

## **SUBSTITUTE ORDINANCE NO. BL2022-1347**

An ordinance to amend Title 17 of the Metropolitan Code of Laws, the Zoning Ordinance of the Metropolitan Government of Nashville and Davidson County, to amend Chapters 17.12 and 17.40 pertaining to lot averaging, all of which is described herein (Proposal No. 2022Z-011TX-001).

WHEREAS, NashvilleNext, Metro's General Plan adopted in 2015, identifies the importance of providing residents with access to usable open space for recreation and leisure activities which fosters strong, diverse neighborhoods as the building blocks of our community; and

WHEREAS, Plan to Play, The Nashville Parks & Greenway Plan adopted in 2017, identifies open space as an important community asset that provides benefits including enhancing air and water quality, moderating temperature, providing wildlife habitat, and better quality of life for residents; and

WHEREAS, open space associated with residential development brings a number of benefits toward creating healthy and livable communities; and

WHEREAS, open space creates room for the filtering of impurities and nutrients from stormwater runoff and recharging ground water; and

WHEREAS, the Metropolitan Nashville City Council approved the Conservation Development proposal to replace the Cluster Lot Option in MC 17.12.090 which created a need for a development standard allowing for flexibility in development patterns within existing zoning allowances to balance development with recreation open space; and

WHEREAS, updating the standards of the zoning code pertaining to the Lot Averaging will help ensure that flexibility of lot size and development pattern are appropriately linked with the quantity and quality of open space achieved by the proposed development.

**NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:**

Section 1. That Chapter 17.12 of the Metropolitan Code is hereby amended by deleting section 17.12.080 Lot Averaging in its entirety and replacing it with the following:

### 17.12.080 - Compact Development

- A. Purpose and Intent. Compact Development is a set of alternative zoning standards that may be utilized in the design of residential subdivisions. It is the purpose of this section to provide for the health and welfare of residents by creating the opportunity for a diversity of housing and recreational opportunities by creating open space and allowing for a mixture of residential lot sizes.
- B. Applicability. Subdivisions proposed in the R/RS20, R/RS15, and R/RS10 zoning districts that meet both of the following standards may utilize the provisions of this section.

1. Minimum Site Area. The minimum site area of no less than ten (10) times the minimum lot area for the base zoning district as established by Table 17.12.020A. For example, in the R10 district the minimum area for the subdivision would be one hundred thousand square feet. (Ten thousand square feet minimum lot size times ten).
  2. Maximum Natural Area. Less than ten percent of the site contains any, or a combination of, the natural areas as defined in 17.12.090.
- C. Maximum Lot Yield. The determination of the maximum lot yield shall be based on assigning 15% of the gross acreage of the site to open space and infrastructure. The remaining 85% of the gross acreage shall be divided by the minimum lot size of the base zoning district to determine the maximum yield.
- D. Design Flexibility. In order to accomplish the purpose of this section, flexibility in lot sizes may be proposed in exchange for the creation of open space on the site according to the following standards:
1. Lots may be reduced in area the equivalent of two smaller zoning districts. All perimeter lots shall meet the minimum lot size of the base zoning district.
  2. Utilization of the Compact Development shall result in the creation of open space. A minimum of 15 percent of the site shall be placed in open space.
  3. Lots proposed for duplexes must meet the minimum lot size of the base zoning district (no reduction in area permitted) and shall comply with the standards of 17.16.030.D of this title.
  4. Development in hillside and floodplain areas shall follow those standards as set out in Chapter 17.28.
  5. Tree removal in a compact development shall follow the standards of Chapter 17.28.65.
  6. The standards for the review of critical lots as provided in the adopted Subdivision Regulations shall apply.
  7. The bulk standards and landscaping requirements of a comparable zoning district which most closely resembles the alternative lot sizes proposed for any given phase of development shall be employed for that phase of the subdivision.
- E. Open Space Standards. The required open space of a Compact Development may contain recreation and stormwater features as required and described in this section.
1. Active or Passive Recreation Features. Residential developments containing fewer than ten units shall be exempt from the requirement to install recreation features. One recreation feature shall be installed for subdivisions containing between ten and ninety-nine total residential units, plus an additional recreational feature for every one-hundred residential units, or portion thereof, in excess of the first ninety-nine units. Recreation features shall not be located in regulatory no-disturb stormwater buffers or floodway as determined by Metro Water Services. Any recreation feature proposed to be located in floodplain shall not be fenced or contain impervious surfaces. Recreation features, as approved by the Planning Commission or their designee, may include but are not limited to:
    - a. Paved greenway trails or trailhead facilities identified in the Metropolitan Parks and Greenways Master Plan and located within

