing to meet these criteria may be approved if applicants (a) provide private facilities, utilities, and services approved by appropriate public agencies as substituting on an equivalent basis, and assure their satisfactory continuing operation, permanently or until similar public utilities, facilities, or services are available and used; or (b) make provision acceptable to the Town for offsetting any added net public cost of early commitment of public funds made necessary by such development.

In determining net public costs, the difference in anticipated public installation, operation, and maintenance costs and the difference in anticipated public revenue shall be considered. Expenses involved in making such determinations shall be paid by the applicant. Determinations shall be made by the Town or by experts acceptable to the Town.

8.8.1.3 Relation to Physical Character of the Site

The site of a planned development shall be suitable for development in the manner proposed without hazards to persons or property, on or off the tract, and shall be free from the probability of flooding, excessive erosion, subsidence or slipping of the soil, or other dangers. Condition of soil, ground water level, drainage, and topography shall all be appropriate to both the kind and pattern of use intended.

If appropriate to the form of planned development, lands to be included in planned developments may be divided by streets, alleys, rights-of-way, or easements, which shall be located, dimensioned, and arranged so as to permit unified planning and provide necessary protection against adverse relationships between uses in the development and uses in surrounding areas.

8.8.1.4 Relation to Energy Use

Planned developments shall be so located with respect to climatic elements, including solar access, and shall be so designed, as to provide for and promote energy conservation and efficient use of energy.

8.8.2 Reduction or Increase in Required Land Areas

The minimum and maximum land areas required for zoning lots containing the various classification of planned development as specified in this section, may be reduced or increased by the Council in accord with the following provisions:

1. Reductions in the minimum land area required may be approved upon findings in the particular case that special circumstances required such reduction, that other requirements can be met in such reduced area, and that such reduction shall not exceed ten percent (10%) of the area generally required.
2. Increases in the maximum land area allowed may be approved upon findings in the particular case that the proposed plan of development or the character of the property involved require such increase to meet the requirements and intent of this article or to provide necessary special protection.

In reaching decisions on requests for reduction or increase in required land areas, the Council shall be guided by the provisions of the Comprehensive Plan and the protection of the public health, safety, and general welfare of present and future occupants of the proposed planned development and the surrounding area.

8.8.3 Additions to Planned Development and Similar Zoning Districts Not Subject to Minimum Area Requirements

Where planned developments are proposed within or abutting zoning districts that permit land uses similar to those proposed in the planned development and where the land and proposed plan of development are appropriately related to the existing planned development or the

surrounding or abutting zoning district and provide necessary safeguards in relation to the surrounding area, such additions may be approved without regard to the minimum area requirements set forth herein. The classification of and plans proposed for such additions shall be complementary to the original planned development or abutting zoning district.

8.8.4 Permitted Modifications of Regulations

Where actions, designs or solutions proposed by the applicant are not literally in accord with applicable planned development or general regulations, but the Council makes a finding in the particular case that public purposes are satisfied to an equivalent or greater degree, the Council may make specific modification of the regulations in the particular case, provided that the Council shall not act in a particular case to modify the applicable land use intensity ratios established in Article 5. Any modification of regulations shall be explicitly indicated in the Special Use Permit.

8.8.5 Relation to Subdivision Review

It is the intent of this Section that applicable subdivision review under the subdivision regulations be carried out as an integral part of the review of a planned development. It is the further intent of this Section to permit the submittal of subdivision applications for the whole planned development or for approved phases thereof. The form and content of applications and plans submitted for such integrated review shall be sufficient to satisfy requirements of the subdivision regulations as well as those of this Article.

8.8.6 Planned Development-Housing (PD-H)

The following regulations and requirements apply to a Planned Development-Housing (PD-H), defined for purposes of these regulations as a planned development primarily for dwellings and related uses and facilities.

8.8.6.1 Intent

With respect to timing of development of a particular PD-H, it is intended that in addition to other policies and limitations set forth in this ordinance, consideration shall be given to general housing needs in the Town as a whole and in the subcommunity in which development is proposed, and the need for particular types of housing. In such consideration, due weight shall be given to availability of existing supply of housing types for which there is evident need in view of the age characteristics and economic characteristics of the population, and to the amount and types of potential housing being developed under issued Special Use Permits and Building Permits.

8.8.6.2 Minimum Land Area

Except as provided for in Subsections 8.8.2 and 8.8.3, the minimum gross land area required for a zoning lot containing a PD-H shall

be equal to the minimum gross land area required for a multi-family dwelling in the same zoning district (see Subsection 5.6.2).

8.8.6.3 Permitted Uses

Permitted principal and accessory uses of land or structures within a PD-H shall be as established in Section 4.3 of this Chapter.

8.8.6.4 Intensity Regulations

Except as otherwise provided in this Chapter, the intensity regulations applicable within a PD-H shall be as established in Article 5 for the zoning district in which such PD-H is located and the use group to which the principal use belongs.

8.8.6.5 Design Standards

Except as otherwise provided in this Chapter, the design standards applicable within a PD-H shall be as established in Article 6, with the following additions:

- a) Where a PD-H zoning lot of ten (10) acres or more in area adjoins land zoned residential without intervening permanent open space at least one hundred (100) feet in width serving as a separation for building areas, the portion of the perimeter of the PD-H zoning lot so adjoining shall be planned and developed only for uses permitted by right in the adjoining residentially zoned land and in accord with all other requirements applicable to such land, provided however that in lieu of development, common open space for the PD-H to a depth of one hundred (100) feet from the district boundary may be permitted. No intensive recreational use or off-street parking shall be permitted within seventy-five (75) feet of the PD-H zoning lot boundary in such circumstances; and
- b) Vehicular access to streets shall be limited and controlled as follows:
 - i) if the street or portion thereof serves fifty (50) or fewer dwelling units, vehicular access from off-street parking and service areas may be directly to the street from the sites of individual dwelling units. Determination of number of dwelling units served shall be based on normal routes of traffic anticipated in the development; and
 - ii) vehicular access to other streets or portions of streets from off-street parking and service areas shall be so combined, limited, located, designed, and controlled as to channel traffic from and to such areas conveniently, safely, and in a manner which minimizes marginal traffic friction and promotes free flow of traffic on streets without excessive interruption.

8.8.7 Planned Development-Shopping Center (PD-SC)

The following regulations and requirements apply to a Planned Development-Shopping Center (PD-SC), defined for purposes of these regulations as a planned development for neighborhood, PD-SC(N), or community, PD-SC(C) commercial activity centers.

8.8.7.1 Intent

It is the intent of these regulations to provide for development of such commercial centers in scale with surrounding market areas, at locations in conformance with the Comprehensive Plan and Major Street Plan, and in close proximity to public transportation facilities, in accord with standards set forth herein, and to serve areas not already conveniently and adequately provided with commercial and service facilities of the kind proposed.

It is further the intent to permit the establishment of such planned developments only where planned centers with carefully related buildings, parking and service areas, and landscaped open space will serve clearly demonstrated public need, reduce marginal traffic friction below that which would result from strip commercial development, and protect property values in surrounding neighborhoods. It is further intended that a PD-SC shall provide a broad range of facilities and services appropriate to the general need of the area served to these ends:

- a) PD-SC(N): A Planned Development-Shopping Center (Neighborhood) is intended to be built around a supermarket as the major use, and to provide for the sale of convenience goods, for provision of personal services, and for other frequent needs of a trade area with a population of two thousand (2,000) to ten thousand (10,000), within approximately five (5) to ten (10) minutes driving time; and
- b) PD-SC(C): A Planned Development-Shopping Center (Community) is intended to be built around a department store or substantial variety store as the major tenant, in addition to a supermarket. Such centers normally serve a trade area population of ten thousand (10,000) to twenty-five thousand (25,000), within fifteen (15) to twenty (20) minutes' driving time.

8.8.7.2 Land Area Requirements

Except as provided for in Subsections 8.8.2 and 8.8.3, the land area requirements for a zoning lot containing a PD-SC shall be as follows:

- a) The minimum gross land area required for a zoning lot containing a PD-SC(N) shall be five (5) acres. The maximum gross land area permitted for a zoning lot containing a PD-SC(N) shall be fifteen (15) acres; and

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- b) The minimum gross land area required for a zoning lot containing a PD-SC(C) shall be fifteen (15) acres. There is no maximum limitation on the gross land area permitted within a zoning lot containing a PD-SC(C).

8.8.7.3 Permitted Uses

Permitted principal and accessory uses of land or structures within a PD-SC(N) or PD-SC(C) shall be established in Section 4.3 of this chapter, provided that a PD-SC contains a sufficient range of establishments to provide for the general needs of the trade area proposed to be served.

8.8.7.4 Intensity Regulations

Except as otherwise provided in this chapter, the intensity regulations applicable within a PD-SC shall be as established in Article 5 for the zoning district in which such PD-SC is located and the use group to which the principal use belongs.

8.8.7.5 Design Standards

Except as otherwise provided in this chapter, the design standards applicable within a PD-SC shall be as established in Article 6 with the following additions:

- a) No PD-SC shall be created except where public transportation or direct access to an arterial street is available, or is made available, at convenient locations at the edges of or within the planned development. Such public transportation shall be at a scale and of a character suited to the needs of occupants and visitors; and
- b) Where a PD-SC adjoins any residential neighborhood, with or without an intervening street or alley, to the maximum extent reasonably practicable, non-residential uses and signs shall be located or oriented away from the residential neighborhood.

8.8.8 Planned Development—Office and Institutional (PD-01)

The following regulations and requirements apply to a Planned Development—Office and Institutional (PD-01), defined for purposes of these regulations as a planned development for complementary groupings of office and institutional uses.

8.8.8.1 Intent

It is the intent of these regulations to provide for development of such office and institutional centers at locations in conformance with the Comprehensive Plan and the Major Street Plan, and in close proximity to public transportation facilities, in accord with standards set forth herein.

It is further intended that PD-01 development shall be scaled, balanced, and located to reduce general traffic congestion and the need for private automobiles by providing employment close to principal places of residence, convenient pedestrian and bicycle circulation systems, and public transportation facilities.

Within such developments, it is intended that uses shall be arranged horizontally or vertically so that:

- a) Major vehicular flows and other disquieting influences are so separated from residential areas as to protect privacy and tranquility;
- b) General service uses are concentrated for maximum pedestrian convenience and located for easy accessibility by workers and visitors arriving by public transportation; and
- c) Major office and institutional uses are so located as to be convenient to public transportation.

Where such developments adjoin residential neighborhoods, it is intended that arrangement of buildings, uses, open space, and vehicular access be such as to provide appropriate transition and reduce potentially adverse effects.

8.8.8.2 Land Area Requirements

Except as provided for in Subsections 8.8.2 and 8.8.3, the minimum gross land area required for a zoning lot containing a PD-01 shall be five (5) acres. There is no maximum limitation on the gross land area permitted within a zoning lot containing a PD-01.

8.8.8.3 Permitted Uses

Permitted principal and accessory uses of land or structures within a PD-01 shall be as established in Section 4.3 of this chapter.

8.8.8.4 Intensity Regulations

Except as otherwise provided in this chapter, the intensity regulations applicable within a PD-01 shall be as established in Article 5 for the zoning district in which such PD-01 is located and the use group to which the principal use belongs.

8.8.8.5 Design Standards

Except as otherwise provided in this chapter, the design standards applicable within a PD-01 shall be as established in Article 6, with the following additions:

- a) No PD-01 shall be created except where public transportation or direct access to an arterial street is available, or is made available, at convenient locations at the edges of or within the planned development. Such public transportation shall be at a scale and of a character suited to the needs of occupants and visitors; and

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- b) Where a PD-01 adjoins any residential neighborhood, with or without an intervening street or alley, to the maximum extent reasonably practicable, non-residential uses and signs shall be located or oriented away from the residential neighborhood.

8.8.9 Planned Development-Mixed Use (PD-MU)

The following regulations and requirements apply to a Planned Development-Mixed Use (PD-MU), defined for purposes of these regulations as a planned development for complementary groupings of residential, commercial, and office uses.

8.8.9.1 Intent

It is the intent of these regulations to provide for development of such mixed uses at locations appropriate in terms of the Comprehensive Plan and the Major Street Plan, and in close proximity to public transportation facilities, in accord with standards set forth herein.

It is further intended that PD-MU development shall be in complexes within which mutually supporting residential, commercial, and office uses are scaled, balanced, and located to reduce general traffic congestion and the need for private automobiles by providing housing close to principal destinations, convenient pedestrian circulation systems, and public transportation devices.

Within such developments, it is intended that uses shall be arranged horizontally or vertically so that:

- a) Residential uses are so separated from major vehicular traffic flows and other disquieting influences as to protect privacy and tranquility;
- b) General commercial and service uses are concentrated for maximum pedestrian convenience, and located for easy accessibility by residents of the development, workers within the development, and visitors arriving by public transportation, and that commercial frontage is uninterrupted by residential or office uses; and
- c) Major office uses are so located as to be convenient to public transportation.

Where such developments adjoin residential neighborhoods, it is intended that arrangement of buildings, uses, open space, and vehicular access be such as to provide appropriate transition and reduce potential adverse effects.

8.8.9.2 Land Area Requirements

Except as provided in Subsections 8.8.2 and 8.8.3, the minimum gross land area required for a zoning lot containing a PD-MU shall be five (5) acres. There is no maximum limitation on the gross land area permitted within a zoning lot containing a PD-MU.

8.8.9.3 Permitted Uses

Permitted principal and accessory uses of land or structures within a PD-MU shall be as established in Section 4.3 of this chapter.

8.8.9.4 Intensity Regulations

Except as otherwise provided in this chapter, the intensity regulations applicable within a PD-MU shall be as established in Article 5 for the zoning district in which such PD-MU is located and the use groups to which the principal uses belong.

8.8.9.5 Design Standards

Except as otherwise provided in this chapter, the design standards applicable within a PD-MU shall be established in Article 6, with the following additions:

- a) No PD-MU shall be created except where public transportation or direct access to an arterial street is available, or is made available, at convenient locations at the edges of or within the planned development. Such public transportation shall be at a scale and of a character suited to the needs of occupants and visitors;
- b) Where a PD-MU adjoins any residential neighborhood, with or without an intervening street or alley, to the maximum extent reasonably practicable, residential uses within the PD-MU district shall be located adjacent to the residential neighborhood, and non-residential uses and signs shall be located or oriented away from the residential neighborhood; and
- c) Relationship of uses shall be such that major commercial and service establishments are grouped for maximum pedestrian convenience along frontages uninterrupted by residential or general office occupancies. Residential or general office uses may either be in separate areas within the development, or may be separated vertically from commercial and service concourses.

8.8.10 Planned Development-Industrial (PD-I)

The following regulations and requirements apply to a Planned Development-Industrial (PD-I), defined for purposes of these regulations as a planned development for complementary groupings of industrial uses.

8.8.10.1 Intent

It is the intent of these regulations to provide development of such industrial centers at locations in conformance with the Comprehensive Plan and the Major Street Plan, and in close proximity to public transportation facilities, in accord with standards set forth herein.

It is further intended that PD-1 development shall be scaled, balanced, and located to reduce general traffic congestion and the need for private automobiles by providing employment close to principal places of residence, convenient pedestrian and bicycle circulation systems, and public transportation facilities.

Within such development, it is intended that uses shall be arranged horizontally or vertically so that:

- a) Major vehicular flows and other disquieting influences are so separated from residential areas to protect privacy and tranquility; and
- b) General industrial uses are concentrated for maximum pedestrian convenience and located for easy accessibility by workers arriving by public transportation.

Where such developments adjoin residential neighborhoods, it is intended that arrangement of buildings, uses, open space, and vehicular access be such as to provide appropriate transition and reduce potentially adverse effects.

8.8.10.2 Land Area Requirements

Except as provided for in Subsections 8.8.2 and 8.8.2, the minimum gross land area required for a zoning lot containing a PD-1 shall be five (5) acres. There is no maximum limitation on the gross land area permitted within a zoning lot containing a PD-1.

8.8.10.3 Permitted Uses

Permitted principal and accessory uses of land or structures within a PD-1 shall be as established in Section 4.3 of this chapter.

8.8.10.4 Intensity Regulations

Except as otherwise provided in this chapter, the intensity regulations applicable with a PD-1 shall be as established in Article 5 for the zoning district in which such PD-1 is located and the use group to which the principal use belongs.

8.8.10.5 Design Standards

Except as otherwise provided in this chapter, the design standards applicable within a PD-1 shall be established in Article 6, with the following additions:

- a) No PD-1 shall be created except where public transportation or direct access to an arterial street is available, or is made available, at convenient locations at the edges of or within the planned development. Such public transportation shall be at a scale and of a character suited to the needs of workers within the development;

- b) Where a PD-1 adjoins any residential neighborhood, with or without an intervening street or alley, to the maximum extent reasonably practicable, non-residential uses and signs shall be located or oriented away from the residential neighborhood.

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ARTICLE 9 RESERVED

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ARTICLE 10 RESERVED

ARTICLE 11 AIRPORT HAZARD DISTRICT

11.1 Intent

The Airport Hazard district is intended to be applied to the approaches to runways of airports or landing fields within the Town's planning jurisdiction in order to minimize danger to lives and property of users of the airport and of occupants in its vicinity.

11.2 Establishment of Airport Hazard District

The Airport Hazard (AH) district is hereby established as a district which overlays other zoning districts established in Article 3. The boundaries of the Airport Hazard district are as shown on the official Zoning Atlas.

The use of any land or structure within the Airport Hazard district shall comply with use regulations applicable to the underlying zoning district.

11.3 Modified Intensity Regulations

Irrespective of intensity regulations generally applicable to the underlying zoning district, the development of any land or structure within the Airport Hazard district shall comply with the following modified gross land area requirement and LUI ratios:

LUI Rating	Minimum GLA	Use Group	FAR	LUI Ratios		
				OSR	LSR	RSR
5	500,000	A,B,C	.018	.90	.80	.010

Application of these regulations shall be as established in Section 5.4 of this chapter.

ARTICLE 12 HISTORIC DISTRICT

12.1 Intent

The Historic District is intended to protect and conserve the heritage and character of the Chapel Hill community by providing for the preservation of designated areas within the planning jurisdiction, including individual properties therein that embody important elements of social, economic, political, or architectural history, and by promoting the stabilization and enhancement of property values throughout such areas.

It is intended that these regulations ensure, insofar as possible, that buildings or structures in the Historic District shall be in harmony with other buildings or structures located therein. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings, or to prohibit the demolition or removal of such buildings, or to impose architectural styles from particular historic periods, but rather to encourage design whether contemporary or traditional, which is harmonious with the character of the Historic District.

12.2 Establishment of Historic District

The Historic District is hereby established as a district which overlays other zoning districts established in Article 3. The boundaries of the Historic District are as shown on the official Zoning Atlas.

No new historic district or any change to the boundaries of any existing historic district shall be designated until the North Carolina Department of Cultural Resources shall have been given an opportunity, in accord with Chapter 160A, Article 19, Part 3A of the N.C. General Statutes, to make recommendations with respect to the establishment of such new district or change in the boundaries of an existing district.

The use and development of any land or structure within the Historic District shall comply with use regulations and intensity regulations applicable to the underlying zoning district.

12.3 Certificate of Appropriateness Required

No exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), or any above-ground utility structure, or any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished within the Historic District until after an application for a Certificate of Appropriateness as to exterior architectural features has been submitted to and approved by the Historic District Commission.

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For purposes of this article, "exterior architectural features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior architectural features" shall be construed to mean the style, material, size, and location of all such signs.

Such a Certificate of Appropriateness shall be issued by the Commission prior to the issuance of a Zoning Compliance Permit or any other permit granted for purposes of constructing, altering, or demolishing buildings or structures. A Certificate of Appropriateness shall be required whether or not a Zoning Compliance Permit is required. Any Zoning Compliance permit or other permit not issued in conformity with this section shall be invalid.

