

City of Canton
State of Georgia
County of Cherokee
Ordinance 2022-0317-02

ORDINANCE OF THE CITY OF CANTON

WHEREAS, the City of Canton is authorized by the constitution of the State of Georgia to adopt rules, regulations, laws, and ordinances protecting the public health, safety and welfare of the citizens of the City.

WHEREAS, the City by and through its Mayor and Council have deemed it in the best interest of the health, safety and welfare of the citizens of the City of Canton, to adopt an ordinance governing Zoning.

NOW THEREFORE, be it ordained by the Mayor and Council of the City of Canton, Georgia and it is hereby ordained by the authority thereof, that:

THE CITY OF CANTON CODE OF ORDINANCES, DEVELOPMENT CODE, CHAPTER 104, STANDARDS FOR SPECIFIC USES BE AMENDED BY ADDING THE FOLLOWING SECTION:

Section 104.05.00 - Standards for cottage housing developments (CHD).

The following regulations apply to cottage housing developments (CHDs):

- (a) CHDs are allowed in the following zoning districts: R-40, R-20, R-15, R-10, R-4, RA-6, RA-8, MHP, RM-15, PD-R and PD-MU.
- (b) The following requirements shall apply to all CHDs:
 - (1) *Density and minimum lot area.*
 - a. In CHDs, the permitted density shall be one (1) dwelling unit per two thousand nine hundred four (2,904) square feet of lot area (fifteen (15)/acre).
 - b. The minimum lot area for a CHD shall be seven thousand (7,000) square feet.
 - c. Cottage homes shall be developed in clusters of a minimum of two (2) homes to a maximum of twelve (12) homes.
 - (2) *Height limit and roof pitch.*
 - a. The height limit permitted for structures in CHDs shall be eighteen (18) feet from the finished first floor height, subject to the exception described in subsection (b).
 - b. Where the ridge of a roof is pitched with a minimum slope of six (6) to

twelve (12), the maximum roof height may extend up to twenty-five (25) feet. All parts of the roof above eighteen (18) feet shall be pitched. These heights are intended to allow maximum one and one-half (1½) story homes.

- (3) *Lot coverage and floor area.* The maximum first floor or main floor area for an individual principal structure in a CHD shall be one thousand two hundred fifty (1,250) square feet.
- (4) *Yard setbacks.*
 - a. Front yard setbacks. When fronting a public street, the front yard setback shall be at least fifteen (15) feet with an allowable seven (7) foot encroachment for a front porch. On non-public streets, the front yard setback shall be at least ten (10) feet with an allowable encroachment for a front porch of no greater than five (5) feet.
 - b. Rear yards. The minimum rear yard shall be ten (10) feet.
 - c. Side yards. There shall be a minimum of ten (10) foot building separation. Units five (5) feet or less from property line will require additional fire safety measures.
- (5) *Required open space.*
 - a. A minimum of four hundred (400) square feet per unit of common open space is required.
 - b. At least fifty (50) percent of the cottage units shall abut the common open space.
 - c. All the cottage units shall be located within one hundred (100) feet walking distance of the common open space.
 - d. The common open space shall have cottages abutting at least two (2) sides.
 - e. At least fifty (50) percent of the cottage home units shall be oriented around the common open space with their covered porches or main entry facing the common open space.
- (6) *Parking.* Parking spaces for each cottage home unit shall be provided as follows;
 - a. Units that exceed six hundred fifty (650) square feet on main floor: two (2) spaces. Units that do not exceed six hundred fifty (650) square feet on main floor: one and one half (1.5) spaces.
 - b. Location. Parking shall be located on the CHD property. It may be in a structure, under a structure, or outside a structure provided that:
 - (i) Parking is screened from direct view from street by one or more building facades, by garage doors, or by a fence and landscaping.
 - (ii) Parking is not located in the front yard.

- (iii) Parking is only allowed between structures when it is located toward the rear of the principal structure and is served by an alley or private driveway.
- (iv) Parking may be located between any structure and the rear lot line of the lot or between any structure and a side lot line which is not a street side lot line.