- publicly accessible greenway conservation easements to the benefit of the Metropolitan Greenways Commission or Metro Parks;
  - b. Walking or bicycle trails;
  - c. Passive recreation areas such as picnic shelters, gazebos, or shared docks;
  - d. Playgrounds with benches and pedestrian scale lighting;
  - e. Dog parks with benches and pedestrian scale lighting;
  - f. Stormwater mitigation facilities such as bioretention, bioswale, or rain garden, designed as an amenity and provided in conjunction with other recreation features mentioned in this section;
  - g. Other active recreational or play facilities including but not limited to tennis courts, basketball courts, swimming pools, baseball/softball diamonds or volleyball courts or other facilities;
  - h. Historic sites with walkways and interpretive signage.
2. Stormwater Features. The following uses may count toward the open space stormwater feature component of this section:
    - a. Required stormwater mitigation measures such as reforestation;
    - b. Impoundments, such as retention and detention basins, and other conventional stormwater facilities as approved by Metro Water Services.
  3. Configuration and Access. To the maximum extent practicable given the configuration, the open space shall be in a contiguous tract. Recreation features shall be directly accessible to the largest practicable number of lots within the subdivision and, if required, each lot shall be no more than 1,320 feet from a recreation feature as measured from the perimeter of the open space. Non-adjoining lots shall be provided with pedestrian access to the open space via direct access or an access easement designated on the plat.
  4. Ownership and Management.
    - a. Open space within a Compact Development shall be owned and maintained by an incorporated association for the mutual benefit of residents or property owners within the development and shall be adequately described on a recorded plat of subdivision approved by the planning commission. All property owners within a Compact Development subdivision shall be a member of the association which shall be responsible for the assessment of dues to cover the recurring costs of maintaining all open space areas and recreation features. Articles of incorporation and bylaws shall be submitted and approved according to the subdivision regulations.
    - b. In limited circumstances where the open space is identified on the Greenways Master Plan or within the Parks Master Plan, the developer may offer the open space for dedication to Metro Parks subject to approval and acceptance by Metro Parks Board and Metro Council as appropriate.
    - c. Open Space Management Plan. With the concept plan applicants shall submit a plan for the management of the open space and common facilities which allocates responsibility and guidelines for maintenance

and operation of the open space and any facilities located within the open space areas. If the open space is restricted via a conservation easement in the favor of a bona fide land trust or other permanently established organization legally able to accept such easements, a stewardship plan or other management plan associated with the conservation easement may be provided in lieu of the open space management plan.

d. Failure to maintain. When the failure of an association or other responsible party to properly maintain open space results in a public nuisance, the zoning administrator is empowered to initiate appropriate measures to eliminate the nuisance. If public funds are utilized to remove a nuisance and/or maintain open space, those costs shall be assessed proportionally against all property owners within the development in the form of a tax lien. This provision shall not apply to any open space that has been dedicated to and accepted by the metropolitan government.

F. Application Requirements.

1. The subdivision concept plan (preliminary plat) shall clearly indicate that a compact development is proposed and shall be prepared in accordance with the procedures and requirements of the Metro Subdivision Regulations.
2. All submittals shall clearly show and label the required open space and recreation features documenting that these requirements have been met.
3. Concurrent with the submittal of the concept plan, the applicant shall prepare and submit a site analysis map that identifies the natural areas as defined in 17.12.090. Documentation of, or determinations regarding the areas from appropriate Metro, State or Federal agencies or official maps or resources, if applicable, shall also be provided.

Section 2. That Chapter 17.40 of the Metropolitan Code is hereby amended to modify the list of Sections/Tables in subsection 17.40.340.A as follows:

Section 17.12.080 (Compact Development)

Section 3. That Chapter 17.40 of the Metropolitan Code is hereby amended by deleting the introductory paragraph of 17.40.380 and replacing it with the following:

Requests for exceptions from the hillside development standards of Chapter 17.28 shall be administered and decided in conformance with the requirements of this article. The board shall have no authority to vary lot areas within platted residential developments utilizing compact or conservation development provisions of Chapter 17.12.

Section 4. Be it further enacted that this ordinance shall take effect on September 14, 2022 and such change published in a newspaper of general circulation, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.