The Town and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures, and buildings on property, easements, or streets owned or franchised by the Town of Chapel Hill or public utility companies.

12.4 Certain Changes Not Prohibited

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the Historic District that does not involve a change in design, material, or outer appearance thereof, or to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of any such feature that the Building Inspector or similar official shall certify is required by the public safety because of unsafe or dangerous condition.

On the basis of preliminary sketches or drawings and other supporting data, the Town Manager may exempt from requirements for a Certificate of Appropriateness projects involving the ordinary maintenance or repair of any exterior architectural feature that does not involve a change in design, material, or outer appearance thereof. The Town Manager shall notify the Commission of all such exemptions.

12.5 Procedures for Approval of Certificates of Appropriateness

12.5.1 Application Submittal Requirements

Applications for Certificates of Appropriateness shall be filed with the Town Manager.

The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to determine the nature of the application.

The Commission may specify criteria for situations in which the Town Manager may waive any of the application material requirements.

No application shall be accepted by the Town Manager unless it complies with such requirements. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

12.5.2 Notification of Affected Property Owners

Prior to approval or denial of an application for a Certificate of Appropriateness, the Commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard.

12.5.3 Public Hearing

In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

12.5.4 Commission Action

Within sixty (60) days of the acceptance of an application, or within such further time consented to by written notice from the applicant, the Commission shall take action on the application. Such action shall be based upon the review criteria established in Section 12.6 of this article, and shall be one of the following:

- a) Approval
- b) Approval subject to conditions
- c) Denial

Failure of the Commission to take final action on an application within the prescribed time limit, or extensions thereof, shall result in approval of the application as submitted.

The Commission may impose such reasonable conditions on its approval of an application as will ensure that the spirit and intent of this article are achieved.

An application for a Certificate of Appropriateness authorizing the demolition of a building or structure within the Historic District may not be denied. However, the effective date of such a certificate may be delayed for a period of up to one hundred eighty (180) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building. If the Commission finds that the building has no particular significance or value toward maintaining the character of the Historic District, it shall waive all or part of such period and authorize earlier demolition or removal.

In every case, the record of the Commission's action shall include the reasons for its action.

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12.5.5 Actions Subsequent to Decision

The Town Manager shall cause notice of the disposition of the application to be sent to the applicant by personal service or by registered or certified mail, return receipt requested, and shall cause a copy of the decision to be filed in the office of the Planning Department. If the application is denied, such notice shall include the reasons for such action.

12.5.6 Appeal of Decision

A decision by the Commission on an application for a Certificate of Appropriateness may be appealed to the Board of Adjustment in accord with the provisions of Article 16.

12.5.7 Submission of New Application

If the Commission denies an application for a Certificate of Appropriateness, a new application affecting the same property may be submitted only if substantive change is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving.

12.6 Review Criteria

In considering an application for a Certificate of Appropriateness, the Commission shall take into account the historical and/or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure that are visible from a public right-of-way. The Commission shall not consider interior arrangement or use.

The Commission, using the criteria below, shall make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the Historic District.

The following criteria shall be considered, when relevant, by the Commission in reviewing applications for a Certificate of Appropriateness:

- a) The height of the building in relation to the average height of the nearest adjacent and opposite buildings.
- b) The setback and placement on lot of the building in relation to the average setback and placement of the nearest adjacent and opposite buildings.
- c) Exterior construction materials, including texture and pattern.
- d) Architectural detailing, such as lintels, cornices, brick bond, and foundation materials.
- e) Roof shapes, forms, and materials.
- f) Proportion, shape, positioning and location, pattern, and size of any elements of fenestration.

- g) General form and proportions of buildings and structures.
- h) Appurtenant fixtures and other features such as lighting.
- i) Structural conditions and soundness.
- j) Architectural scale.

ARTICLE 13 SPECIAL APPEARANCE DISTRICTS

13.1 Intent

Special Appearance Districts are intended to provide for the preservation and enhancement of the visual character of designated areas within the Town's planning jurisdiction, including individual properties therein, that are significant to the preservation and enhancement of the special visual character of the Chapel Hill community.

It is intended that these regulations ensure, insofar as possible, that buildings or structures in Special Appearance Districts shall be in harmony with other buildings or structures located therein. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings, or to prohibit the demolition or removal of such buildings, or to impose architectural styles, but rather to encourage design which is harmonious with the character of the district.

13.2 Establishment of Special Appearance Districts

Special Appearance Districts are hereby established as districts which overlay zoning districts established in Article 3. The boundaries of the various Special Appearance Districts are as shown on the official Zoning Atlas.

The use and development of any land or structure within any Special Appearance District shall comply with use regulations and intensity regulations applicable to the underlying zoning district.

13.3 Certificate of Appropriateness Required

No exterior portion of any building or other structure (including stone walls, fences, light fixtures, steps and pavement, or other appurtenant features), or any above ground utility structure, or any type of outdoor advertising sign shall be erected, altered, restored, or moved within designated Special Appearance Districts until after an application for a Certificate of Appropriateness as to exterior architectural features has been submitted to and approved by the Appearance Commission.

For purposes of this article, "exterior architectural features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior architectural features" shall be construed to mean the style, material, size, and location of all such signs.

Such a Certificate of Appropriateness shall be issued by the Commission prior to the issuance of a Zoning Compliance Permit or any other permit granted for purposes of construction or altering buildings or structures. A Certificate of Appropriateness shall be required whether

or not a Zoning Compliance Permit is required. Any Zoning Compliance Permit or other permit not issued in conformity with this section shall be invalid.

The Town and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures, and buildings on property, easements, or streets owned or franchised by the Town of Chapel Hill or public utility companies.

13.4 Certain Changes Not Prohibited

Nothing in this article shall be construed to prevent construction, reconstruction, alteration, restoration, moving, or demolition of any such feature that the Building Inspector or similar official shall certify is required by public safety because of an unsafe or dangerous condition.

13.5 Procedures for Approval of Certificates of Appropriateness

13.5.1 Application Submittal Requirements

Applications for Certificates of Appropriateness shall be filed with the Town Manager.

The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to determine the nature of the application.

No application shall be accepted by the Town Manager unless it complies with such requirements. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

13.5.2 Notification of Affected Property Owners

Prior to approval or denial of an application for a Certificate of Appropriateness, the Commission shall take such action as may be reasonably required to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard.

13.5.3 Public Hearing

In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

13.5.4 Commission Action

Within sixty (60) days of the acceptance of the application, or within such further time consented to by written notice from the applicant, the Commission shall take action on the application. Such action shall be based upon the review criteria established in Section 13.6 of this article, and shall be one of the following:

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- a) Approval
 - b) Approval subject to conditions
 - c) Denial

Failure of the Commission to take final action on an application within the prescribed time limit, or extensions thereof, shall result in approval of the application as submitted.

The Commission may impose such reasonable conditions on its approval of an application as will ensure that the spirit and intent of this article are achieved.

In every case, the record of the Commission's action shall include the reasons for its actions.

13.5.5 Actions Subsequent to Decision

The Town Manager shall cause notice of the disposition of the application to be sent to the applicant by personal service or by registered or certified mail, return receipt requested, and shall cause a copy of the decision to be filed in the office of the Planning Department. If the application is denied, such notice shall include the reasons for such action.

13.5.6 Appeal of Decision

A decision by the Commission on an application for a Certificate of Appropriateness may be appealed to the Board of Adjustment in accord with the provisions of Article 16.

13.5.7 Submission of New Application

If the Commission denies an application for a Certificate of Appropriateness, a new application affecting the same property may be submitted only if substantive change is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving.

13.6 Review Criteria

In considering an application for a Certificate of Appropriateness, the Commission shall take into account the architectural significance of the structure under construction and the exterior form and appearance of any proposed additions or modifications to that structure, as well as the effect of such change or additions upon other structures in the vicinity. The Commission shall not consider interior arrangement or use.

The Commission, using the criteria below, shall make findings of fact indicating the extent to which the application is or is not congruous with the visual aspects of the Special Appearance District, and, more particularly, with a) existing or planned development in the area, b) the general character of the town as evidenced by patterns of existing development and by any plans officially adopted by the Planning Board, c) the setting for any public building or buildings, or d) the maintenance and enhancement of the value of neighboring properties.

In its review of plans and specifications, the Commission shall examine the proposed architectural style and general design, the exterior surface treatment (including kind and texture of building material, and color or colors), the arrangement and location of building and structures on the site in question and their relationship to other buildings and structures, proposed landscaping, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant features.

In addition to the above standards, the Commission may adopt and apply specific guidelines for each separate Special Appearance District based upon special aspects of such district.

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ARTICLE 14 NONCONFORMITIES

14.1 Intent

It is the intent of this chapter to recognize that the eventual elimination, as expeditiously as is reasonable, of existing uses or structures that are not in conformity with the provisions of this chapter is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses or structures that would violate the provisions of this chapter. It is also the intent of this chapter that any elimination of nonconformities shall be effected so as to avoid any unreasonable invasion of established private property rights.

14.2 Nonconforming Lots

14.2.1 Definition

A nonconforming lot is a lot that was lawfully created prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the minimum gross land area or minimum lot width requirements established in Article 5 for the zoning district in which it is located.

14.2.2 Required Combination or Recombination of Nonconforming Lots

Where a nonconforming lot abuts another lot of record (whether conforming or nonconforming) held in the same ownership at or subsequent to enactment of this chapter, such lots shall be combined or recombined as necessary to form a conforming lot or lots and shall not thereafter be subdivided except in compliance with all of the requirements of this chapter.

Where a nonconforming lot was created by public taking action or as a result of a court order, the above combination or recombination of lots shall not be required.

14.2.3 Use of Nonconforming Lots

Where a nonconforming lot cannot be combined or recombined with other lots to form a conforming lot or lots, such nonconforming lot may be used subject to the compliance of the intended use and structure(s) with applicable use regulations and with applicable LUI ratios and setback and height regulations. However, any use (e.g. two-family or multi-family dwelling) that requires a greater gross land area than the minimum gross land area listed in Section 5.3 for the appropriate zoning district shall not be permitted on a lot which does not conform to such minimum gross land area requirement.

If compliance of the structure(s) intended on the nonforming lot with applicable setback regulations is not reasonably possible, the nonconforming lot may be used as a building site subject to the granting of variance from such setback regulations by the Board of Adjustment in accord with the provisions of Article 16.

14.3 Nonconforming Uses

14.3.1 Definition

A nonconforming use is a use of land, buildings, or structures that was lawfully established prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the Use Regulations of Article 4 for the zoning district in which it is located.

14.3.2 Regulations

Nonconforming uses may be continued subject to the following limitations:

- a) No nonconforming use shall be extended, expanded, enlarged, or moved to occupy a different or greater area of land, buildings, or structures than was occupied by such use at the time it became nonconforming, provided that a nonconforming use may be extended throughout any parts of a building which were specifically designed and arranged for such use at the time it became nonconforming.
- b) No building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, moved, or structurally altered unless such building or structure is thereafter devoted to a conforming use.
- c) When a building or structure devoted to a nonconforming use is damaged to the extent of fifty percent (50%) or more of its current assessed taxable value, such building, if restored, shall thereafter be devoted to conforming uses.
- d) If a nonconforming use ceases for more than ninety (90) consecutive days or a total of one hundred and eighty (180) days in any twelve (12) month period, subsequent use of the land, or structures previously devoted to such use shall thereafter be devoted to conforming uses.

14.3.3 Discontinuance

Any nonconforming use of land and any nonconforming use involving structures with a total replacement cost of less than five thousand dollars (\$5,000) at the time such use became nonconforming shall cease within five (5) years after the date of the notice of nonconformity required in Section 14.6.

Any nonconforming use involving structures with a total replacement cost of five thousand dollars (\$5,000) or more at the time such use became nonconforming shall cease within fifteen (15) years after the date of the notice of nonconformity required in Section 14.6, or within forty (40) years after the construction of such structures, whichever is later.

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14.4 Nonconforming Features

14.4.1 Definition

A nonconforming feature is a physical feature or characteristic of a use, building, structure or other development of land that was lawfully established prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the Intensity Regulations of Article 5 or the Design Standards of Article 6 applicable to such use, building, structure, or development of land, including but not limited to, nonconforming structures, nonconforming signs, nonconforming parking facilities, and nonconforming lighting.

14.4.2 Regulations

Nonconforming features may be continued subject to the following limitations:

- a) No enlargement, extension, or structural alteration of any building, structure, or other development of land having a nonconforming feature shall increase the degree or extent of the nonconforming feature.
- b) When a building, structure, or other development of land having a nonconforming feature is damaged to the extent of fifty percent (50%) or more of its assessed taxable value, such building, structure, or development of land may be reconstructed only if the nonconforming feature is eliminated and the building or structure shall thereafter conform the provisions of this chapter.

14.4.3 Discontinuance

Any sign having a nonconforming feature shall be either eliminated or made to conform with the provisions of this chapter within twelve (12) months after the date of the notice of nonconformity required in Section 14.6.

Any building, structurally independent or free-standing structure other than a sign, or other development of land (lighting, fencing, parking area, or accessory structure) having a nonconforming feature and having a replacement or correction cost of less than five thousand dollars (\$5,000) shall be either eliminated or made to conform with the provisions of this chapter within five (5) years after the date of the notice of nonconformity required in Section 14.6.

14.5 Repairs and Maintenance

Minor repairs to and routine maintenance of land, buildings, structures, or other development of land or portion thereof, devoted to a nonconforming use or having nonconforming features are permitted, provided the cost of such repairs and maintenance within any twelve (12) month period does not exceed ten percent (10%) of the current assessed taxable value of the land, buildings, structure, or other development of land, or portion thereof.

Any structure or other development of land, or portion thereof, devoted to a nonconforming use or having a nonconforming feature, that is declared unsafe by the Building Inspector because of lack of repairs and maintenance shall not be restored, repaired, reconstructed, or used except in conformity with the provisions of this chapter.

Any structure or other development of land, or portion thereof, devoted to a nonconforming use or having a nonconforming feature, that is declared unsafe by the Building Inspector, but not because of lack of repairs and maintenance, may be repaired and restored subject to the requirements of subsections 14.3.2 and 14.4.2

14.6

Nonconformity Survey and Notice

Within eighteen (18) months after the effective date of this chapter, or subsequent amendment thereto, the Town Manager shall make an inventory of all nonconforming uses, signs having nonconforming features, and other significant nonconforming features existing within the Town jurisdiction.

On completion of the inventory, the Town Manager shall notify the owner(s) of the property on which each nonconformity is located of the determination of nonconformity, the reasons therefor, and the deadlines, where applicable, for compliance with the provisions of this chapter.

The above requirements shall not preclude the further inventory and subsequent notices of nonconformity.

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ARTICLE 15 PERMITS AND SITE PLAN APPROVAL

15.1 Zoning Compliance Permit Required

Except as otherwise specifically provided in this chapter, it shall be unlawful to begin any excavation, removal of soil, clearing of a site, or placing of any fill on lands contemplated for development, or to begin any construction, moving, alteration, or renovation, except for ordinary repairs, of any building or other structure, including accessory structures and signs, until the Town Manager has issued for such action a Zoning Compliance Permit, certifying that such development complies with the applicable provisions of this chapter.

It shall also be unlawful to change the type of use or type of occupancy of any land or structure, or to extend any use on any lot on which exists a nonconforming use, until the Town Manager has issued for such action a Zoning Compliance Permit, certifying that such intended uses comply with the applicable provisions of this chapter.

15.2 Site Plan Review Required

Site plan review and approval by the Council or Planning Board as appropriate, shall be required prior to issuance of a Zoning Compliance Permit for any development or change in use described in Section 15.1, with the following exceptions:

- a) Any development of a single or two-family dwelling on a zoning lot, or any uses accessory thereto;
- b) Any development resulting in an increase of not more than fifteen percent (15%) in either the floor area, number of parking spaces, or amount of land cleared for non-agricultural development previously existing within a zoning lot;
- c) Any sign;
- d) Any development pursuant to an approved Special Use Permit or Certificate of Appropriateness;
- e) Any development that, in the opinion of the Town Manager, does not affect existing circulation, drainage, relationship of buildings to each other, landscaping, buffering, or lighting, provided such existing site elements comply with the applicable provisions of this chapter; or
- f) Any change in use to another use in the same use group, provided such change does not involve development other than that exempted above.

In cases where a proposed development requiring site plan review consists of a modification, other than a change in principal use, of an existing development that was established in accord with a site plan and Special Use Permit approved under the provisions of the previously adopted zoning ordinance but that is currently permitted under the provisions of this chapter as a principal use in the zoning district where it is located, site plan review of such development shall be

conducted by the Council. The Planning Board shall conduct site plan review in all other cases requiring site plan review.

15.3 Sign Plan Review Required

Sign plan review and approval by the Appearance Commission shall be required prior to issuance of a Zoning Compliance Permit for any sign requiring such permit.

15.4 Procedures

15.4.1 Application Submittal Requirements

Applications for a Zoning Compliance Permit shall be submitted to the Town Manager.

The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to determine compliance with applicable provisions of this chapter, with sufficient copies for necessary referrals and records.

No application shall be accepted by the Town Manager unless it complies with such submittal requirements. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

Where a Development Improvements Construction Permit, Building Permit, or Sign Permit is required, applications for such permits may be made coincidentally with the application for a Zoning Compliance Permit.

15.4.2 Action on the Application

On receipt of a complete application, the Town Manager shall cause an analysis to be made by qualified representatives of the Town and such other agencies or officials as appear appropriate in the circumstances of the case, to determine compliance with applicable provisions of this chapter and any applicable conditions of an approved Special Use Permit or Certificate of Appropriateness.

In the cases of developments exempted from site plan review or signs not requiring sign plan review, the Town Manager shall take final action on the application.

In the case of developments requiring site plan review, the Town Manager shall submit to the Council or Planning Board, as appropriate, a report of his or her analysis of the application. The Council or Planning Board, as appropriate, shall review the application and the Town Manager's report and shall take final action on the application.

In the case of signs requiring sign plan review, the Town Manager shall submit to the Appearance Commission a report of his or her analysis of the application. The Appearance Commission shall review the application and the Town Manager's report and shall take final action on the application.

Final action on an application shall be based solely on findings as to compliance with all applicable provisions of this chapter, including

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all applicable conditions of an approved Special Use Permit or Certificate of Appropriateness, and shall be one of the following:

- a) Approval
- b) Approval subject to conditions
- c) Denial

The Town Manager, Council, Planning Board, or Appearance Commission, as appropriate, may impose such reasonable conditions on an approval as will ensure compliance with applicable regulations.

In the case of final action by the Town Manager, such action shall be taken within fifteen (15) days of the acceptance of an application, or within such further time consented to by written notice from the applicant or by Council resolution.

In the case of final action by the Planning Board or Appearance Commission, such action shall be taken within forty-five (45) days of the acceptance of an application or within such further time consented to by written notice from the applicant or by Council resolution.

Failure of the Town Manager, Planning Board, or Appearance Commission, as appropriate, to reach a decision within the prescribed time limit, or extensions thereof, shall result in the approval of the application as submitted.

15.4.3 Performance and Maintenance Guarantees

Conditions attached to an approval of a Zoning Compliance Permit may include the following:

- a) A condition requiring the applicant to provide performance guarantees and/or maintenance guarantees deemed necessary to ensure compliance with the requirements of this chapter and the conditions of permit approval.
- b) A condition permitting the applicant to provide performance guarantees in lieu of actual completion of required improvements prior to use or occupancy of the development authorized by the Zoning Compliance Permit, provided the delayed completion of such improvements is determined to be compatible with the public health, safety and welfare.