(7) *Additional requirements.*

- a. Cottage homes shall have a covered porch at least sixty (60) square feet in size.
 - b. All structures shall maintain ten (10) feet of separation between houses.
 - c. The condominium association or homeowners' association shall maintain the required open space and all common areas.
 - d. Each cottage home shall have access to clothes washers and dryer facilities, either through installation of connections to clothes washers and dryers in the cottage home, or access to clothes washers and dryers in a building located in the common open space.
 - e. Developers of cottage homes are encouraged to provide pervious parking areas. In any event, every cottage home development shall comply with Chapter 109 of the Canton City Code regarding stormwater management.
- (c) Other provisions of the Zoning Ordinance, including but not limited to Chapter 103, Section 103.02, shall be construed to permit cottage housing development in conformance with this section. Lots may be reduced in size, as would otherwise be prohibited by Chapter 103, Section 103.02, to develop cottage housing in compliance with Chapter 104, Section 104.03.16.

Section 104.05.01 - Standards applying to construction, development, and maintenance of cottage housing developments.

- (a) *General private deed covenants.* The entire cottage housing development shall be included within private deed covenants running with the land to assure the continuance of the planned residential development in accordance with approved plans and development. No Certificate of Occupancy shall be issued until a copy of the recorded legal covenants has been submitted to the city.
- (b) *Phased development projects.* Cottage housing development applicants may propose construction phases (commencement and completion dates) for a planned residential development project that has identified, logical geographical sections or pods; a construction phasing plan shall be reviewed by the mayor and city council for approval.
- (c) *Performance bonds required.* The landowner shall furnish such bond or bonds as may be recommended to the city council and approved by the mayor and city council to be reasonably required to assure performance in accordance with the cottage

housing development plan and to protect the public interest in the event of abandonment of said plan before completion.

(d) *Open space maintenance.* In event the property owners' association for a planned residential or cottage housing development fails to maintain the common open space property, the city may serve written notice upon the property owners' association and upon the residents and owners of the cottage housing development setting forth the way the organization has failed to maintain the common open space in reasonable condition. Said notice shall include a demand that such deficiencies of maintenance be corrected within thirty (30) days thereof and shall state the date and place of a hearing thereon which shall be held within fifteen (15) days of the notice.

- (1) If the deficiencies are not corrected within said thirty (30) days, the city, to preserve the taxable values of the properties within the cottage housing development and to prevent the common open space from becoming a public nuisance, may enter upon said common open spaces and maintain the same for one (1) year and thereafter until the property owners' association is prepared to provide proper maintenance.
- (2) The cost of such maintenance by the city shall be assessed ratably against the properties within the planned residential or cottage development that have a right of enjoyment of the common open space and shall become a tax lien upon said properties. The city at the time of entering upon said common open space for the purpose of maintenance, shall file a notice of such lien in the office of the county tax assessor upon the properties affected by such lien within the planned residential development.

Section 104.05.02 - Procedures.

The following procedures shall be followed in the establishment of a cottage housing development.

- (a) *Optional pre-application meeting.* Prior to the submittal of a cottage housing development application, the applicant may meet with the designated city planner for a preliminary conference on the location, scope, and nature of the proposed development. A written report on the pre-application meeting shall be prepared and transmitted to the applicant and to the mayor and city council for their information.
- (b) *Formal application and completeness check.* A formal application for a cottage housing development shall be made by the applicant to the City.
 - (1) *Required information.* The applicant shall submit the following information and such other materials as the mayor and city council may require determining whether the proposed development meets the required standards.
 - a. Plans in accordance with the requirements of section 105.08.00 of this unified development code.
 - b. Other applicable information regarding the relation of the proposed

development to surrounding development and roads, as well as common open space proposed on the site.