Such performance guarantees and maintenance guarantees shall be satisfactory as to their form and manner of execution, and as to the sufficiency of their amount in securing the satisfactory construction, installation, or maintenance of the required improvements.

The condition requiring or permitting a performance guarantee shall specify a reasonable time period within which required improvements must be completed. Such time period shall be incorporated in the performance guarantee. The length of such time period shall not exceed two (2) years from the date the Zoning Compliance Permit is issued.

No performance guarantee shall be released until certification of the satisfactory completion of all required improvements covered by such

performance guarantee has been submitted to and approved by the Town Manager.

If the required improvements covered by a performance guarantee are not completed in accord with the terms of the performance guarantee, the obligor shall be liable thereon to the Town for the reasonable cost of the improvements not completed and the Town may, either prior to or after the receipt of the proceeds thereof, complete such improvements.

15.4.4 Actions Subsequent to Decision

In the case of approval or approval with conditions, the Town Manager shall issue the Zoning Compliance Permit. Such permit, including all conditions attached thereto, shall be valid for two (2) years from the date of its issuance, provided that the approved application and the conditions of its approval shall not be changed.

In the case of denial of an application, the applicant shall be notified, in writing, of the reasons for such denial.

Where a Development Improvements Construction Permit is required by Chapter 17 of the Town Code of Ordinances, such permit shall not be issued prior to issuance of the Zoning Compliance Permit required for the development and shall comply with the approved Zoning Compliance Permit, including all conditions or approval attached thereto.

Where a Building Permit or Sign Permit is required by Chapter 5 of the Town Code of Ordinances, such permits shall not be issued prior to issuance of the Zoning Compliance Permit and Development Improvements Construction Permit required for the development and shall comply with the approved Zoning Compliance Permit and Development Improvements Construction Permit, including all conditions of approval attached thereto.

No building or structure for which a Zoning Compliance Permit has been issued shall be used or occupied until, after final inspection, a Certificate of Occupancy has been issued indicating compliance with the provisions of this chapter and all other state and local laws, including conditions of the Zoning Compliance Permit and all other required permits.

15.4.5 Appeal of Decision

A decision by the Council or Planning Board in granting or denying site plan approval or by the Appearance Commission in granting or denying sign plan approval or by the Town Manager in issuing a Zoning Compliance Permit may be appealed to the Board of Adjustment in accord with the provisions of Article 16.

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ARTICLE 16 INTERPRETATIONS, APPEALS, AND VARIANCES

16.1 Interpretations

Where there is any uncertainty as to the intent or actual meaning of any provision of this chapter, or as to the intended location of any zoning district boundary shown on the Zoning Atlas, the Town Manager shall make an interpretation of said provision or boundary on request of any person. Any person aggrieved by such interpretation may appeal the interpretation to the Board of Adjustment in accord with the provisions of Section 16.2.

In making an interpretation of any zoning district boundary, or in deciding any appeal thereof, the Town Manager or Board of Adjustment shall apply the following standards:

- a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as following such centerlines;
- b) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines;
- c) Boundaries indicated as approximately following corporate limits shall be construed as following such limits;
- d) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks;
- e) Boundaries indicated as approximately following the shorelines or centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following such shorelines or centerlines; in the event of change in the shoreline or centerline, the boundary shall be construed as moving with the actual shoreline or centerline;
- f) Boundaries indicated as approximately following designated limits of areas of special flood hazard shall be construed as following such limits, as shown on the official Base Floodway and Floodplain Boundary Maps and Base Flood Profiles;
- g) Boundaries indicated as approximately parallel to, or as extensions of, features described in a) through f) above shall be so construed; distances not specifically indicated on the Zoning Atlas shall be determined by reference to the scale of the Atlas;
- h) Where features described in a) through f) above, as existing on the ground, are at variance with those indicated on the Zoning Atlas, or in other circumstances not covered by a) through g) above, the Board of Adjustment shall interpret the district boundaries.

16.2 Appeals

16.2.1 Applicability

Any decision of the Town Manager made in the administration of the provisions of this chapter may be appealed to the Board of Adjustment by any person aggrieved by such decision. Any decision of the Planning Board in granting or denying site plan approval or of the Appearance Commission in granting or denying sign plan approval may be appealed to the Board of Adjustment. Any decision of the Historic District Commission or of the Appearance Commission in granting or denying a Certificate of Appropriateness may be appealed to the Board of Adjustment.

An application for appeal shall be filed within thirty (30) days of the filing of the decision being appealed or the delivery of any required written notice of the decision, whichever is later.

16.2.2 Stay of Further Action

An appeal to the Board of Adjustment stays all actions seeking enforcement of, or compliance with, the decision being appealed, except where the Town Manager certifies to the Board of Adjustment that, based on findings stated in the certificate, a stay would cause imminent peril to life or property, or that because the situation appealed from is transitory in nature, an appeal would seriously interfere with enforcement of this chapter.

16.3 Variances

16.3.1 Variances From Dimensional Regulations

A variance from the dimensional regulations of this chapter may be granted by the Board of Adjustment if it finds that strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the variance, and that, by granting the variance, the intent of this chapter and the Comprehensive Plan will be observed, public safety and welfare secured, and substantial justice done. Such findings shall be based on the following determinations:

- a) That strict compliance with the regulations allows no reasonable use of the applicant's property;
- b) That the hardship complained of is one suffered by the applicant rather than by neighbors or the general public;
- c) That the hardship relates to the applicant's property rather than to personal circumstances;
- d) That the hardship is peculiar to the applicant's property, rather than a hardship shared by the neighborhood or resulting from the existence of nonconforming situations in the vicinity;
- e) That the hardship is not the result of the applicant's own actions;

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- f) That the variance will not substantially interfere with or injure the rights of others whose property would be affected by granting of the variance; and
 - g) That the variance will not result in a violation of the provisions of Article 14 by allowing the enlargement, expansion, extension, or the greater permanence or intensity of a nonconforming use or feature.

16.3.2 Reserved

16.4 Procedures for Appeals and Variances

16.4.1 Application Submittal Requirements

Applications for appeal or for a variance shall be filed with the Town Manager.

The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records.

No application shall be accepted by the Town Manager unless it complies with such requirements. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

On receipt of a complete application, the Town Manager shall transmit the application to the Board of Adjustment. In the case of applications for appeal, the Town Manager shall also transmit to the Board all documents constituting the record on which the decision being appealed was based.

16.4.2 Public Hearing

After its receipt of an application for appeal or for a variance, the Board of Adjustment shall hold a public hearing on the application at its next available regularly scheduled meeting.

Notice of the date, time, and place of the public hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two (2) successive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing.

The public hearing shall be open to the public and all interested persons shall be given the opportunity to present evidence and arguments and to ask questions of persons who testify. The Board may place reasonable and equitable time limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the application may be heard without undue delay. All persons who intend to present evidence at the public hearing shall be sworn.

In the case of applications for a variance, the applicant shall bear the burden of presenting evidence sufficient to establish conclusively that the requested variance will comply with each of the determinations required in Section 16.3.1.

A record of the proceedings of the hearing shall be made and shall include all documentary evidence presented at the hearing.

16.4.3 Action on the Application

After completion of the public hearing, the Board of Adjustment shall take action on the application.

In the case of applications for appeal, such action shall be to reverse, or affirm (wholly or partly), or modify the decision being appealed.

In the case of applications for a variance, such action shall be based on findings as to each of the determinations required in Section 16.3, and shall be approval, or approval subject to conditions, or denial. The Board may impose reasonable conditions on the granting of any variance to ensure that the public health, safety, and general welfare shall be protected and substantial justice done. In its consideration of applications for a variance, the Board shall not use the existence of nonconformities in the vicinity as justification for the granting of variances.

In every case, the record of the action of the Board shall include a summary of its findings and the evidence supporting them.

16.4.4 Actions Subsequent to Decision

The Town Manager shall cause notice of the disposition of the application to be delivered to the applicant by personal service or by registered or certified mail, return receipt requested, and shall cause a copy of the decision to be filed in the office of the Planning Department.

If a variance is granted, the nature of the variance and any conditions attached thereto shall be entered on the face of any necessary Zoning Compliance Permit.

16.4.5 Appeal of Decision

A decision by the Board of Adjustment on an application for appeal or for a variance may be appealed to the Superior Court by an aggrieved party. Such appeal shall be in the nature of certiorari and must be filed within thirty (30) days of the filing of the decision in the office of the Planning Department or the delivery of the notice required in Subsection 16.4.4, whichever is later.

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ARTICLE 17 ENFORCEMENT

17.1 Violations

Whenever, by the provisions of this ordinance, the performance of any act is required, or the performance of any act is prohibited, or whenever any regulation or limitation is imposed on the use of any land, or on the erection, alteration, or the use or change of use of a structure, a failure to comply with such provisions shall constitute a violation of this chapter.

17.2 Liability

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

17.3 Procedures Upon Discovery of Violations

Upon the determination that any provision of this chapter is being violated, the Town Manager shall deliver a written notice by personal service or by registered or certified mail, return receipt requested, to the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Town Manager's discretion.

The final written notice, which may also be the initial notice, shall state the action the Town Manager intends to take if the violation is not corrected, and shall advise that the Town Manager's order may be appealed to the Board of Adjustment as provided in Article 16.

In cases when delay would seriously threaten the effective enforcement of this chapter, or pose a danger to the public health, safety, or general welfare, the Town Manager may seek enforcement without prior written notice by invoking any of the penalties or remedies contained in Section 17.4.

17.4 Penalties and Remedies

Violations of this chapter shall constitute a misdemeanor, punishable as provided in G.S. 14-4.

Any act constituting a violation of this chapter shall also subject the offender to a civil penalty of twenty-five dollars (\$25.00). If the offender fails to pay the penalty within ten (10) days of receiving final written notice of a violation, the penalty may be recovered by the Town in a civil action in the nature of a debt. A civil penalty may not be appealed to the Board of Adjustment if the offender received a final written notice of violation and did not appeal to the Board of Adjustment within the time limit prescribed in Article 16.

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Each day that any violation continues after receipt of the final written notice of such violation shall constitute a separate violation and a separate offence for purposes of the penalties and remedies specified herein.

In addition to the penalties and remedies above, the Town Manager may institute any appropriate action or proceedings to prevent, restrain, correct, or abate a violation of this chapter.

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ARTICLE 18 DEFINITIONS

18.1 Interpretation of Terms or Words: For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows:

1. The word "shall" is always mandatory and the word "may" is permissive.
2. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied"

Terms not herein defined shall have the meanings customarily assigned to them.

18.2 Agriculture, Non-Livestock: The use of land for the production of cash grains, field crops, vegetables, fruits, and nuts, and for horticulture and floriculture.

18.3 Agriculture, Livestock: The use of land for the keeping, grazing, feeding, or breeding of livestock, including cattle, hogs, sheep, goats, and poultry, and also animal specialities such as horses, rabbits, bees, and fish and fur-bearing animals in captivity.

18.4 Reserved

18.5 Alley: A publicly dedicated and maintained right-of-way twenty (20) feet or less in width that provides only a secondary means of access to abutting property and is not intended for general traffic circulation.

18.6 Reserved

18.7 Automotive Repair: The repair, rebuilding, or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

18.8 Automotive, Trailer, and Farm Implement Sales or Rental: The sale or rental of new and used motor vehicles, travel trailers, or farm implements to be displayed and sold on the premises, but not including repair work except incidental warranty repair of the above.

18.9 Bank: Financial institution engaged in deposit banking and closely related functions such as the extension of credit by means of loans and investments, and fiduciary activities.

18.10 Reserved

18.11 Building: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

18.12 Building, Accessory: A subordinate building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to that of the principal building.

18.13 Building, Principal: A building or, where the context so indicates, a group of buildings in which is conducted the principal use of the lot on which such building is located.

- 18.14 Reserved
- 18.15 Business, Convenience: Commercial establishments that generally serve day-to-day commercial needs of a residential neighborhood, including drugstores, tobacco shops, newsstands, bakeries, confectioneries, delicatessens, meat and produce markets, food stores with less than ten thousand (10,000) square feet in floor area, and eating and drinking establishments.
- 18.16 Business, General: Commercial establishments that, in addition to serving day-to-day commercial needs of a community, also supply the more durable and permanent needs of a whole community, including supermarkets, department stores, discount stores, variety stores, hardware and garden supply stores, apparel and footwear stores, florists, gift shops, jewelry stores, book and stationery stores, specialty shops, sporting goods stores, furniture and home furnishing stores, automotive supply stores, and appliance stores.
- 18.17 Business, Office-Type: Quasi-commercial uses that generally accommodate occupations such as administrative, executive, legal, accounting, writing, clerical, stenographic, and drafting occupations, and including institutional offices of a charitable, philanthropic, religious, or educational nature.
- 18.18 Business, Wholesale: Commercial establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments, basically for use in the fabrication of a product or for use by a business service.
- 18.19 Business Services: Any profit-making activity that renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes and businesses.
- 18.20 Reserved
- 18.21 Cemetery: Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.
- 18.22 Certificate of Appropriateness: A document issued by the Historic District Commission or Appearance Commission certifying compliance with the provisions of Article 12 or Article 13, respectively.
- 18.23 Certificate of Occupancy: A document issued by the Building Inspector certifying compliance with all applicable state and local laws, including all terms of an approved Zoning Compliance Permit, and authorizing occupancy of a building or structure.
- 18.24 Child Day Care Facility: A use of land and buildings that provides care to preschool children away from their homes, and by persons other than family members, guardians, or custodians, and where a payment, fee, or grant is made for such care.

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- 18.25 Reserved
- 18.26 Church: A structure in which persons regularly assembly for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.
- 18.27 Clinic: An establishment used for the medical or dental care, diagnosis, or treatment of sick, ailing, infirm, or injured persons on a out-patient basis.
- 18.28 Club: An establishment operated by a corporation or association of persons for social, literary, political, educational, fraternal, or charitable purposes, but which is not operated for profit or to render a service which is customarily conducted as a business.
- 18.29 College, University, or Professional School: A degree-granting establishment providing formal academic education and generally requiring for admission at least a high school diploma or equivalent academic training, including colleges, junior colleges, universities, technical institutes, seminaries, and professional schools (architectural, dental, engineering, law, medical, etc.)
- 18.30 Comprehensive Plan: A plan, or any portion thereof, adopted by the Chapel Hill Planning Board and Council, establishing goals, objectives, and policies designed to manage the quantity, type, cost, location, timing, and quality of development and redevelopment in the Chapel Hill community.
- 18.31 Council: The governing body of the Town of Chapel Hill, consisting of a mayor and eight (8) council members, as established in Chapter III of the Charter of the Town of Chapel Hill.
- 18.32 Development: The use or occupancy of any land or structure, or the construction, erection, alteration, or moving of any structure.
- 18.33 Drive-In Window: A window or other opening in the wall of a principal building through which goods or services are provided directly to customers in motor vehicles by means that eliminate the need for such customers to exit their motor vehicles.
- 18.34 Driveway: A vehicular way, other than a street or alley, that provides vehicular access from a street to or through off-street parking and/or loading areas.
- 18.35 Dwelling: Any building or structure (except a mobile home) that is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.
- 18.36 Dwelling, Single-Family: A detached dwelling consisting of a single dwelling unit only.
- 18.37 Dwelling, Two-Family: A dwelling or combination of dwellings on a single lot consisting of two (2) dwelling units.
- 18.38 Dwelling, Multi-Family: A dwelling or combination of dwellings on a single lot consisting of three (3) or more dwelling units.

- 18.39 Dwelling Unit: A room or group of rooms within a dwelling forming a single independent habitable unit used or intended to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only; for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis; and containing independent kitchen, sanitary, and sleeping facilities; and provided such dwelling unit complies with Chapel Hill's Minimum Housing Code.
- 18.40 Reserved
- 18.41 Essential Services: The erection, construction, alteration, or maintenance by public utilities or governmental agencies of traffic distribution systems; water, sewage, steam, gas, electrical, or communication transmission or distribution systems; and storm water collection and distribution systems; including streets, sidewalks, street lights, bus passenger shelters, traffic signals, pipes, hydrants, pumping stations, wires, curb-and-gutter, catch basins, drains, or other similar equipment and accessories reasonably necessary for the provision of adequate service by such public utilities or governmental agencies, but not including buildings or other substantial above-ground structures (see Public Service Facility and Radio or Television Transmitting and/or Receiving Facility).
- 18.42 Extraction of Earth Products: The process of removal of natural deposits of mineral ores, soils, or other solid matter from their original location, not including any processing of such material beyond incidental mechanical consolidation or sorting to facilitate transportation off-site.
- 18.43 Family: An individual living alone or two (2) or more persons living together as a single housekeeping unit, using a single facility in a dwelling unit for culinary purposes. The term "family" shall not be construed to include a fraternity or sorority, club, rooming house, institutional group or the like.
- 18.44 Reserved
- 18.45 Floor Area: The sum of enclosed areas on all floors of a building or buildings measured from the outside faces of the exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor areas used for access and storage. Not countable as floor area are open terraces, patios, atriums, balconies, carport garages, and breezeways.
- 18.46 Reserved
- 18.47 Fraternity or Sorority Dwelling: A dwelling or combination of dwellings on a single lot occupied by and maintained exclusively for college, university, or professional school students who are affiliated with a social, honorary, or professional organization recognized by the college, university, or professional school.
- 18.48 Funeral Home: An establishment primarily engaged in preparing the dead for burial, conducting funerals, and cremating the human dead.
- 18.49 Reserved

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- 18.50 Gross Land Area: All area within the boundaries of a zoning lot or PD district plus half of the adjoining permanent open space such as streets, parks, lakes, cemeteries, and the like, provided the width of such credited open space shall be limited to a number of feet equal to the LUI rating applying to the lot or district.
- 18.51 Group Care Facility: An establishment qualified for a license by the State of North Carolina for the provision of resident services to seven (7) or more individuals of whom one or more are unrelated, and who are handicapped, aged, or disabled, and undergoing rehabilitation or extended care, and who are provided services to meet their needs. Included are group homes for all ages, half-way houses, boarding homes for children, and convalescent and nursing homes.
- 18.52 Height (of a Structure or Part thereof): The vertical distance from the mean natural grade at the foundation to the highest portion of the structure, or part thereof.
- 18.53 Height Limitation, Primary: The maximum height allowed for any structure located at the minimum setback required for such structure, as shown in Section 5.3.
- 18.54 Height Limitation, Secondary: The absolute maximum height allowed for any structure, as shown in Section 5.3.
- 18.55 Reserved
- 18.56 Home Occupation: An occupation conducted as an accessory use of a dwelling unit, provided that:
- a) No more than one person other than members of the resident family shall be engaged in such occupation;
 - b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than thirty-five percent (35%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
 - c) No external evidence of the conduct of the home occupation shall be visible, other than a sign as permitted in Article 6;
 - d) The home occupation shall not generate traffic volumes or parking area needs greater than would normally be expected in a residential neighborhood;
 - e) No equipment or process shall be employed that will cause noise, vibration, odor, glare, or electrical or communication interference detectable to the normal senses off the lot; in the case of detached dwelling units, or outside the dwelling unit, in the case of attached dwelling units;
 - f) The on-premises sale and delivery of goods which are not the products of the home occupation are prohibited.

- 18.57 Hospital: An institution providing physical and mental health services primarily for human in-patient medical or surgical care for the sick or injured, including related facilities such as laboratories, out-patient services, training facilities, central service facilities, and staff offices.
- 18.58 Hotel or Motel; A building or group of buildings containing in combination ten (10) or more lodging units intended primarily for rental or lease to transients by the day or week, as distinguished from residence halls, in which occupancy is generally by residents rather than transients.
- 18.59 Reserved
- 18.60 Kennel: Any lot or premises on which four (4) or more domesticated animals more than four (4) months of age are housed, groomed, bred, boarded, trained, or sold.
- 18.61 Landfill: Any lot or premises on which is deposited solid waste material, including trash, construction debris, stumps, branches and limbs, garbage, and industrial waste.
- 18.62 Livability Space: That part of total open space appropriately improved and, if necessary, located as outdoor living space and for aesthetic appeal, including natural areas, lawns and other landscaped areas, walkways, paved terraces and sitting areas, outdoor recreational areas, and landscaped portions of street rights-of-way, but not including open space used for motorized vehicles, except for incidental service, maintenance, or emergency actions.
- 18.63 Reserved
- 18.64 Loading, Off-Street: Space located outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.
- 18.65 Lodging Unit: A room or group of rooms forming a separate habitable unit used or intended to be used for living and sleeping purposes by one family only, without independent kitchen facilities; or a separate habitable unit, with or without independent kitchen facilities, occupied or intended to be occupied by transients on a rental or lease basis for periods of less than one week.
- 18.66 Lot: Land bounded by lines legally established for the purpose of property division. As used in this chapter, unless the context indicates otherwise, the term refers to a zoning lot.
- 18.67 Lot Line: A line that marks the boundary of a lot.
- 18.68 Lot Line, Interior: Any lot line that is not a street lot line; a lot line separating a lot from another lot.
- 18.69 Lot Line, North: Any portion of a lot line that has an alignment within forty-five degrees (45°) of an east/west axis.
- 18.70 Lot Line, Street: Any lot line separating a lot from a street right-of-way or easement. Where a lot line is located within such street

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right-of-way or easement, the right-of-way or easement boundary adjacent to the lot shall be considered the street lot line.

- 18.71 Lot Width: The horizontal distance measured along a straight line connecting the points at which a line demarcating the minimum street setback required from a street lot line intersects with interior lot lines and/or other street lot lines (See Figure 5-2).
- 18.72 Reserved
- 18.73 Major Street Plan: A plan, or any portion thereof, adopted by the Chapel Hill Council, establishing goals, objectives, policies, and functional street classifications designed to manage major vehicular circulation patterns in the Chapel Hill community.
- 18.74 Maintenance and or Storage Facility: Land, building, or structure devoted primarily to the maintenance and/or storage of equipment and materials.
- 18.75 Manufacturing, Light: Manufacturing, processing, creating, renovating, painting, cleaning, assembly of goods, merchandise, and equipment, or other industrial uses which have all operations and storage within enclosed structures.
- 18.76 Reserved
- 18.77 Mobile Home: A single portable manufactured housing unit, or a combination of two (2) or more such units connected on-site, that is a) designed to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only and containing independent kitchen, sanitary, and sleeping facilities; b) designed so that each housing unit can be transported on its own chassis; c) placed on a temporary or semi-permanent foundation; and d), is over thirty-two (32) feet in length and over eight (8) feet in width.
- 18.78 Mobile Home, Class A: A mobile home that meets the U.S. Department of Housing and Urban Development Mobile Home Construction and Safety Standards and which is certified by the Town Manager as meeting the following appearance performance criteria:
- a) The mobile home shall have a length not exceeding four (4) times its width;
 - b) The pitch of the mobile home's roof shall have a minimum vertical rise of one foot for each five (5) feet of horizontal run;
 - c) The exterior materials shall be of a color, material, and scale compatible with those existing in the immediate vicinity, and in no case shall the degree of reflectivity of exterior finishes exceed that of gloss white paint;
 - d) A continuous permanent masonry foundation, unpierced except for required ventilation, shall be installed under the mobile home; and

e) The tongue and undercarriage chassis shall be removed subsequent to final placement.

- 18.79 Mobile Home, Class B: A mobile home that meets the U.S. Department of Housing and Urban Development Mobile Home Construction and Safety Standards or, after inspection by the Building Inspector, is found to be in good condition and fit and safe for human occupancy, but which is not certified as meeting the appearance performance criteria contained in Section 18.78 above.
- 18.80 Mobile Home Park: A combination of two (2) or more mobile homes on a single zoning lot.
- 18.81 Reserved
- 18.82 Nonconforming Feature: A physical feature or characteristic of a use, building, structure, or other development of land that was lawfully established prior to the effective date of this chapter or a subsequent chapter thereto, but does not conform to the Intensity Regulations of Article 5 or the Design Standards of Article 6 applicable to such use, building, structure, or development of land, including, but not limited to, nonconforming structures, nonconforming signs, nonconforming parking facilities, and nonconforming lighting.
- 18.83 Nonconforming Lot: A lot that was lawfully created prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the minimum gross land area or minimum lot width requirements established in Article 5 for the zoning district in which it is located.
- 18.84 Nonconforming Use: A use of land, buildings, or structures that was lawfully established prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the Use Regulations of Article 4 for the zoning district in which it is located.
- 18.85 Open Space: The total horizontal area of uncovered open space plus half the total horizontal area of covered open space.
- 18.86 Open Space, Covered: Usable open space closed to the sky but having two (2) clear unobstructed open or partially open sides. Partially open is construed as fifty percent (50%) open or more. The horizontal area countable as covered open space shall not exceed the number of square feet equal to the vertical areas of the open sides. Examples of covered open space are covered balconies, covered portions of improved roof areas, or spaces under buildings supported on columns or posts, or cantilevered.
- 18.87 Open Space, Uncovered: The total gross land area not covered by buildings, plus open exterior balconies, and roof areas improved as livability space.
- 18.88 Reserved
- 18.89 Parking, Off-Street: Space located outside of any street right-of-way or easement and designed to accommodate the parking of motor vehicles.

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- 18.90 Park/Ride Terminal: An off-street parking facility designed or intended to provide peripheral collection and storage of vehicles to accommodate commuter traffic into or out from the Chapel Hill community, including accessory structures such as bus passenger shelters.
- 18.91 Personal Services: An establishment that primarily provides services generally involving the care of a person or his apparel, such as barber shops, beauty salons, seamstress shops, shoe repair shops, dry cleaning and laundry pickup facilities, and coin-operated laundry and dry cleaning facilities.
- 18.92 Place of Assembly: A place designed to accommodate the assembly of persons attending athletic events, musical performances, dramatic or terpsichorean performances, speeches or ceremonies, motion picture presentations, and other entertainment events, including stadiums, coliseums, athletic centers, theaters, concert halls, night clubs amphitheatres, and arenas.
- 18.93 Planned Development: Land that is under unified control and planned and developed as a whole in a single development operation or a definitely programmed series of development operations. A planned development include principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is constructed according to comprehensive and detailed plans which include not only streets, utilities, lots or building sites, and the like, but also site plans and floor plans for all buildings as intended to be located, constructed, used, and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings. A planned development includes a program for the provision, operation, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.
- 18.94 Reserved
- 18.95 Public Cultural Facility: The use of land, buildings, or structures by a municipal or other governmental agency to provide cultural services directly to the general public, including public libraries and museums.
- 18.96 Public Service Facility: The use of land, buildings, or structures by a public utility, railroad, or governmental agency, including water treatment plants or pumping stations, sewage treatment plants or pumping stations, non-nuclear power plants and substations, telephone exchanges, bus and railroad terminals, and other similar public service structures, but not including land, buildings, or structures devoted solely to the storage and maintenance of equipment and materials.
- 18.97 Public Use Facility: The use of land, buildings, or structures by a municipal or other governmental agency to provide protective, administrative, social, and recreational services directly to the general public, including police and fire stations, municipal buildings, community centers, public parks, and any other public facility providing the above services, but not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and not including public cultural facilities or public service facilities.

- 18.98 Publishing and Printing An establishment primarily engaged in preparing, publishing, and printing newspapers, periodicals, books, and pamphlets.
- 18.99 Radio or Television Transmitting and/or Receiving Antenna, Accessory: An antenna designed for the above-ground transmission and/or reception of airborne radio or television signals and serving only the needs of the occupants of a single building or of a single residential development.
- 18.100 Radio or Television Transmitting and/or Receiving Facility: The use of land, buildings, or structures for the above-ground transmission and/or reception of airborne radio or television signals, including all transmitting and receiving towers, dishes and antennas except accessory radio or television transmitting and/or receiving antennas.
- 18.101 Reserved
- 18.102 Recreation Facility, Non-Profit: A private non-profit facility providing recreational activities, including private country clubs, golf courses, riding stables, tennis clubs, and athletic fields.
- 18.103 Recreation Facility, Commercial: A private profit-making facility providing recreational activities enclosed within buildings, including commercially operated indoor swimming pools and tennis courts, health clubs, gymnasiums, amusement arcades, bowling alleys, indoor skating rinks, and pool halls.
- 18.104 Recreation Space: That part of exterior livability space, plus enclosed floor area, which is appropriately improved for the common recreational use of residents of multi-family developments and planned developments.
- 18.105 Research Activities: Research, development, and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation, and engineering, provided such activities are conducted within entirely enclosed buildings and produce no noise, smoke, glare, vibration, or odor detectable outside the buildings.
- 18.106 Residence Hall: A building or group of buildings containing in combination ten (10) or more lodging units intended primarily for rental or lease for periods of thirty (30) days or longer, provided, however, that temporary lodging units for guests of regular tenants may be provided, with the number of such units limited to not more than ten percent (10%) of the total number of lodging units.
- 18.107 Reserved
- 18.108 Rooming House: A building or group of buildings containing in combination three (3) to nine (9) lodging units intended primarily for rental or lease for periods of longer than one week, with or without board.
- 18.109 School, Elementary: A facility providing a curriculum of elementary academic instruction, including kindergartens, elementary schools, junior high schools, and comparable private schools.

18.110 School, Secondary: A facility providing a curriculum of secondary academic instruction, including high schools and comparable private schools.

18.111 Service Station: An establishment where gasoline or diesel fuel is supplied and dispensed at retail and where, in addition, the following services only may be rendered and sales made:

- a) Sales and service of spark plugs, batteries, and distributor and ignition system parts;
- b) Sales, service, and repair of tires, but not recapping or regrooving;
- c) Replacement of mufflers, tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease retainers, wheel bearings, mirrors, and the like;
- d) Radiator cleaning, flushing, and fluid replacement;
- e) Washing and polishing, and sale of automotive washing and polishing supplies;
- f) Greasing and lubrication;
- g) Providing and repairing fuel pumps, oil pumps, and lines;
- h) Minor adjustment and repair of carburetors;
- i) Emergency repair of wiring;
- j) Minor motor adjustment not involving removal of the head or crankcase;
- k) Sale of beverages, packaged foods, tobacco products, and similar convenience goods for customers, as accessory and incidental to principal operations;
- l) Provision of road maps and other travel information to customers;
- m) Provision of restroom facilities;
- n) Warranty maintenance and safety inspections.

Uses permissible at a service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations.

18.112 Reserved

- 18.113 Setback, Interior: The horizontal distance between the interior lot line of a zoning lot and any structure on such zoning lot, measured perpendicular to the interior lot line (See Figure 5-4).
- 18.114 Setback, Solar: The horizontal distance between the north lot line of a zoning lot and any structure on such zoning lot, measured along the north/south axis in a southerly direction from the north lot line (See Figure 5-4).
- 18.115 Setback, Street: The horizontal distance between the street lot line of a zoning lot and any structure on such zoning lot, measured perpendicular to the street lot line (See Figure 5-4).
- 18.116 Sign: Any device designed to inform or attract the attention of persons not on the premises on which the device is located, and which relates in its subject matter to the premises on which it is located.
- 18.117 Sign, Free-Standing: A sign attached to, erected on, or supported by a structure whose primary function is to support a sign and which is not itself an integral part of a building or other structure and including signs attached to or painted on a motor vehicle if such motor vehicle is located on a site in such a way as to serve as a sign, as defined in Section 18.116 above.
- 18.118 Sign, Projecting: A sign attached to and supported by a building and extending beyond the building to which it is attached at a right angle.
- 18.119 Sign, Wall: A sign attached to or painted on a wall of a building, with the exposed display surface of the sign in a plane parallel to the plane of the wall to which it is attached or painted, and including signs affixed to or otherwise displayed on or through a facade window.
- 18.120 Reserved
- 18.121 Special Use: A use of land, buildings, or structure that is identified in this chapter as a use that because of its inherent nature, extent, and external effects, requires special care in the control of its location, design, and methods of operation in order to ensure protection of the public health, safety, and welfare.
- 18.122 Special Use Permit: A permit issued by the Council authorizing the development of a zoning lot for a special use or a planned development.
- 18.123 Street: A right-of-way or easement greater than twenty (20) feet in width containing a roadway which provides or is used primarily for vehicular circulation.
- 18.124 Street, Private: A street consisting of a private easement and a privately maintained roadway.
- 18.125 Street, Public: A street consisting of a publicly dedicated right-of-way and a roadway maintained by the Town of Chapel Hill or the State of North Carolina.
- 18.126 Street Frontage Width: The horizontal distance measured along a straight line connecting the points at which the street lot line abutting a street intersects with interior lot lines and/or other street lot lines (See Figure 5-2).

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- 18.127 Reserved
- 18.128 Structural Alteration: Any change, except for repair or replacement, in the supporting members of a structure, such as, but not limited to, bearing walls, columns, beams, or girders.
- 18.129 Structure: Anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including but not limited to principal and accessory buildings, signs, fences, walls, bridges, monuments, flagpoles, antennas, and transmission poles, towers, and cables.
- 18.130 Structure, Accessory: A subordinate structure detached from, but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.
- 18.131 Structure, Principal: A structure or, where the context so indicates, a group of structures in or on which is conducted the principal use of the lot on which such structure is located.
- 18.132 Supply Yard: A commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods.
- 18.133 Reserved
- 18.134 Temporary Portable Building: A building intended for nonresidential use for a limited time period, consisting of one or more modules constructed off the ultimate site of use and transported to that site either on its own wheels or otherwise.
- 18.135 Temporary Portable Building, Construction-Related: A temporary portable building directly related to the development of a lot and limited in duration to a time period extending from issuance of the initial Zoning Compliance Permit for such development to issuance of the final Certificate of Occupancy for the development.
- 18.136 Tourist Home: A building or group of buildings containing in combination three (3) to nine (9) lodging units intended for rental or lease primarily to transients for daily or weekly periods, with or without board, as distinguished from rooming houses, in which occupancy is generally by residents rather than transients.
- 18.137 Use: The specific activity or function for which land, a building, or a structure is designated, arranged, intended, occupied, or maintained.
- 18.138 Use, Accessory: A use on the same lot or in the same structure with, and of a nature and extent customarily incidental and subordinate to, the principal use of the lot or structure.
- 18.139 Use, Principal: The primary use and chief purpose of a lot or structure.

- 18.140 Reserved
- 18.141 Variance: A relaxation of the strict terms of a specific provision of this chapter authorized by the Board of Adjustment in accord with the provisions of Article 15.
- 18.142 Veterinary Hospital or Clinic: An establishment used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those animals in need of medical or surgical attention.
- 18.143 Water and Wastewater Treatment Plant: The use of land, buildings, or structures by a public utility or governmental agency to provide sanitary treatment of community water supplies and wastewater discharges.
- 18.144 Zoning Compliance Permit: A permit issued by the Town Manager authorizing the recipient to make use of property in accord with the requirements of this chapter.
- 18.145 Zoning Lot: A legally subdivided lot shown on a legally recorded plat or deed, or a combination of such legally subdivided and recorded adjacent lots.

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ARTICLE 19 AMENDMENTS

19.1 Intent

In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town it is intended that, this chapter shall not be amended except a) to correct a manifest error in the chapter, or b) because of changed or changing conditions in a particular area or in the jurisdiction generally, or c) to achieve the purposes of the Comprehensive Plan.

It is further intended that, if amended, this chapter be amended only as reasonably necessary to the promotion of the public health safety, or general welfare, and in conformance with the Comprehensive Plan.

19.2 Amendment Initiation

A request to amend this chapter may be initiated by:

- a) the Council, on its own motion;
- b) the Planning Board, Board of Adjustment, Historic District Commission, or Appearance Commission, on submittal of a request to the Council,
- c) the Town Manager, on submittal of a request to the Council; or
- d) any property owner or citizen, or agent thereof, on submittal of an application to the Town Manager.

All requests and applications for amendments to this chapter shall be acted on as provided in this article.

19.3 Procedures

19.3.1 Council Acceptance of Requests

On receipt of an amendment request as provided in Subsections 19.2 a) - c) above, the Council may set a date for a public hearing on the request. If the Council sets a date for a public hearing on a proposed amendment, it shall also refer the proposed amendment to the Town Manager, the Planning Board, and any other appropriate board or commission for their consideration.

19.3.2 Application Submittal Requirements

Applications for amendments to this chapter, as provided in Subsection 19.2 d), shall be filed with the Town Manager.

The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records.

No application shall be accepted by the Town Manager unless it complies with such requirements. Applications which are not complete shall be

returned forthwith to the applicant, with a notation of the deficiencies in the application.

19.3.3 Town Manager's Analysis and Report to Planning Board

On referral of an amendment request or on receipt of a complete application for amendment, the Town Manager shall cause an analysis to be made of the request or application to determine conformity with the intent of this article, and, based on his or her findings, shall prepare a written report and recommendation for consideration by the Planning Board.

Such report and recommendation shall be submitted to the Planning Board within twenty-one (21) days of Council's referral of an amendment request or the acceptance of an application, or within such further time consented to by written notice from the applicant or by Council resolution.

Failure of the Town Manager to submit a report to the Planning Board within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation.

19.3.4 Planning Board Review

The Planning Board shall review the request or application and the Town Manager's report and recommendations, and shall prepare and submit to the Council a written recommendation for action based on its findings as to conformity with the intent of this article.

Such recommendation shall be submitted to the Council within thirty-five (35) days of the meeting at which the Town Manager's report is submitted to the Planning Board, or within such further time as may be consented to by written notice from the applicant or by Council resolution.

Failure of the Planning Board to submit a recommendation to the Council within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation.

19.3.5 Public Hearing

After its receipt of the Planning Board's recommendation or, if applicable, the expiration of the time limit prescribed in Subsection 19.3.4, the Council shall hold a hearing on the application at the next available regularly scheduled public hearing in order to receive comments, testimony, and exhibits pertaining to the application. Public hearings on applications for amendments to this chapter shall be held by the Council on the third Monday of January, March, May, September, and November. If two-thirds (2/3) of its total membership find that an emergency exists the Council may schedule a public hearing at a date other than the times specified above.

Notice of the date, time, and place of the public hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two (2) consecutive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing.

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19.3.6 Town Manager's Report to Council

After completion of the public hearing, the Town Manager and Town Attorney shall review the record of the public hearing and the Town Manager shall prepare and submit to the Council a written report containing findings as to conformity with the intent of this article and a recommendation for action.

Such report shall be submitted to the Council within thirty (30) days after completion of the public hearing, or within such further time as may be consented to by written notice from the applicant or by Council resolution.

Failure of the Town Manager to submit a recommendation to the Council within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation.

19.3.7 Council Action

The Council shall review the application or request for amendment, the record of the public hearing, the Planning Board's recommendation and the Town Manager's report, and shall approve or deny the application or request based on its findings as to conformity with the intent of this article.

19.3.8 Protest Petition

If a petition protesting a proposed amendment to the Zoning Atlas is filed, such amendment shall not become effective except by favorable vote of not less than seven (7) members of the Council. In order to be valid for the above purpose, a protest petition must:

- a) be signed by the owners of twenty percent (20%) or more of the land area contained in either i) the lots included in the area proposed for rezoning, or ii) the lots within one hundred (100) feet of either side or the rear of the area proposed for rezoning, or iii) the lots directly opposite the area proposed for rezoning and the lots within one hundred (100) feet from the street frontage of such opposite lots;
- b) be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed amendment;
- c) be received by the Town Clerk at least two (2) normal work days prior to the date established for the public hearing on the proposed amendment; and
- d) be on a form prescribed and provided by the Town Clerk and contain all the information requested on the form.