- c. A preliminary outline of proposed protective covenants, including provisions for the organization and continued financing of a property owners' association except in commercial planned unit developments.
 - d. Any statistical tabulations required to show that the proposed development meets the specific requirements of the proposed cottage housing development.
 - e. If the proposed cottage housing development is to be subdivided, then the application for approval of the cottage housing development shall include all information required for the preliminary approval in accordance with the requirements of the Unified Development Code.
- (2) *Completeness check.* The city clerk or designated city planner shall review the application for completeness. Once certified complete, the application shall be transmitted to the City staff for review and recommendation to the mayor and city council.
- (c) *Plan review and approval criteria.*
- (1) Within thirty (30) days of receipt of the formal application and all required information, the application shall be reviewed by the designated city planner who shall prepare a staff report and the application shall be added to the next appropriate City Council agenda; the City staff shall review the proposed development for conformance to this ordinance and for achievement of the purposes of this section and shall make a written recommendation for approval or disapproval to the mayor and city council.
 - (2) Failure to act. If the City staff fails to submit a report within thirty (30) days after it has received the proposed cottage housing development application, it shall be deemed to have recommended approval to the mayor and city council. The City staff and the applicant may jointly agree to a thirty-day postponement if notice of such agreement shall be sent to the mayor and city council. In any case, all materials concerning the proposed cottage housing development shall be forwarded to the mayor and city council no later than sixty (60) days from the receipt of an application certified as complete.
- (d) *City council hearing and final action.* The mayor and city council shall review and consider the proposed application and materials for a public hearing.
- (1) If the proposed cottage housing development is deemed acceptable for further consideration, the city council shall hold a public hearing thereon. The notice of the time and place of such hearing shall be published at least fifteen (15) days prior to the hearing in the official legal organ of the city. At the hearing, any party may appear in person or by agent or attorney.
 - (2) In addition, the city shall erect in a conspicuous place on the property involved a sign which shall contain information as to the planned unit development applied for and time and place of the hearing. Failure to erect

and maintain the sign as specified above shall not invalidate the subsequent determination of the mayor and city council.

- (3) Within forty-five (45) days after the public hearing the mayor and city council shall approve or deny the cottage housing development. The mayor and city council and the applicant may jointly agree to postpone action for a forty-five-day period, but the final decision shall be made not later than sixty (60) days from the public hearing.
- (e) *General standards for approval.* Cottage housing developments may be approved subject to such conditions as may be imposed to mitigate impacts which may be expected without the Imposition of conditions. The following general standards shall be considered in determining whether the planned unit development shall be approved:
 - (1) Is the proposed development suitable in view of the use and development of adjacent and nearby property?
 - (2) Does the proposed development adversely affect the existing use or usability of adjacent or nearby property?
 - (3) Does the proposed development result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools?
 - (4) Are there other existing or changing conditions which, because of their impact on the public health, safety, morality, and general welfare of the community give supporting grounds for either the approval or denial of the proposed development?
- (f) *Preliminary and final land subdivision plats.* Final approval of the cottage housing development by the mayor and city council authorizes the applicant to prepare a preliminary land subdivision plat when applicable. A copy of this authorization together with a copy of the materials submitted by the applicant shall be sent to the planning and zoning board.
 - (1) No site development shall be undertaken by the applicant and no permits shall be issued to him/her until the preliminary land subdivision plat has been officially approved in accordance with the Unified Development Code. A final land subdivision plat shall be prepared by the developer after approval of the preliminary plat.
 - (2) If the final land subdivision plat meets the requirements of subdivision regulations of the city, it shall be approved by the zoning and review commission and the mayor and city council and recorded in accordance with land subdivision regulation procedures.
- (g) *Modification of approved cottage housing developments:* The mayor or his/her designee shall have sole authority to approve minor changes to approved cottage housing developments. For the purposes of this section, a minor change in the approved cottage housing development means a slight alteration to a cottage housing development or change in layout that does not result in the visible intrusion of any building, structure, driveway, walkway, parking lot, plaza, wall

or similar built element into any open space, yard, landscaped buffer, undeveloped space, or any similar space, when any such space is shown on the final "conditional" plan as being next to and visible from a property line or street.

All ordinances or parts of ordinances or regulations in conflict herewith are hereby repealed.

Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.


It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of the ordinance shall become and be made part of the Code of Ordinances, City of Canton, Georgia and the section of this ordinance may be renumbered to accomplish such intention.

This ordinance shall take affect and be in force on the date of approval appearing below, the public welfare demanding it.

The above ordinance was read and approved by the Mayor and Council this 17th day of March, 2022.

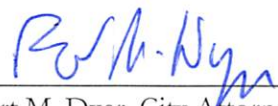


Bill Grant, Mayor

Attest: 

~~Annie Fortner, City Clerk~~
Lou Stewart, Interim Clerk

Approved as to form and content:



Robert M. Dyer, City Attorney

First Reading _____

Adopted by Council 3/17/22

Approved by Mayor _____

Veto by Mayor _____

Second Vote by Council _____

Effective Date _____