19.3.9 Effect of Denial or Withdrawal on Subsequent Applications

When the Council shall have denied an application for amendment or the application shall have been withdrawn, by written notice, after publication of the first public hearing notice required in Subsection 19.3.5, the Town Manager shall not accept another application for the same or similar amendment affecting the same property or a portion thereof, until the expiration of a twelve (12) month period extending from the date of denial or withdrawal, as appropriate.

19.3.10 Amended Applications

If the applicant proposes any substantial changes to the application subsequent to acceptance of the application, an amended application shall be submitted and reviewed as an original application.

19.3.11 Actions Subsequent to Decision

The Town Manager shall cause notice of the disposition of the application to be sent to the applicant and shall cause a copy of the decision to be filed in the office of the Planning Department.

In the case of approval, any necessary changes to the official Zoning Atlas shall be entered in accord with the provisions of Article 3.

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ARTICLE 20 LEGAL STATUS

20.1 Severability

It is the legislative intent of the Council in adopting this ordinance that all provisions thereof shall be liberally construed to protect and preserve the peace, health, safety, and general welfare of the inhabitants of the Town and its extraterritorial planning jurisdiction. It is the further intent of the Council that this ordinance shall stand, notwithstanding the invalidity of any part thereof, and that should any provision of this ordinance be held to be unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions.

20.2 Conflict with other Laws

When provisions of this ordinance impose higher standards than are required in any other statute or local ordinance or regulation, provisions of this ordinance shall govern. When the provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions of this ordinance, the provisions of that statute or local ordinance or regulation shall govern.

20.3 Repeal of Existing Zoning Regulations

The existing zoning regulations entitled, "Ordinance Providing for the Zoning of Chapel Hill and Surrounding Areas," as passed on March 14, 1955 and as subsequently amended, are hereby repealed. The adoption of this ordinance, however, shall not effect nor prevent any pending or future prosecution of, or action to abate, an existing violation of said regulations.

5/11/81
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Section II

The effective date of this ordinance shall be May 12, 1981.

Section III

That all ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 11th day of May, 1981.

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Councilmember Smith again voiced his reservations with the floor area ratio for the flood hazard district. He preferred to give credit of one house per acre for the area in the floodway. The standards should also be set so the owner did not have to obtain a variance from the Board of Adjustment. COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO AMEND THE MOTION TO DELETE ARTICLE 10 OF THE ORDINANCE UNTIL FURTHER STUDY COULD BE MADE.

Councilmember Kawalec did not want to wait to consider this portion of the ordinance. The intent of the ordinance was to extend the protection of the flood hazard district to citizens. She proposed the floor area ratio be modified to allow half the density allowed in the underlying district. If the Council discovered this density was a hardship, it could be amended at the scheduled review of the ordinance. Councilmember Smith pointed out there was no process for relief if the ordinance created a hardship at the time the hardship was worked.

Councilmember Straley agreed with Councilmember Smith that more study was needed on the subject. Councilmember Wallace indicated his support for the amendment. Councilmember Howes supported the amendment, but wanted a date set for considering this portion of the ordinance again. Mr. Jennings thought it would take one to two months for staff study. Mr. Shipman stated the staff would report back to the Council on the flood hazard district portion of the ordinance at the second meeting in July.

Councilmember Howes reminded the Council the current flood damage protection ordinance would remain in effect.

THE MOTION WAS CARRIED UNANIMOUSLY.

Councilmember Straley questioned the minimum land area requirements in Section 8.8.6.2. He had been advised by Mr. Denny this could not be changed without a public hearing and so would vote for the requirements as presented, but indicated his intention to call for a public hearing to amend this section.

COUNCILMEMBER BOULTON MOVED, SECONDED BY COUNCILMEMBER WALLACE, TO AMEND SECTION 5.5.3, PARAGRAPH 2, TO HAVE A MAXIMUM OF 20,000 SQ. FT. FOR SCATTERED SMALL SITE, LOW-INCOME HOUSING, RATHER THAN 30,000 SQ. FT. The Planning Board had indicated the smaller sites would provide a better mix in the community.

Councilmember Wallace did not want his support misconstrued as opposition to public housing. He stated the experience of those in public housing and those around public housing would be enhanced by the scattering of housing. The smaller requirement would also minimize the impact of development on established neighborhoods. Councilmember Thorpe asked why this would be misconstrued as being against public housing. Councilmember Wallace thought it might be misconstrued because of the difficulty of finding suitable sites for public housing. The tendency was to maximize the units when a site was found.

Councilmember Thorpe commented that the Council decided where the public housing would be located. Councilmember Wallace added that a public housing project must have a Special Use Permit for which a finding on property value must be made. Keeping any project small scale would help to make this finding and would leave open space on the site.

Mr. Jennings pointed out this amendment would also apply to subsidized housing. On questioning from Councilmember Smith, he clarified the application of this section.

Councilmember Straley said he would vote against this amendment. The Council could decide the appropriate size of projects when considering them for Special Use Permits.

Mayor Nassif stated he would also vote against the amendment. Contrary to some national experiences, failed public housing on a large scale did not exist in Chapel Hill. Scattering small projects across Town would cause maintenance and operating problems for the Housing Authority. The Council did not limit other developers in Town, and Mayor Nassif did not believe the Council should limit the Housing Authority. Councilmember Wallace responded this particular category of housing was unique and could possess unique regulation. Councilmember Boulton added that the density was being increased in this ordinance.

Councilmember Smith stated scattering the sites would make more difficulties in finding suitable sites.

THE MOTION FAILED BY A VOTE OF FIVE TO FOUR WITH COUNCILMEMBERS BOULTON, HOWES, THORPE, AND WALLACE SUPPORTING AND COUNCILMEMBERS HERZENBERG, KAWALEC, SMITH, STRALEY, AND MAYOR NASSIF OPPOSING.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO DELETE SECTION 3.1.8, LIMITED AVIATION, AND TO CHANGE THE ZONING MAP TO O AND I-2 FOR HORACE WILLIAMS AIRPORT PROPERTY. Councilmember Howes stated this was not a good alternative, but the best of those offered. He added the Town should follow-up on the Chancellor's comments on limiting the airport use.

Councilmember Smith stated the County Commissioners were discussing an airport on their agenda. If the Council wanted to phase out use of the airport, it should form a group to find a site for an airport, or it could support the request for a special use permit for an airport in the county. Councilmember Kawalec offered that the Council should take action to support rezoning of county land for an airport. She suggested the Council adopt a resolution at the next meeting supporting a general rezoning of land for an airport rather than rezoning of particular property. Councilmember Smith argued that the Commissioners had a specific request before them. Councilmember Kawalec agreed to work with Councilmember Smith on wording for a resolution to support rezoning of county land.

THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO REZONE WCHL PROPERTY TO O AND I-2. He commented the R-4 zoning appeared to be a mistake. Mr. Jennings noted that the land use plan designated the property as commercial. The R-4 zoning would not allow radio towers.

THE MOTION WAS CARRIED UNANIMOUSLY.

Mr. Baker stated he was experiencing procedural problems with the changing of the zoning ordinance. He had made application for a special use permit for 6 acres next to the Northwestern Bank on Franklin Street. Notice had been sent to the surrounding property owners of the special use application. The old zoning would allow more density than the proposed zoning. He asked that the zoning be increased from R-4 to R-5 to allow the equivalent of what was proposed in his Special Use application and the old zoning ordinance. None of the surrounding property owners had voiced any objection to the project.

Mr. Jennings stated the Planning Board had discussed the change requested by Mr. Baker but had offered a general recommendation that no rezoning requests be honored through the public hearing process for the entire ordinance based upon the fact that people not attending the public hearing would not know of the project. He added that Mr. Baker had notified owners within 500 feet of the project.

When questioned, Mr. Reeve stated the issue was one of consistency in the transition. Mayor Nassif pointed out the ordinance had been under consideration for several months.

Councilmember Smith asked what the surrounding zoning was. Mr. Baker said it was R-4 and R-5.

Councilmember Wallace asked for the attorney's opinion regarding whether the problem was a procedural one. Mr. Denny answered it was both procedural and substantive. The question of density was substantive. The current application for a special use permit would not be possible under the proposed zoning, but would have been possible under the old ordinance.

Councilmember Wallace asked if other requests were under consideration which would have difficulties with the adoption of the new zoning ordinance. Mr. Jennings responded there was one other application for a special use permit which would not be affected because the proposed zoning would allow the proposed project.

Mr. Denny advised that the procedures followed under the old ordinance would meet requirements for procedures for the special use permit.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER BOULTON, THAT THE ZONING MAP BE AMENDED TO ZONE TRACT 44-D-3 AND 45-A-1 FROM R-4 TO R-5.

She commented that the Council had given extensive consideration to the development of this tract, and citizens had been given an opportunity to respond to the project. Councilmember Smith took issue with this statement. He said the business community had made no comment about this particular tract with regard to changing the zoning. Councilmember Kawalec pointed out the Chamber of Commerce had recommended the tract be rezoned to Office and Institutional.

Councilmember Wallace commented that a few developers must be caught in the transition from old ordinance to new ordinance. With so few projects to consider, he thought the Council should not hurt this applicant.

Mr. Epting pointed out Mr. Baker's request was not for assistance, but one imploring the Council not to hurt him. The requirements would be changed from those under which he applied.

THE MOTION WAS CARRIED WITH A VOTE OF 7 TO 2 WITH COUNCILMEMBERS BOULTON, HERZENBERG, HOWES, KAWALEC, STRALEY, THORPE, AND WALLACE SUPPORTING AND COUNCILMEMBER SMITH AND MAYOR NASSIF OPPOSING.

Mayor Nassif asked if there were any further questions.

Councilmember Wallace asked about the existing zoning of the Coker property. Mr. Jennings stated that the existing zoning of the entire property was R-10. A portion of the property abutting North Street would be left at the equivalent of R-10. The remainder would be down-graded to R-1.

Councilmember Wallace asked how many units were permitted in the down-graded portion. Mr. Jennings stated that 170 units were permitted under the existing ordinance and that 130 under the proposed ordinance.

Councilmember Wallace asked if the ordinance was being considered now for adoption and whether the Design Manual was being considered for some time in the future. Mayor Nassif answered that the Design Manual would be considered for adoption 280 days after the adoption of the zoning ordinance. Councilmember Wallace was concerned that if the Design Manual would be substantially different from the existing standards, developers should be informed in advance that these plans for a Design Manual were nearing completion and its adoption could adversely affect their plans, as Mr. Baker's had been affected.

Further discussion by Councilmember Thorpe centered around the fact that a date for review of the Design Manual be incorporated into the ordinance under consideration. Mayor Nassif responded that the Planning Board had established a date for 9 months after the adoption of the zoning ordinance. Councilmember Thorpe wanted a specific date. Mr. Denny suggested that it would be more appropriate to consider a separate resolution for setting such a date and direct when the matter would appear on the agenda.

Councilmember Wallace noted there had been no response to his concern for possible future conflicts between current design standards and the proposed Design Manual. Mr. Jennings stated that the standards of the proposed Design Manual would have to comply with the ordinance under consideration and that he did anticipate some problems just because of the transition.

There was no further discussion of the main motion.

THE MOTION WAS CARRIED WITH A VOTE OF 7 TO 2 WITH COUNCILMEMBERS BOULTON, HERZENBERG, HOWES, KAWALEC, SMITH, STRALEY AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBERS WALLACE AND THORPE OPPOSING.

After a 5-minute recess, Mayor Nassif called the meeting to order for the second time.

A Resolution Calling a Public Hearing to Consider Amendments to the Text of the Zoning Ordinance

COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER BOULTON, ADOPTION OF THE FOLLOWING RESOLUTION:

A RESOLUTION CALLING A PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE TEXT OF THE ZONING ORDINANCE (81-R-67.1)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby calls for a public hearing for 7:30 P.M., Tuesday, May 26, 1981, in the Meeting Room of the Municipal Building, 306 N. Columbia Street, Chapel Hill, North Carolina. At that time, the Council will consider amendments to the Zoning Ordinance to require minimum gross land area sizes for Planned Developments-Housing as follows:

<u>District</u>	<u>Minimum Gross Land Area</u>
R-1	150,000 square feet
R-2	100,000 square feet
R-3	37,500 square feet

This the 11th day of May, 1981.

Councilmember Smith asked if it would be appropriate to request that the Planning Board meet immediately after that public hearing and make a recommendation so that action could be made on the night of the public hearing rather than carrying this over. He felt that this measure would significantly speed up making modifications of the zoning ordinance and reduce the number of problems such as those dealt with tonight. Mr. Reeves was in complete agreement with this request.

Mayor Nassif inquired about the reason for Councilmember Straley's amending the requirement for three acres. Councilmember Straley responded that he merely wanted to protect people who have 2-3 acres by encouraging them to plan larger sized developments from the beginning, thus protecting such persons from future construction plans of nearby neighbors.

There was no further discussion.

THE MOTION WAS CARRIED BY A VOTE OF 7 TO 2 WITH COUNCILMEMBERS BOULTON, HERZENBERG, HOWES, SMITH, STRALEY, THORPE, AND WALLACE SUPPORTING AND MAYOR NASSIF AND COUNCILMEMBER KAWALEC OPPOSING.

Resolution Calling for a Reevaluation of the Chapel Hill Zoning Ordinance

COUNCILMEMBER THORPE, SECONDED BY COUNCILMEMBER HERZENBERG, THAT THE FOLLOWING RESOLUTION BE ADOPTED:

A RESOLUTION CALLING FOR A REEVALUATION OF THE CHAPEL HILL ZONING ORDINANCE (81-R-67.2)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby directs the Manager and Planning Board to reevaluate the Chapel Hill Zoning Ordinance and present its recommendations to the Council by February 22, 1982.

This the 11th day of May, 1981.

Councilmember Smith suggested the changes for the Zoning Ordinance should be presented at the same time as the Design Manual. Mr. Jennings concurred.

There was no further discussion.

THE MOTION WAS CARRIED UNANIMOUSLY.

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A Resolution Granting a Special Use Permit to the Town of Chapel Hill Public Library for a Residential Parking Lot

Councilmember Straley asked why there was one vote opposing the Planning Board recommendation on the parking lot. Mr. Jennings recalled that the dissenting vote was by Don Francisco, who believed the Planning Board should not approve the plan because the existing parking lot was not exempted from the vehicle-free strip and other developers were not allowed such exemption. Mr. Jennings then explained in detail the traffic flow in this proposed lot.

Councilmember Smith asked if there were any foreseeable problems in turning from Boundary Street left into the parking area. Mr. Jennings commented that a left turn off of Boundary Street was a better alternative than using Franklin Street as an entrance and an exit. This alternative was also better than a left turn into the property from off Franklin Street. Councilmember Smith expressed concern regarding the fact that Boundary Street has only one lane, possibly causing traffic to back up to Franklin Street. Mr. Jennings felt that there was a good distance from the turn into the property on Boundary Street to the intersection on Franklin Street, and did not foresee a problem here.

COUNCILMEMBER HERZENBERG MOVED, SECONDED BY COUNCILMEMBER STRALEY, THAT THE FOLLOWING RESOLUTION BE ADOPTED:

A RESOLUTION GRANTING A RESIDENTIAL PARKING LOT SPECIAL USE PERMIT TO THE TOWN OF CHAPEL HILL FOR THE PUBLIC LIBRARY PARKING LOT ON EAST FRANKLIN STREET (81-R-68)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby finds that the residential parking lot proposed by the Town of Chapel Hill if developed in accordance with the plans submitted 2/16/81 and the stipulations and conditions set forth below:

1. will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved,
2. meets all required conditions and specifications,
3. will not substantially injure the value of adjoining or abutting property, and
4. that the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Chapel Hill and its environs.

The stipulations upon which the above findings are based are as follows:

1. That unpaved portion of the parking lot be paved by May 31, 1982.
2. That a detailed drainage plan be reviewed and approved by the Town Manager prior to issuance of a grading permit, building permit, and start of construction of improvements. In developing the drainage plan consideration shall be given to including a catch basin at the proposed Boundary St. entrance.
3. That a landscape plan and lighting plan for the parking lot be approved by the Historic District Commission prior to issuance of a grading permit and building permit.
4. That any and all planting which dies during the life of the special use permit be replaced with planting of the same species and approximately the same size by the end of the next planting season.
5. That as much significant planting as possible be retained and that such planting be shown on the landscape plan. Existing planting shall be protected during construction by appropriate fencing or barriers. Provisions for such protection shall be shown on the landscape plan.
6. That the existing part of the off-street parking area be exempted from the requirement of a 10 foot wide vehicle free strip.

- 7. That the sight lines for the existing driveway onto Boundary Street be increased to achieve the objective of allowing drivers in automobiles to see pedestrians (adults and children) using the existing sidewalk on Boundary Street.
- 8. That construction begin by May 31, 1982 and be completed by May 31, 1983.

BE IT FURTHER RESOLVED that the Council hereby grants a residential parking lot Special Use Permit in accordance with the plans as submitted and approved and the stipulations above.

This the 11th day of May, 1981.

Councilmember Straley asked Mr. Jennings if there would be any parking spaces lost by the construction. Mr. Reeves commented that all aspects of the Library parking proposals were prompted because of traffic accommodation needs for Library patrons. Mr. Reeves asserted that all other aspects of this Library had been an exception to the rule. Councilmember Smith did not feel that this was a legitimate reason (traffic accommodation needs) for the Town to violate its own ordinance.

There was no further discussion.

THE MOTION WAS CARRIED UNANIMOUSLY.

A Resolution Granting a Special Use Permit to the Alpha Delta Pi Sorority

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, TO ADOPT THE FOLLOWING RESOLUTION:

A RESOLUTION GRANTING A SORORITY HOUSE SPECIAL USE PERMIT TO ALPHA DELTA PI SORORITY FOR A SORORITY HOUSE AT 411 E. ROSEMARY STREET (81-R-69)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby finds that the Sorority House proposed by Alpha Delta Pi Sorority if developed in accordance with the plans submitted February 2, 1981 and the stipulations and conditions set forth below:

- 1. will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved,
- 2. meets all required conditions and specifications,
- 3. will not substantially injure the value of adjoining or abutting property, and
- 4. that the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located in general conformity with the plan of development of Chapel Hill and its environs.

The stipulations upon which the above findings are based are as follows:

- 1. That a paved sidewalk to Town standards be installed along the frontage of the subject property with Rosemary Street. The design of such sidewalk shall be approved by the Town Manager prior to construction.
- 2. That the driveway on Rosemary Street be constructed to Town standards. Such driveway shall be approved by the Town Manager prior to construction.
- 3. That detailed architectural elevations, and a site plan showing the location of landscaped areas, signs, lighting and other site elements be submitted to and approved by the Historic District Commission prior to issuance of a building permit. Such site plan shall show the location of all existing trees having a diameter, at breast height, of one foot.
- 4. That the off-street parking areas be screened from the abutting properties by a solid six-foot high screen consisting of vegetation, trees and/or fencing. The detailed design of such screen shall be shown on the landscape plan and shall be approved by the Historic District Commission.
- 5. That provisions for parking bicycles be provided on the property. The location and design of such facilities shall be shown on the site plan and shall be approved by the Historic District Commission.

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6. That as much significant planting as possible be retained and that such planting be shown on the landscape plan. Existing planting shall be protected during construction by appropriate fencing or barriers. Provisions for such protection shall be shown on the landscape plan.
 7. That any and all planting which dies during the life of the special use permit be replaced with planting of the same species and approximately the same size by the end of the next planting season.
 8. That all utilities be placed underground including the existing above ground electric service between the street and the sorority house.
 9. That all improvements, as shown on the approved plans or required as part of the granting of the special use permit, shall be completed prior to issuance of the certificate of occupancy.
 10. That construction begin by May 31, 1983 and be completed by May 31, 1985.

BE IT FURTHER RESOLVED that the Council hereby grants a Sorority House Special Use Permit in accordance with the plans as submitted and approved and the stipulations above.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

A Resolution Approving the Preliminary Sketch for Booker Creek Subdivision Phase 4

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, THAT THE FOLLOWING RESOLUTION BE ADOPTED:

A RESOLUTION APPROVING THE PRELIMINARY SKETCH FOR BOOKER CREEK SUBDIVISION, SECTION IV (81-R-70A)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the preliminary sketch dated November 25, 1980, for Booker Creek Subdivision, Section IV located on property identified as part of Chapel Hill Township Tax Map 26, Lot 20, subject to the following:

1. That the applicant revise the preliminary sketch to be consistent with the alternative plan dated November 10, 1980, showing access to most of the lots by means of a cul-de-sac street. Such cul-de-sac shall be paved with curb and gutter to Town standards.
2. That the applicant comply with the open space requirement by making a payment in lieu of the required open space. Such payment shall be made to the Town to recordation of the final plat.
3. That the number, location and installation of fire hydrants be approved by the Town Manager. A plan for such improvements shall be approved by the Town Manager prior to issuance of any building permits and prior to submission of an application for final plat approval.
4. That sewer, drainage, and utility easements be dedicated as required by the Town Manager.
5. That a detailed drainage plan and grading plan be submitted to and be approved by the Town Manager prior to issuance of a grading permit, building permit, start of construction of improvements, and prior to submission of an application for final plat approval.
6. That all lots connecting onto the sanitary sewer system be serviced by gravity flow. Individual pumps for each dwelling unit shall not be permitted.
7. That the western half of Weaver Dairy Road be widened along the entire frontage of the subject development with the road to meet the design requirements for a 53 foot wide street cross-section. Such improvements shall include curb and gutter. The detailed design shall be approved by the Town Manager prior to start of construction.

This the 11th day of May, 1981.

Councilmember Straley questioned the access to the two lots lot served by the cul-de-sac. Mr. Jennings answered that there was an "off-the-street" access. Councilmember Straley asked for further clarification. Mr. Jennings explained that other alternatives were not suitable, in light of future expansion possibilities for Weaver Dairy Road.

Councilmember Smith asked if other developers had been required to widen Weaver Dairy Road. Mr. Jennings stated that the only other such existing situation in this area was that of Timberlyne development and a requirement had been made that they widen the road on their property.

There was no further discussion.

THE MOTION WAS CARRIED UNANIMOUSLY.

An Ordinance to Amend Article III of Chapter 11 of the Code of Ordinances

Mr. Tony Lathrop was given the floor to speak to the proposed noise ordinance. Mr. Lathrop requested that Mr. Bill Maynard and Mr. Bianci also be permitted to speak regarding this ordinance.

Mr. Lathrop expressed appreciation for the amount of time and concern that had been incorporated into the current drafting of the proposed noise ordinance. He felt that under this new proposal as few people as possible would be "bothered" by the noise ordinance. He promised that sincere efforts would be put forth by other campus groups to make this proposal work. Mr. Lathrop said that all campus groups involved looked forward to working closely with Chief Stone and other officers in Chapel Hill, stating that they had set aside money to buy eight of the decimeters for campus use. He supported a possible reduction of penalties on permit violations from a 12-month use restriction to a 6-month use restriction, since there was such a large student turnover.

Mr. Behrends, a citizen, had been asked by other citizens to speak and to make it clear to the Council that the opinions of the students represented previously were by no means representative of the opinions of the entire student body. He further assured the Council that some of the students were interested in something besides partying. Some of the Townspeople also felt that they had not been represented in a formal way, but that there had been formal student input. He expressed concern that the previously submitted noise ordinance was being "watered down" in order to compromise with student wishes. He referred specifically to the penalty for permit violations. He was anxious that this ordinance be enforceable as he felt that such attempts in the past had not been successfully enforced.

Another citizen, Ms. Margaret Pfaff, expressed the opinion that people have the right not to have to listen to other persons' noises. She felt this to be true of all hours, not just between "X" hours. She encouraged cooperation to make this ordinance effective.

Mr. Dixon, a third citizen, defended what he thought to be self-evident, that this ordinance seemed to make bad-neighborliness legal to an extraordinarily high degree. He felt that certain proposed modifications would weaken the ordinance further, making bad neighbors worse neighbors. He stated that no one had the right to achieve his or her own pleasure at the expense of someone else. He requested that the proposed ordinance not be further weakened.

Mr. Bianci, of the Residents Hall Association, assured the Council of the support of the Residents Hall Association, and reassured the Council that students do, indeed, study at times.

Mr. Bill Maynard, from the Inter-Fraternity Council (IFC), remarked about the number of band parties which previously existed on the same evening, stating that, in the future, this would no longer exist, and if they did exist, one would be on the opposite side of the campus from the other, so as not to concentrate noise problems. He agreed with some of the objections that some of the citizens had voiced in this meeting, feeling that these objections had been addressed in the new proposal.

Councilmember Kawalec thought that the proposed Noise Ordinance was better than a further weakened ordinance, and stated that every incident that could possibly occur could not possibly be foreseen or dealt with. Councilmember Kawalec noted a few corrections in the proposed ordinance which had been presented to the Council two weeks prior to this meeting and she urged its adoption.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER SMITH, THAT THE FOLLOWING ORDINANCE BE ADOPTED:

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AN ORDINANCE TO REVISE AND REWRITE PORTIONS OF CHAPTER 11, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF CHAPEL HILL (81-O-33A)

BE IT ORDAINED by the Council of the Town of Chapel Hill Article III, Chapter 11 of the Code of Ordinances is hereby amended to read as follows:

SECTION I

ARTICLE III

NOISE

SECTION 11-37: Article Designated Noise Control Code.

This Article shall be known as the "Noise Control Code for the Town of Chapel Hill."

SECTION 11-38: Terminology and Standards.

I. Terminology

All terminology used in this Article not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- A. "A-Weighted Sound Level": The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).
- B. "Decibel (dB)": A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.
- C. "Sound Pressure Level": Twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter.
- D. "Sound Level Meter": An instrument which includes a microphone, amplifier RMS detector, integrator or time averager, output meter, and weighing network used to measure sound pressure levels.
- E. "Sound Level": The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI Sl.4-1971, or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.
- F. "Emergency Work": Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.
- G. "Outdoor Amplified Sound": Any sound using sound amplifying equipment whose source is outside or whose source is inside and the sound propagates to the outside through open doors or windows or other openings in the building.
- H. "Sound Amplifying Equipment": Any device for the amplification of the human voice, music or any other sound, including juke boxes, stereos and radios.

II. Standards

Standards, instrumentation, personnel, measurement procedures, and reporting procedures to be used in the measurement of sound as provided for in this Section shall be those as specified herein.

- A. Sound level measurement shall be made with a sound level meter using the "A" weighting scale, set on "slow" response.
- B. Sound level meters shall be of at least Type Three meeting American National Standard Institute Incorporated (ANSI) Sl.4-1971 requirements. The entire sound measurement system shall be serviced and calibrated and operated as recommended by the manufacturer. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level measurement.

- C. The Town Manager or his designee shall issue a general order adopting standards and procedures for sound level measurements and enforcement.

SECTION 11-39: Maximum Permitted Sound Levels.

- A. The use of sound amplifying equipment is limited to the conditions specified in this Section.
- B. No person or group of persons shall operate or cause to be operated by any source of sound in such a manner as to create a sound level which at its peaks exceeds the limits set forth hereinbelow when measured beyond the property line of the property from which the sound originates.
- C. No live musical group or individual using sound amplifying equipment may operate out of doors at any time other than during the hours specified under Section 11-39 and only if the business manager or an authorized agent of that business manager has been granted a permit. This permit may be secured after it is signed by an authorized agent of the musical group and by a representative of the individual organization or group retaining the services of the musical group and on whose premises the amplifying equipment is to be used.
- D. The following are established as maximum sound levels:
 1. Nighttime sound levels (after 11:00 P.M. until 8:00 A.M.) may not exceed 50 dB(A) except as noted in "3" below.
 2. Daytime/evening sound levels (between 8:00 A.M. and 11:00 P.M.) may not exceed 60 dB(A) except as noted in "3" below.
 3. Daytime/evening sound levels in excess of 60 dB(A) will be permitted as follows:

	<u>Without a Permit</u>	<u>With a Permit</u>
Thursday evening (5:00 P.M. - 11:00 P.M. Thursday)	70 dB(A)	85 dB(A)
Friday evening (5:00 P.M. - 1:00 A.M. Saturday)	70 dB(A)	85 dB(A)
Saturday (10:00 A.M. - 1:00 A.M. Sunday)	70 dB(A)	85 dB(A)

SECTION 11-40: Exceptions.

The following are exempt from the provisions of this Article:

1. Sound emanating from regularly scheduled outdoor athletic events on the campus of the University of North Carolina.
2. Construction operations from 7:00 A.M. to 9:00 P.M. on weekdays and 8:00 A.M. to 9:00 P.M. on weekends for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accord with the manufacturer's specifications and with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.
3. Noises of safety signals, warning devices, emergency pressure relief valves and the bells of the Bell Tower, and the bell on South Building on the UNC Campus.
4. Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
5. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the Town in accordance with the above. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained above.
6. Unamplified noises at street activity (such as fairs or parades) where the participants have a permit for use of the streets.

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7. An official all-campus University of North Carolina musical event, held in Kenan Stadium, of no more than one weekend in duration, occurring no oftener than once per year.
 8. All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft).
 9. All noises coming from motor vehicles properly equipped with the manufacturer's standard mufflers and noise reducing equipment.
 10. Noise from lawful fire works and noise makers on holidays.
 11. Lawn mowers and agricultural equipment used between daylight hours 7:00 A.M. and 9:00 P.M. when operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition.

SECTION 11-41: Permit to Exceed Limits.

- A. Who May Apply. A person or group of persons may produce or cause to be produced sound in excess of 60 dB(A) only during the hours specified in Section 11-39, and may exceed 70 dB(A) only if permit has been obtained to exceed for the time and place of the activity has been obtained.
- B. Application for Permit. Any person or group of persons desiring a permit shall apply as provided herein, and shall provide all information required.
- C. Timeliness of Application. Any person requesting a permit to exceed the limits must notify the Town Manager or his designee at least two (2) working days prior to the date of the activity for which the permit is requested.
- D. Action by Town Manager. The Town Manager or his designee will act upon all requests for (a) a permit to exceed the limits specified during the hours specified; (b) a permit on behalf of the business manager or authorized agent of any musical group that wishes to operate out of doors during the hours specified.
- E. Consideration by Town Manager. In considering and acting on all requests for permits pursuant to this Article, the Manager shall consider, but shall not be limited to the following, in issuing or denying such permit: the timeliness of the application; the nature of the requested activity; previous experience with the applicant; the nature of the event; the time of the event; other activities in the vicinity of the location proposed; the frequency of the application; the cultural or social benefit of the proposed activity; the effect of the activity on the residential areas of the Town; previous violations, if any, of the applicant.
- F. Requirements by Town Manager. The Town Manager or his designee:
 - (a) Will require the payment of a \$5.00 administrative fee to the Town.
 - (b) May require that no sound speakers shall be set up more than 10-feet off the ground.
 - (c) May require that the permit holders change the set-up of loud speakers or the sound instruments so as to minimize the disturbance of others.
- G. Cooperation with Police. Permit holders agree to cooperate with the Police Department in enforcing the Noise Control Code by having the signers of the permit available at the site of the event during the entire time for which a permit has been issued and capable of assisting the police in enforcing the Noise Control Code.

SECTION 11-42: Violation.

Violation of any of the standards set forth in this Article shall be unlawful, and punishable under the Code as provided therein, and is cause for immediate revocation of a permit to exceed limits. The Town Manager or his designee will deny a request to exceed the limits or to operate sound amplifying equipment to any individual, group, organization, or musical group who has held a permit to exceed noise levels within the previous 12 months, and has violated the conditions of said permit, or who has violated any condition of this Article within the previous 12 months, with or without a permit. All permit issues pursuant to this Article shall contain a statement of the penalties for violations set forth herein.

SECTION II

All Ordinances and portions of Ordinances in conflict herewith are hereby repealed.

SECTION III

This Ordinance shall be effective from and after the first day of July 1981.

This the 11th day of May, 1981.

COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER BOULTON, THE ADOPTION OF A SUBSTITUTE ORDINANCE AS FOLLOWS:

AN ORDINANCE TO REVISE AND REWRITE PORTIONS OF CHAPTER II, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF CHAPEL HILL (81-O-33B)

BE IT ORDAINED by the Council of the Town of Chapel Hill Article III, Chapter II of the Code of Ordinances is hereby amended to read as follows:

SECTION I

ARTICLE III

NOISE

SECTION 11-37: Article Designated Noise Control Code.

This Article shall be known as the "Noise Control Code for the Town of Chapel Hill."

SECTION 11-38: Terminology and Standards.

I. Terminology

All terminology used in this Article not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- A. "A-Weighted Sound Level": The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).
- B. "Decibel (dB)": A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.
- C. "Sound Pressure Level": Twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter.
- D. "Sound Level Meter": An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighing network used to measure sound pressure levels.
- E. "Sound Level": The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI Sl.4-1971, or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.
- F. "Emergency Work": Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.
- G. "Outdoor Amplified Sound": Any sound using sound amplifying equipment whose source is outside or whose source is inside and the sound propagates to the outside through open doors or windows or other openings in the building.
- H. "Sound Amplifying Equipment": Any device for the amplification of the human voice, music or any other sound, including juke boxes, stereos and radios.

II. Standards

Standards, instrumentation, personnel, measurement procedures, and reporting procedures to be used in the measurement of sound as provided for in this Section shall be those as specified herein.

- A. Sound level measurement shall be made with a sound level meter using the "A" weighting scale, set on "slow" response.
- B. Sound level meters shall be of at least Type Three meeting American National Standard Institute Incorporated (ANSI) S1.4-1971 requirements. The entire sound measurement system shall be serviced and calibrated and operated as recommended by the manufacturer. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level measurement.
- C. The Town Manager or his designee shall issue a general order adopting standards and procedures for sound level measurements and enforcement consistent with this Article.

SECTION 11-39: Maximum Permitted Sound Levels.

- A. The use of sound amplifying equipment is limited to the conditions specified in this Section.
- B. No person or group of persons shall operate or cause to be operated by any source of sound in such a manner as to create a sound level which at its peaks exceeds the limits set forth hereinbelow when measured beyond the property line of the property from which the sound originates.
- C. A live musical group or individual using sound amplifying equipment may operate out of doors only if the business manager or an authorized agent of that business manager has been granted a permit. This permit may be secured after it is signed by an authorized agent of the musical group and by a representative of the individual organization or group retaining the services of the musical group and on whose premises the amplifying equipment is to be used.
- D. The following are established as maximum sound levels:
 1. Nighttime sound levels (after 11:00 P.M. until 8:00 A.M.) may not exceed 50 dB(A) except as noted in "3" below.
 2. Daytime/evening sound levels (between 8:00 A.M. and 11:00 P.M.) may not exceed 60 dB(A) except as noted in "3" below.
 3. Daytime/evening sound levels in excess of 60 dB(A) will be permitted as follows:

	<u>Without a Permit</u>	<u>With a Permit</u>
Thursday evening (5:00 P.M. - 11:00 P.M. Thursday)	70 dB(A)	85 dB(A)
Friday evening (5:00 P.M. - 1:00 A.M. Saturday)	70 dB(A)	85 dB(A)
Saturday (10:00 A.M. - 1:00 A.M. Sunday)	70 dB(A)	85 dB(A)

SECTION 11-40: Exceptions.

The following are exempt from the provisions of this Article:

1. Sound emanating from regularly scheduled outdoor athletic events on the campus of the University of North Carolina.
2. Construction operations from 7:00 A.M. to 9:00 P.M. on weekdays and 8:00 A.M. to 9:00 P.M. on weekends for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accord with the manufacturer's specifications and with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.

- 3. Noises of safety signals, warning devices, emergency pressure relief valves, all church bells, and the bells of the Bell Tower, and the bell on South Building on the UNC Campus.
- 4. Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
- 5. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the Town in accordance with the above. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained above.
- 6. Unamplified noises at street activity (such as fairs or parades) where the participants have a permit for use of the streets.
- 7. An official all-campus University of North Carolina musical event, held in Kenan Stadium, of no more than one weekend in duration, occurring no oftener than once per year.
- 8. All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft).
- 9. All noises coming from motor vehicles properly equipped with the manufacturer's standard mufflers and noise reducing equipment.
- 10. Noise from lawful fire works and noise makers on holidays.
- 11. Lawn mowers and agricultural equipment used between daylight hours 7:00 A.M. and 9:00 P.M. when operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition.

SECTION 11-41: Permit to Exceed Limits.

- A. Who May Apply. A person or group of persons may produce or cause to be produced sound in excess of 60 dB(A) only during the hours specified in Section 11-39, and may exceed 70 dB(A) only if permit has been obtained to exceed for the time and place of the activity has been obtained.
- B. Application for Permit. Any person or group of persons desiring a permit shall apply as provided herein, and shall provide all information required.
- C. Timeliness of Application. The business manager or authorized agent of any person or group of persons desiring a permit for a live musical group or individual to perform out of doors using sound amplifying equipment must apply at least forty-eight (48) hours prior to the activity for which the permit is requested. A person applying for a permit to exceed 70 dB(A) during the hours stated in Section 11-39 D(3) may apply jointly with the business manager or authorized agent of the aforementioned live musical group or individual if live music is to be provided.

A person desiring a permit to exceed 70 dB(A) during this stated time period where live music is not to be provided may apply at a time less than forty-eight hours prior to the event. The granting of permission to exceed 70 dB(A) under these circumstances will require the payment of a larger administration fee as stated in (F) below.

- D. Action by Town Manager. The Town Manager or his designee will act upon all requests for (a) a permit to exceed the limits specified during the hours specified; (b) a permit on behalf of the business manager or authorized agent of any musical group that wishes to operate out of doors during the hours specified.
- E. Consideration by Town Manager. In considering and acting on all requests for permits pursuant to this Article, the Manager shall consider, but shall not be limited to the following, in issuing or denying such permit: the timeliness of the application; the nature of the requested activity; previous experience with the applicant; the nature of the event; the time of the event; other activities in the vicinity of the location proposed; the frequency of the application; the cultural or social benefit of the proposed activity; the effect of the activity on the residential areas of the Town; previous violations, if any, of the applicant.

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F. Requirements by Town Manager.

- (a) A permit granted 48 hours in advance of an event will require the payment of a \$5.00 administration fee. If a permit to exceed 70 dB(A) is requested and granted later than 48 hours prior to the event an administration fee of \$25.00 will be required.
- (b) The Town Manager or his designee may require that no sound speakers shall be set up more than 10 feet off the ground.
- (c) The Town Manager or his designee may require that the permit holders change the set up of loud speakers or the sound instruments so as to minimize the disturbance to others resulting from the position or orientation of the speakers or from atmospherically or geographically caused dispersal of sound beyond the property lines.

G. Cooperation with Police. Permit holders agree to cooperate with the Police Department in enforcing the Noise Control Code by having the signers of the permit available at the site of the event during the entire time for which a permit has been issued and capable of assisting the police in enforcing the Noise Control Code. Failure of such a signer of a permit to be present or to assist the Police Department in complying with this ordinance will be cause for revocation of said permit.

SECTION 11-42: Violation.

Violation of any of the standards set forth in this Article shall be unlawful, and punishable under the Code as provided therein, and is cause for immediate revocation of a permit to exceed limits. The Town Manager or his designee will deny a request to exceed the limits or to operate sound amplifying equipment to any individual, group, organization, or musical group who has held a permit to exceed noise levels within the previous months, and has violated the conditions of said permit, or who has violated any condition of this Article within the previous 6 months, with or without a permit. All permit issues pursuant to this Article shall contain a statement of the penalties for violations set forth herein.

SECTION II

All Ordinances and portions of Ordinances in conflict herewith are hereby repealed.

SECTION III

This Ordinance shall be effective from and after the first day of July 1981.

This the 11th day of May, 1981.

Councilmember Straley stated that he was proposing a series of amendments to the proposed ordinance. He felt that each of these amendments to the original ordinance had been drafted with deliberation with both students and Townspeople and UNC faculty. He further wished to defend each of these amendments separately:

Regarding one amendment, Councilmember Straley stated that Council should not speak to something that they could not enforce, specifically, that amplified music from the Pit at noontime not be permitted, even though it was not bothering anyone. He further stated that anyone wishing to obtain a permit for use of amplifying equipment should be required to obtain such a permit 48 hours prior to the activity for which the permit was requested. This application could be combined with another permit to exceed 70 dB. Any spontaneous activity would require a larger fee (\$25.00 for a special permit rather than \$5.00 for a regular permit).

Permit holders would also be expected, according to the ordinance, to change the location of speakers when requested to do so by, presumably, police officers, whether or not the dB level was being exceeded.

The language of the ordinance also proposed that the permit holder must be present to assist the Police Department with enforcement of the ordinance and if any such permit holder was not present, he would be guilty of violation of the ordinance and would be subject to a penalty, that being revocation of the permit.

Regarding the 6 months penalty, Councilmember Straley stated that the originally proposed 12 months penalty was entirely too long for a constantly changing student body and for such young persons to have to wait in order to receive a reenactment of their permit use. He concluded that 6 months should be the required penalty, not 12 months.

Councilmember Boulton stated that the mechanics of actual enforcement of the Noise Ordinance could be done by students' willingness to monitor their own noise. She further stated that citizens should not be called upon to locate the source of the noise, but that Council should have some kind of knowledge of the procedure that police officers would use in the future in locating noise sources.

Mayor Nassif felt that a stiffer penalty for Noise Ordinance violation was necessary to assure compliance with the ordinance. Nothing had been successful in the past, except that more noise had occurred, this being ample evidence that past attempts at noise reduction enforcement had been unsuccessful.

He further stated that a penalty of only 6 months would cause a recurring problem of enforcement not only for the police officers, but also for the Administration. He felt that other compromises had already been made (raising the dB level, extending the allowable time for such noise levels, and increasing the number of weekdays that such noise could occur.

Councilmember Straley argued that the dB levels had not been raised. This ordinance was an improvement over previous attempts.

Councilmember Boulton commented the 6 months penalty would be sufficient especially in light of the fact the Manager had the discretion as to whether another permit should be issued at a later time.

Councilmember Smith wanted the penalty to remain at 12 months to make the ordinance effective. The student leaders at the meeting tonight would not always be on campus when the parties were occurring to help enforce the ordinance.

THE MOTION TO SUBSTITUTE FAILED BY A VOTE OF FOUR TO FIVE WITH COUNCILMEMBERS BOULTON, STRALEY, THORPE, AND WALLACE SUPPORTING AND COUNCILMEMBERS HERZENBERG, HOWES, KAWALEC, SMITH, AND MAYOR NASSIF OPPOSING.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER WALLACE, TO AMEND THE ORDINANCE BY CHANGING THE PENALTY FROM 12 MONTHS TO 6 MONTHS.

THE MOTION TO AMEND WAS CARRIED BY A VOTE OF SIX TO THREE WITH COUNCILMEMBERS BOULTON, HERZENBERG, HOWES, STRALEY, THORPE, AND WALLACE SUPPORTING AND COUNCILMEMBERS KAWALEC, SMITH AND MAYOR NASSIF OPPOSING.

THE MOTION TO ADOPT THE FOLLOWING ORDINANCE WAS CARRIED BY A VOTE OF FIVE TO FOUR WITH COUNCILMEMBERS HERZENBERG, HOWES, KAWALEC, STRALEY, AND WALLACE SUPPORTING AND COUNCILMEMBERS BOULTON, SMITH, THORPE, AND MAYOR NASSIF OPPOSING.

AN ORDINANCE TO REVISE AND REWRITE PORTIONS OF CHAPTER 11, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF CHAPEL HILL (81-O-33A)

BE IT ORDAINED by the Council of the Town of Chapel Hill Article III, Chapter 11 of the Code of Ordinances is hereby amended to read as follows:

SECTION I

ARTICLE III

NOISE

SECTION 11-37: Article Designated Noise Control Code.

This Article shall be known as the "Noise Control Code for the Town of Chapel Hill."

SECTION 11-38: Terminology and Standards.

I. Terminology

All terminology used in this Article not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- A. "A-Weighted Sound Level": The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).
- B. "Decibel (dB)": A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.
- C. "Sound Pressure Level": Twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter.
- D. "Sound Level Meter": An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighing network used to measure sound pressure levels.
- E. "Sound Level": The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI Sl.4-1971, or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.
- F. "Emergency Work": Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.
- G. "Outdoor Amplified Sound": Any sound using sound amplifying equipment whose source is outside or whose source is inside and the sound propagates to the outside through open doors or windows or other openings in the building.
- H. "Sound Amplifying Equipment": Any device for the amplification of the human voice, music or any other sound, including juke boxes, stereos and radios.

II. Standards

Standards, instrumentation, personnel, measurement procedures, and reporting procedures to be used in the measurement of sound as provided for in this Section shall be those as specified herein.

- A. Sound level measurement shall be made with a sound level meter using the "A" weighting scale, set on "slow" response.
- B. Sound level meters shall be of at least Type Three meeting American National Standard Institute Incorporated (ANSI) Sl.4-1971 requirements. The entire sound measurement system shall be serviced and calibrated and operated as recommended by the manufacturer. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level measurement.
- C. The Town Manager or his designee shall issue a general order adopting standards and procedures for sound level measurements and enforcement.

SECTION 11-39: Maximum Permitted Sound Levels.

- A. The use of sound amplifying equipment is limited to the conditions specified in this Section.
- B. No person or group of persons shall operate or cause to be operated by any source of sound in such a manner as to create a sound level which at its peaks exceeds the limits set forth hereinbelow when measured beyond the property line of the property from which the sound originates.

C. No live musical group or individual using sound amplifying equipment may operate out of doors at any time other than during the hours specified under Section 11-39 and only if the business manager or an authorized agent of that business manager has been granted a permit. This permit may be secured after it is signed by an authorized agent of the musical group and by a representative of the individual organization or group retaining the services of the musical group and on whose premises the amplifying equipment is to be used.

D. The following are established as maximum sound levels:

1. Nighttime sound levels (after 11:00 P.M. until 8:00 A.M.) may not exceed 50 dB(A) except as noted in "3" below.
2. Daytime/evening sound levels (between 8:00 A.M. and 11:00 P.M.) may not exceed 60 dB(A) except as noted in "3" below.
3. Daytime/evening sound levels in excess of 60 dB(A) will be permitted as follows:

	<u>Without a Permit</u>	<u>With a Permit</u>
Thursday evening (5:00 P.M. - 11:00 P.M. Thursday)	70 dB(A)	85 dB(A)
Friday evening (5:00 P.M. - 1:00 A.M. Saturday)	70 dB(A)	85 dB(A)
Saturday (10:00 A.M. - 1:00 A.M. Sunday)	70 dB(A)	85 dB(A)

SECTION 11-40: Exceptions.

The following are exempt from the provisions of this Article:

1. Sound emanating from regularly scheduled outdoor athletic events on the campus of the University of North Carolina.
2. Construction operations from 7:00 A.M. to 9:00 P.M. on weekdays and 8:00 A.M. to 9:00 P.M. on weekends for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accord with the manufacturer's specifications and with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.
3. Noises of safety signals, warning devices, emergency pressure relief valves and the bells of the Bell Tower, and the bell on South Building on the UNC Campus.
4. Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
5. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the Town in accordance with the above. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained above.
6. Unamplified noises at street activity (such as fairs or parades) where the participants have a permit for use of the streets.
7. An official all-campus University of North Carolina musical event, held in Kenan Stadium, of no more than one weekend in duration, occurring no oftener than once per year.
8. All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft).
9. All noises coming from motor vehicles properly equipped with the manufacturer's standard mufflers and noise reducing equipment.
10. Noise from lawful fire works and noise makers on holidays.
11. Lawn mowers and agricultural equipment used between daylight hours 7:00 A.M. and 9:00 P.M. when operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition.

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SECTION 11-41: Permit to Exceed Limits.

- A. Who May Apply. A person or group of persons may produce or cause to be produced sound in excess of 60 dB(A) only during the hours specified in Section 11-39, and may exceed 70 dB(A) only if permit has been obtained to exceed for the time and place of the activity has been obtained.
- B. Application for Permit. Any person or group of persons desiring a permit shall apply as provided herein, and shall provide all information required.
- C. Timeliness of Application. Any person requesting a permit to exceed the limits must notify the Town Manager or his designee at least two (2) working days prior to the date of the activity for which the permit is requested.
- D. Action by Town Manager. The Town Manager or his designee will act upon all requests for (a) a permit to exceed the limits specified during the hours specified; (b) a permit on behalf of the business manager or authorized agent of any musical group that wishes to operate out of doors during the hours specified.
- E. Consideration by Town Manager. In considering and acting on all requests for permits pursuant to this Article, the Manager shall consider, but shall not be limited to the following, in issuing or denying such permit: the timeliness of the application; the nature of the requested activity; previous experience with the applicant; the nature of the event; the time of the event; other activities in the vicinity of the location proposed; the frequency of the application; the cultural or social benefit of the proposed activity; the effect of the activity on the residential areas of the Town; previous violations, if any, of the applicant.
- F. Requirements by Town Manager. The Town Manager or his designee:
- (a) Will require the payment of a \$5.00 administrative fee to the Town.
 - (b) May require that no sound speakers shall be set up more than 10-feet off the ground.
 - (c) May require that the permit holders change the set-up of loud speakers or the sound instruments so as to minimize the disturbance of others.
- G. Cooperation with Police. Permit holders agree to cooperate with the Police Department in enforcing the Noise Control Code by having the signers of the permit available at the site of the event during the entire time for which a permit has been issued and capable of assisting the police in enforcing the Noise Control Code.

SECTION 11-42: Violation.

Violation of any of the standards set forth in this Article shall be unlawful, and punishable under the Code as provided therein, and is cause for immediate revocation of a permit to exceed limits. The Town Manager or his designee will deny a request to exceed the limits or to operate sound amplifying equipment to any individual, group, organization, or musical group who has held a permit to exceed noise levels within the previous 6 months, and has violated the conditions of said permit, or who has violated any condition of this Article within the previous 6 months, with or without a permit. All permit issues pursuant to this Article shall contain a statement of the penalties for violations set forth herein.

SECTION II

All Ordinances and portions of Ordinances in conflict herewith are hereby repealed.

SECTION III

This Ordinance shall be effective from and after the first day of July 1981.

This the 11th day of May, 1981.

As the ordinance had not received a 2/3 vote on first reading, it would be considered at the next meeting as well.

Resolution Confirming the Sale of Bonds for Fire Station North

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER THORPE, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION CONFIRMING SALE OF BONDS (FOR FIRE STATION NORTH) (81-R-71)

WHEREAS, the Local Government Commission of North Carolina has informed the Council that it has sold in the manner prescribed by law the Town's \$450,000 Fire Fighting Facilities Bonds, dated May 1, 1981, and that the contract of sale contemplates that the bonds shall bear interest as hereinafter provided;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill, as follows:

- 1. The Bonds hereinbefore described shall bear interest as follows:
 Bonds payable in each of the years 1982 to 1988, inclusive, 8.60% per annum;
 Bonds payable in the year 1989, 8.7% per annum; and
 Bonds payable in the year 1990, 8.90% per annum.

- 2. This resolution shall become effective upon its adoption.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Resolution Setting Public Hearings on the Manager's Recommended Annual Budget for 1981-82 and Capital Improvements Program for 1981-86

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION SETTING PUBLIC HEARINGS ON THE MANAGER'S RECOMMENDED BUDGET AND CAPITAL IMPROVEMENT PROGRAM (81-R-72)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby sets public hearings on the Manager's recommended budget for 1981-82 and Capital Improvement Program for 1981-86 for 7:30 P.M. on May 26, 1981, and 7:30 P.M. on June 15, 1981, in the Meeting Room of the Municipal Building, 306 North Columbia Street.

This the 11th day of May 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Resolution Designating First Citizens Bank & Trust Company as Depository for Town Funds

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION DESIGNATING FIRST CITIZENS BANK AND TRUST COMPANY AS DEPOSITORY OF TOWN FUNDS FOR THE PERIOD FROM JULY 1, 1981 THROUGH JUNE 30, 1983 (81-R-73)

BE IT RESOLVED by the Council of the Town of Chapel Hill that First-Citizens Bank & Trust Company (Bank) be and it hereby is designated a depository of the Town with authority to accept at any time and from time to time for the credit of the Town checking, savings, and all other types of deposits by whomsoever made of funds in whatever form and in whatever manner endorsed, and said Bank be and it hereby is authorized and directed to pay or otherwise honor or apply without inquiry and without regard to the application of the proceeds thereof, checks drafts, notes, bills of exchange, acceptances, undertakings, and other instruments or orders for the payment, transfer or withdrawal of money for whatever purpose and to whomsoever payable including those drawn to the individual order of a signer whether tendered for cashing, in payment of individual obligations of such signer, or for deposit to his individual account or any other use or disposition and further said Bank is given authority to honor the endorsement of checks, drafts, notes or all other types of instruments payable or belonging to the Town, whether such endorsement be made manually, by endorsement stamp or otherwise and whether for deposit, for collection or otherwise and to receive cash or part cash for same or to make "less cash" deposits, receiving cash for part or all of the amount of such checks and depositing the balance, if any, when such instruments are signed, accepted or endorsed whether by stamp, manual or facsimile signatures by any of the following indicated officers or persons from time to time holding the following indicated officers of the Town and the Town assumes full responsibility for any and all payments made by Bank in reliance upon the manual stamp or facsimile signatures of said officers and agrees to indemnify and hold harmless Bank against any and all loss, cost, damage or expense suffered or incurred by said Bank arising out of the misuse or unlawful or unauthorized use by any person of such stamp or facsimile signature or signatures, the current officers being shown hereinafter.

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Town Manager

Finance Director

and

Assistant Town Manager

Revenue Collector

BE IT FURTHER RESOLVED that any of the following indicated officers as is or persons from time to time holding the following officers of the Town and they hereby are authorized for the account of the Town to apply for and receive letters of credit and from time to time to increase the amount, extend the date of expiration or amend the terms of any outstanding letters of credit; to execute and deliver all necessary and proper documents in connection with any transaction with said Bank; to execute and deliver indemnity agreements, acceptance agreements, guarantees for missing documents or other guaranties, acceptances, trust receipts and other forms of security agreements; to order payments against receipt of shipping and other documents; to purchase certificates of deposit, bonds and all other types of intangible personal property from Bank, to enter into any and all other types of transactions with Bank for which Bank is authorized to transact in its normal course of business and to contract with Bank for the rendition of any services offered by Bank:

Town Manager

Finance Director

and

Assistant Town Manager

Revenue Collector

BE IT FURTHER RESOLVED that the Town recognizes and agrees that maintenance and service charges pursuant to the rules and regulations of Bank, except as modified by the banking bid submitted by First Citizens Bank and Trust Company to the Town, may be charged and deducted from the Town's account and that Bank shall have the right of setoff as to any and all indebtedness and liability of Town to Bank however and whenever incurred or evidenced, whether direct or indirect, absolute or contingent due or to become due and said setoff authority may be exercised without prior notice and when charges or other deductions are made from said account, Bank shall not be liable for dishonoring items where the making of such a charge, setoff or other deduction results in there being insufficient funds in Town's account to honor such items; and

BE IT FURTHER RESOLVED that the Clerk of the Town shall certify to Bank the names of the presently duly elected and qualified officers of the Town and shall from time to time hereafter as changes in the personnel of said officers are made, immediately certify such changes to Bank, and said Bank shall be fully protected in relying on the certifications of the Clerk and shall be indemnified and saved harmless from any claims, demands, expenses, loss or damage resulting from or growing out of honoring the signature of any officer so certified or refusing to honor any signature not so certified and the Town shall be bound by Bank's honoring the signature of any corporate employee or agent as maker, endorser, drawer or in any other capacity unless bank receives written notice of any claim, dispute or difference with regard to said signature, endorsement or other transactions within the time prescribed by the Uniform Commercial Code or sixty (60) days, whichever is shorter, after the first statement, notice, or items showing the irregularity shall have been sent or made available to the Town. The Town shall not be relieved of the duty to examine and report or of the stated consequences thereof by reason of the fact that the statement, notice of any item or items were not sent or made available unless the Town notifies Bank of that fact within thirty (30) days of the date upon which the same are customarily so sent or made available and the Town shall be bound by the contents of such statements and items forwarded to the corporate address of the Town; and

BE IT FURTHER RESOLVED that the foregoing resolutions shall remain in full force and effect until written notice of their amendment or rescission has been received by Bank and that receipt of such notice shall not affect any action taken by Bank prior thereto; and

BE IT FURTHER RESOLVED that the foregoing authority shall not be above-identified or described officers or other representatives of the Town but shall extend to such additional or different individuals as are named as being so authorized in any letter, form or notice signed by any officer or other representative of the Town identified or described above in each category or who is allowed to make said transactions by the Town; and

BE IT FURTHER RESOLVED that all transactions by any of the officers, employees, or other representatives of the Town, in its name and for its account or within the authority herein given if said authority had been in effect prior to this meeting be and the same is hereby approved and ratified; and

BE IT FURTHER RESOLVED that the Clerk of the Town be, and hereby is authorized and directed to certify to First-Citizens Bank & Trust Company the foregoing resolution or resolutions and that the provisions thereof are in conformity with the charter and bylaws of the Town and that the foregoing resolutions and authority thereby conferred shall remain in full force and effect until the Town officially notifies Bank to the contrary in writing and Bank may conclusively presume that such resolves are in effect and that the persons identified from time to time as officers of the Town by certificate of the Clerk, have been duly elected or appointed and to and continue to hold such offices; and

BE IT FURTHER RESOLVED that all previous banking resolutions in conflict herewith relating to First-Citizens Bank & Trust Company heretofore approved by the Board of Directors be, and the same hereby are, superceded.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Resolution Regarding S.B.441

Consideration of the resolution was deferred until the next meeting.

Resolution Endorsing an Application by the Inter-Faith Council to HUD

Ms. Adelaide Walters reminded the Council of the need for low cost housing for the elderly and handicapped. She asked for the Council's support for the application to HUD. Councilmember Boulton inquired whether the Inter-Faith Council had chosen any site for the housing. Ms. Walters said they were considering at least three sites.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION ENDORSING AN APPLICATION BY THE INTER-FAITH COUNCIL TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (81-R-75)

WHEREAS, a community-wide need exists for the construction of affordable housing for low and moderate income persons; and

WHEREAS, the Town has established a goal to construct 24 units of low and moderate income housing for the elderly and handicapped persons in its 1979-1982 Housing Assistance Plan;

NOW THEREFORE BE IT RESOLVED that the Council of the Town of Chapel Hill supports the application of the Inter-Faith Council to build 24 units of housing under the Section 202 program; and endorses in principle the use of the Town's Community Development Small Cities land acquisition fund for a loan to assist the Inter-Faith Council with land-related costs, subject to verification of the need for such assistance and consistency with the Town's adopted Housing Assistance Plan, HUD certification that environmental standards have been met.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED BY UNANIMOUS VOTE WITH MAYOR NASSIF ABSTAINING BECAUSE OF A CONFLICT OF INTEREST.

Community Development

COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION CALLING A PUBLIC HEARING (APPLICATION FOR 1981-82 SMALL CITIES COMMUNITY DEVELOPMENT GRANT) (81-R-76)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby calls a public hearing at 7:30 p.m. on June 8, 1981 in the Meeting Room of the Chapel Hill Municipal Building, 306 North Columbia Street, to consider the application of the Town of Chapel Hill for a 1981-82 Community Development Small Cities Program grant in the amount of \$700,000.

This the 11th day of May, 1981.

Councilmember Smith asked that the Council be given information on the application as soon as possible. THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER THORPE, ADOPTION OF THE FOLLOWING RESOLUTION.

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A RESOLUTION APPROVING PRIVATE SALE OF CD LAND TO MR. AND MRS. LOUIS EDWARDS (81-R-77)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council, following a public hearing duly advertised as required by Chapter 346, Session Laws 1973, hereby finds that the sale of parcel number 93-I-2 to Mr. Louis Edwards (and wife Christine) for the sum of \$1,000 is "necessary in order to facilitate the relocation of persons displaced by a redevelopment project or other governmental action"; and that Mr. Edwards (and wife Christine) is the only available, qualified, and willing redeveloper for the contemplated use; and that the Council hereby approves the consideration of \$1,000.00 for the parcel as fair, actual value of the property as based on competent appraisal.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Ordinance to Annex by Petition Public Housing Development on Legion Road

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER THORPE, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE TO ANNEX BY PETITION (Public Housing Development on Legion Road) (81-O-35)

WHEREAS, a petition for annexation has been received by the Council of the Town of Chapel Hill, signed by 100% of the property owners covered by the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition; and

WHEREAS, a public hearing on the matter of this annexation was duly advertised and held by the Council on the 16th of March, 1981; and

WHEREAS, the Council finds that said petition for annexation meets the requirements of the North Carolina General Statutes and has concluded and hereby declares that the annexation of the area described herein is desirable for the orderly growth and development of the Town of Chapel Hill.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill:

SECTION I

That from and after midnight, June 30, 1981, the effective date of this annexation, the following territory shall be annexed and become part of the Town of Chapel Hill, and the corporate limits of the Town of Chapel Hill shall on said date be extended to include said territory more particularly described as follows:

All that certain tract of land, situate, lying and being in Chapel Hill Township, Orange County, State of North Carolina, being bound now or formerly on the North by the southern right-of-way of Legion Road, (SR1787, having a 60' right-of-way); on the East by Richard Bell; on the South by Colony Woods Subdivision and American Legion Post #6; on the West by J.E. Ammons, and more particularly described as follows:

Beginning at an iron pipe, said pipe being in the southern right-of-way of Legion Road (SR1787) and being the northwest corner of the Richard Bell property:

Thence S 28°15'00" E 1537.14 feet to an iron pipe in the northern boundary of Colony Woods Subdivision;

Thence along said boundary of Colony Woods Subdivision N 84°37'42" W 266.22 feet to an iron stake;

Thence N 57°53'11" W 417.38 feet to an iron pipe at the southeastern corner of the J.E. Ammons property;

Thence N 31°01'15" W 957.26 feet to an iron pipe in the southern Right-of-Way of Legion Road;

Thence N 51°30'50" E 207.53 feet to an iron pipe set in the Right-of-Way of Legion Road at the point of curvature of a simple curve with a radius of 2536.16 feet;

Thence along the arc of the simple curve 272.37 feet to an iron pipe, said pipe being the point or place of beginning and containing, 13.42 acres more or less; according to a survey made by Pridgen Consultants, Inc., on April 24, 1979.

SECTION II

That from and after the effective date of this annexation, the territory annexed and its citizens and properties will be subject to the debts, laws, ordinances, and regulations in force in the Town of Chapel Hill and shall be entitled to the same privileges and benefits as other parts of the Town.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED BY UNANIMOUS VOTE WITH MAYOR NASSIF ABSTAINING BECAUSE OF A CONFLICT OF INTEREST.

Transportation

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HOWES, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE TO AMEND CHAPTER 20 OF THE CODE OF ORDINANCES (81-O-36)

BE IT ORDAINED by the Council of the Town of Chapel Hill that:

SECTION I

The Council hereby amends Section 20-20 of the Code of Ordinances as follows:

Notwithstanding any of the above provisions, an operator's permit shall become invalid without action of the Council if the holder of the permit fails to provide taxi service in accordance with the franchise within the corporate limits of Chapel Hill for a period of one-hundred twenty (120) or more days.

SECTION II

This amendment shall take effect on July 1, 1981.

SECTION III

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 11th day of May, 1981.

Councilmember Straley asked how the administration would know when a company ceased to operate. Mr. Shipman responded the drivers must register with the police.

Councilmember Smith moved to amend the ordinance to become effective immediately. The amendment was accepted.

THE FOLLOWING ORDINANCE WAS ADOPTED BY UNANIMOUS VOTE.

AN ORDINANCE TO AMEND CHAPTER 20 OF THE CODE OF ORDINANCES (81-O-36)

BE IT ORDAINED by the Council of the Town of Chapel Hill that:

SECTION I

The Council hereby amends Section 20-20 of the Code of Ordinances as follows:

Notwithstanding any of the above provisions, an operator's permit shall become invalid without action of the Council if the holder of the permit fails to provide taxi service in accordance with the franchise within the corporate limits of Chapel Hill for a period of one-hundred twenty (120) or more days.

SECTION II

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 11th day of May, 1981.

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COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION REGARDING CONTINUATION OF FEDERAL ASSISTANCE FOR PUBLIC TRANSIT SERVICE (81-R-77.1)

WHEREAS, the Town of Chapel Hill has promoted efficiency and energy conservation in the development of an effective public transportation service, and

WHEREAS, the Federal Government has participated in the development of such service through both capital and operating assistance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that Council hereby requests the support of the North Carolina Congressional Delegation in

- Opposing the elimination of Section 18 Operating Assistance for Small Urban and Rural Areas.
- Opposing the elimination of Section 5 Operating Assistance for Urbanized Areas.
- Supporting the continuation of Section 5 assistance through the development of an alternative distribution formula based on service levels, which would provide for more efficient utilization of these funds.
- Supporting the distribution of Section 5 Operating Assistance to all Urbanized Areas identified in the 1980 Census.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Report on Parking Needs in Central Business District

Mr. Shipman had distributed the report. There were no questions.

Bids

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION ACCEPTING BIDS AND AWARDING OF CONTRACT FOR OFFICE AND COURT ROOM FURNISHINGS (81-R-78)

WHEREAS, the Town of Chapel Hill has solicited formal bids on April 19, 1981 and the following bids have been received:

BIDDERS AND BIDS

Item	Alfred Williams and Co.	Brame Office Products	Carolina Office Supply Co., Inc.	Contract Furnishings	J.P. Redington and Co.	Ossit Church Furniture Co.	Triangle Office Equipment, Inc.
<u>I. DESKS:</u>							
A. 1 Executive Desk	\$ 272.46	\$ 255.00	\$ 276.00	No Bid	No Bid	No Bid	\$ 255.40
B. 2 Secretarial Desks	600.78	<u>561.90</u>	610.00	No Bid	No Bid	No Bid	<u>534.70</u>
<u>II. CHAIRS</u>							
A. 1 Executive Swivel Chair	No Bid	No Bid	204.00	No Bid	No Bid	No Bid	182.00
B. 6 Executive Swivel Chairs	1,450.08	No Bid	1,464.00	1,436.52	No Bid	No Bid	<u>1,139.70</u>
C. 12 Jury-Base Executive Swivel Chairs	3,345.36	No Bid	3,444.00	3,059.40	No Bid	No Bid	<u>2,748.00</u>
D. 2 High-Backed Executive Swivel Chairs	550.62	No Bid	558.00	539.90	No Bid	No Bid	465.10
E. 1 Arm Chair	177.84	No Bid	97.00	181.46	No Bid	No Bid	150.50
F. 1 Steno Chair	128.82	No Bid	97.00	136.96	No Bid	No Bid	<u>115.75</u>
G. 2 Steno Chairs	No Bid	No Bid	194.00	No Bid	No Bid	No Bid	<u>355.00</u>
H. 38 Stacking Chairs	<u>1,053.36</u>	<u>1,316.70</u>	<u>1,292.00</u>	No Bid	1,310.24	No Bid	<u>1,071.60</u>
<u>III. BOOKCASES, TABLES AND METAL SHELVING</u>							
A. 4 6-Tier Bookcases	672.12	628.00	680.00	No Bid	No Bid	No Bid	690.60
B. 1 Conference Table	914.85	<u>857.85</u>	790.00	No Bid	No Bid	No Bid	763.90
C. 4 Conference Tables	1,028.28	961.96	944.00	No Bid	No Bid	No Bid	956.20
D. 1 Work Table	176.13	164.70	<u>178.00</u>	No Bid	No Bid	No Bid	184.15
E. 1 Set Metal Shelving	No Bid	<u>158.55</u>	<u>117.50</u>	No Bid	No Bid	No Bid	158.55
<u>IV. WOOD PEWS</u>							
A. 13 Pews Fully Installed	No Bid	No Bid	No Bid	No Bid	6,843.20	5,391.00	No Bid

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill, that the Town accepts the bid of Alfred Williams and Co. for the underlined items in the amount of \$1,053.36, the bid of Brame Office Products for the underlined items in the amount of \$1,047.70, the bid of Carolina Office Supply Co., Inc. for the underlined items in the amount of \$1,061.50, the bid of Winebarger Church Furniture for the underlined items in the amount of \$5,158.50, and the bid of Triangle Office Equipment, Inc. for the underlined items in the amount of \$6,454.65.

This the 11th day of May 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER THORPE MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING RESOLUTION.

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A RESOLUTION ACCEPTING BIDS AND AWARDING OF CONTRACT FOR ONE (1) CRAWLER TRACTOR WITH BLADE AND RIPPER (81-R-79)

WHEREAS, the Town of Chapel Hill has solicited formal bids on April 13, 1981 and the following bids have been received:

<u>BIDDERS AND BIDS</u>					
<u>ITEM</u>	<u>E.F. Craven Co., Greensboro, N.C.</u>	<u>Gregory Poole Equipment Co., Raleigh, N.C.</u>	<u>L.B. Smith, Inc., Raleigh, N.C.</u>	<u>Mitchell Distributing Co., Raleigh, N.C.</u>	<u>N.C. Equipment Co., Cary, N.C.</u>
<u>Main Proposal</u>					
<u>Alternate I</u>					
Tractor	\$122,573	\$147,170	\$131,987	\$178,706	\$141,000
Less Trade-In Allowance	<u>26,533</u>	<u>22,000</u>	<u>16,987</u>	<u>57,432</u>	<u>47,500</u>
TOTAL BID	\$ 96,040	\$125,170	\$115,000	\$121,274	\$ 93,500
<u>Alternate II</u>					
Tractor	\$122,573	\$147,170	\$131,987	\$137,774	\$129,000
<u>Additional Proposals</u>					
<u>Alternate I (Proposal 2)</u>					
Tractor	\$120,842	-	-	\$167,960	\$145,000
Less Trade-In Allowance	<u>26,533</u>	-	-	<u>54,381</u>	<u>47,500</u>
TOTAL BID	\$ 94,309	-	-	\$113,579	\$ 97,500
<u>Alternate II (Proposal 2)</u>					
Tractor	\$120,843	-	-	\$130,000	\$133,000
<u>Alternate I (Proposal 3)</u>					
Tractor	\$121,706	-	-	-	-
Less Trade-In Allowance	<u>26,533</u>	-	-	-	-
TOTAL BID	\$ 195,173	-	-	-	-
<u>Alternate II (Proposal 3)</u>					
Tractor	\$121,706	-	-	-	-

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Town accepts the bid of North Carolina Equipment Co. for Alternate I in the amount of \$93,500.

This the 11th day of May 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION DECLARING SURPLUS AND DIRECTING THE SALE OF ONE CRAWLER TRACTOR TO NORTH CAROLINA EQUIPMENT CO. AS A PORTION OF THE PURCHASE PRICE OF A NEW TRACTOR (81-R-80)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby declares surplus and directs the sale of one 1973 International tractor, Model TD20C, Serial #27221 to North Carolina Equipment Co. for the trade-in allowance of \$47,500 as bid.

This the 11th day of May 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Surplus Property

COUNCILMEMBER HERZENBERG MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION DECLARING TWO HUNDRED AND EIGHT ARTICLES OF PERSONAL PROPERTY SURPLUS AND AUTHORIZING THE SALE OF THE SAID PROPERTY BY PUBLIC AUCTION AND DIRECTING THE SALE OF SAID PROPERTY (81-R-81)

WHEREAS, Article 12 of General Statutes 160A and Section 4.144 of the Charter of the Town of Chapel Hill authorizes the Town to dispose of surplus personal property; and

WHEREAS, the Town desires to dispose of certain articles of personal property no longer needed for Town purposes;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill:

SECTION I

That the following articles of personal property are hereby declared surplus property:

<u>Item</u>	<u>Units</u>	<u>Minimum Acceptable Bid</u>
1979 Plymouth sedans (2 wrecked)	3	1 @ \$ 150
1978 Plymouth sedan (wrecked)	1	
1977 Plymouth sedan	1	150
1976 Plymouth sedan	1	150
1975 Plymouth sedans	2	150 each
1974 Plymouth sedan	1	150
1979 Toyota SW (wrecked)	1	
1968 Ford SW	1	50
1973 Dodge sedan	1	100
1975 Ford Courier truck	1	50
1971 Dodge pickup truck	1	150
1970 Chevrolet pickup truck	1	100
1970 Chevrolet dump trucks	2	1,000 each
1973 GMC garbage truck	1	200
1971 GMC garbage truck (scrap)	1	
1969 GMC garbage truck (scrap)	1	
1968 GMC garbage truck (scrap)	1	
1969 Cushman Scooter	1	
1958 GMC bus (scrap)	1	
1944 Fire Truck	1	400
1972 Elgin Pelican sweeper	1	1,000
Steam Cleaner	1	
Buffalo type riveter	1	
Murphy 30 ton press	1	
Heavy duty vise	1	
Hoist engine	1	
Tar kettle	1	
Paint sprayer	1	
Schramer air compressor	1	
Snapper mower	1	
Sand spreaders	2	

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8,000 gal. storage tank	1	
10,000 gal. storage tank	1	
Air conditioners	7	
Soccer table	1	
Dental Equipment Set-up	1	250
Air hockey table	1	
Billiard table	1	
Table tennis tables	6	
Hobby car	1	
Built-in oven	1	
Round exhaust fan	1	
Air compressor with electric motor	1	
Respirator with oxygen bottles & case	1	
Traffic signal lights	2	
Ford Courier pickup truck beds	2	
AM - FM car radio	1	
Pine boards, 2" x 18" in varying lengths	7	
9-pane windows, 56" x 70"	6	
6-pane windows, 35½" x 70"	3	
2-pane window, 22½" x 36"	1	
Double swinging wood doors with metal bumper guards & metal frames 63" x 90"	2	
Wooden doors, 30" x 90"	4	
Wall light fixtures without shades	6	
Fire helmets	60	
Record player	1	
Stereo television	1	
Intercom	2	
Refrigerator	1	
APF Calculator	1	
Texas Instrument Calculator	1	
Burroughs adding machine	1	
Bruning drafting machine	1	
Time Master dictaphone	1	
3M 107 Copier & paper dispenser	1	
Royal electric typewriters	3	
Royal manual typewriters	3	
Smith Corona manual typewriter	1	
Opaque projector	1	
Desks	2	
Steno chairs	4	
Easy chairs	4	
High stools	3	
4-seat metal chair	1	
Couches	2	
Bookcase	1	
Typewriter table	1	
End table	1	
6-drawer card file	1	
6-drawer file	1	
Small lockers	4	
Large lockers	10	

SECTION II

That the Town Purchasing Agent be, and is hereby authorized to dispose of any and all articles according to the applicable procedures by Public Auction thereof, with sales made to the highest bidder and designated final on the day of the auction. For those items for which a minimum price has been designated, such sales shall be made to the highest bidders and designated final on the day of the auction if the bid price equals or exceeds the minimum acceptable amount specified for each.

SECTION III

BE IT FURTHER RESOLVED by the Council of the Town of Chapel Hill that if any of the above vehicles for which minimum prices had been established are not sold at the Town auction, the Purchasing Agent of the Town of Chapel Hill is hereby authorized to include the unsold vehicles in the next City of Durham Public Auction with sales made to the highest bidder and designated final on the day of the auction. If any of the remaining surplus property is not sold at the auction, the Purchasing Agent of

the Town of Chapel Hill is hereby authorized to sell such surplus property either by advertisement for sealed bids under the provisions of General Statute 160A-268, or by private negotiated sale under the provisions of General Statute 160A-267, choice of method to be determined by the value and sales potential of the leftover items.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION DECLARING SURPLUS AND DIRECTING THE SALE OF ONE 1975 FORD COURIER TRUCK TO THE CHAPEL HILL HOUSING AUTHORITY (81-R-82)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby declares surplus and directs the Purchasing Agent to sell to the Chapel Hill Housing Authority one 1975 Ford Courier truck, Serial #SGTARY 203467 for the price of \$1.00.

This the 11th day of May 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Ordinance to Amend Section 2-3 of the Code of Ordinances

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER KAWALEC, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE AMENDING SECTION 2-3 (81-O-37)

BE IT ORDAINED by the Council of the Town of Chapel Hill that:

SECTION I

The Council hereby amends Section 2-3 of the Code of Ordinances to read as follows:

Sec. 2-3. Regular meetings of Council.

Regular meetings of the Council shall be held in the second and fourth Mondays of each month at 7:30 P.M. except that the second meeting in May shall be held on Tuesday following the fourth Monday, the meetings in July shall be on the first and second Monday, the only regular meeting in August shall be on the fourth Monday and the only regular meeting in December shall be on the second Monday. All meetings shall be held in the Meeting Room of the Municipal Building, 306 North Carolina Street.

SECTION II

The Council hereby reschedules the meeting of November 9, 1981 for November 4, 1981.

SECTION III

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Ordinance to Amend the "Ordinance Concerning Appropriations and the Raising of Revenue for the Fiscal Year Beginning July 1, 1980"

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER BOULTON, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE TO AMEND "THE ORDINANCE CONCERNING APPROPRIATIONS AND THE RAISING OF REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 1980" (81-O-38)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Budget Ordinance entitled "An Ordinance Concerning Appropriations and the Raising of Revenue for the Fiscal Year Beginning July 1, 1980" as duly adopted on June 16, 1980, be and the same is hereby amended as follows:

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ARTICLE I

<u>Appropriation</u>	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
Town Manager - Administration	140,609	1,000	-	141,609
Sundry Contingency	7,358	-	1,000	6,358

All Ordinances and portions of Ordinances in conflict herewith are hereby repealed.

This the 11th day of May, 1981.

Councilmember Wallace suggested consideration of this ordinance be postponed until the Council had decided what change would be made for the Attorney and Clerk. The Council was not sure when their anniversary dates were.

The problem of the anniversary dates was discussed by Council. THE MOTION WAS CARRIED UNANIMOUSLY.

Future Agenda Items

The Council discussed and rearranged its budget worksession schedule.

There being no further business to come before the Council, the meeting was adjourned at 11:30 p.m.

Joseph L. Nassif, Mayor

David B. Roberts, Clerk