

**COMMUNITY FORUM RESPONSE TO RECODE KNOXVILLE, DRAFT 2
UPDATE OF MAY 10, 2018, DRAFT 1 RESPONSE
SEPTEMBER 13, 2018**

TOPIC (1): ACCESSORY DWELLING UNIT (ADU): Article 10, 10.3 B, page 10-4.

1. We repeat our May 10, 2018, Comments.
2. **REQUEST** the following: that **Section B. 5**, now **B. 8**. be restored so that:
 - (a) The minimum square footage of 300 square feet, deleted from Recode Draft 1, be restored.
 - (b) The maximum square footage of 1,000 square feet recommended in Draft 1, be restored for lots at or above 10,000 square feet.
 - (c) The term "habitable", used to qualify "floor area" recommended in Draft 1, be restored. Deleting the word "habitable" increases the square footage of the house and the square footage of the ADU.
3. We remain convinced that ADUs are not appropriate on every lot with a single-family dwelling in all zoning districts, as proposed in Recode. This is the case because neighborhoods with narrow, winding roads, no sidewalks, and no access to public transportation are not suitable for additional density.
4. Under the existing zoning ordinance, "garage apartments" are presently allowed in R-1A (See: **Article IV, 2.1.2, B.3**); R-2 (See: **Article IV, 2.1.6, B.4**); R-3 (See: **Article IV, 2.1.7, B.1**). ADUs are presently allowed in EN-1 and EN-2 if owner occupied. (See: **Article IV, 2.1.4, D. Uses Permitted Table, J.1, Use on Review Standards.**)
5. At the very least, the owner should be required to live on the property, as is required for Short-Term Rentals.
6. We question the assumption that ADUs will increase the affordable housing stock, both for ownership or rental, in Knoxville.

In order to preserve affordable housing, Short Term Rentals (STRs) are required to be owner occupied. With ADUs, if neither the main house nor the ADU is required to be owner occupied, existing affordable single-family dwellings will be attractive investments for absentee owners. The addition of an ADU enables the absentee owner to collect two rents while maintaining one yard.

At the same time, the addition of an ADU on a property increases the future purchase price of the property and increases the cost of the loan, the cost of

insurance, the amount of required down payment, etc. This negatively affects the affordability of home ownership. The proposal to allow ADUs in all residential zoning districts does not do anything to address the need for additional affordable housing in Knoxville. It would have a negative impact on the character of neighborhoods and adjacent individual properties.

TOPIC (2): HOME OCCUPATION: Article 10, 10.3 P, Page 10-9.

1. We repeat our May 10, 2018, Comments.

REQUESTS: 1. The clear standards of the existing zoning ordinance should be maintained, including limiting to 25% that portion of the dwelling permitted to be used for the Home Occupation; prohibiting sales of products other than products produced on premises; requiring off-street parking.

2. Strengthen the proposed standards by citing the One Year Plan policies for home occupations.

TOPIC (3): DAY CARE HOME, DAY CARE CENTER, PRE-SCHOOL/KINDERGARTEN: Permitted Uses.

1. We repeat our May 10, 2018, Comments.

REQUEST: The standards and review process in the existing zoning ordinance be restored for Day Care Homes caring for more than 6 children or adults in a home.

Recode leaves all regulation of Day Care Homes to the State of Tennessee. Article 2, 2.3, page 2-6, defines a Day Care Home as: "*A residential dwelling where a permanent occupant of the dwelling provides care for children or adults from outside households in a protective setting for less than 24 hours per day. A day care home does not include facilities that only receive children from a single household.*"

The existing Knoxville Zoning Ordinance includes **standards** for Day Care Homes **when more than 6 children from outside the household** are being cared for. The standards have been deleted in Recode. The existing standards include, among other things, minimum lot size and indoor and outdoor square-footage requirements per child. **When more than 6 children** are being cared for, the existing Zoning Ordinance also requires special approval of the Day Care Home

through the Use on Review process. This requirement has also been deleted in Recode.

TOPIC (4): PLANNED DEVELOPMENT (PD): Article 15, 15.7, page 15-15

1. We repeat our May 10, 2018, comments. In our previous comments and questions on this Topic, we addressed in 9 pages, many issues. None of these issues were addressed in Draft #2 of Recode. We urge you to carefully consider our comments on this very important, totally new concept and process.

2. We again call attention to the Approval Standards, **Article 15, 15.7, E, 3, e, page 15-18.**

REQUEST: For standard **vi**, the proposed uses, as well as the structures and parking areas, should be compatible with the surrounding neighborhood and adjacent land uses.

TOPIC (5): HILLSIDE AND RIDGETOP PROTECTION: Article 8, 8.4, page 8-7.

1. We greatly appreciate the addition of a "Hillside Protection Overlay District" in Recode Draft 2, for the purpose of enforcing the adopted Hillside and Ridgetop Protection Plan.

2. THERE IS A NEED TO ADD A CLEARER LAND PROTECTION STATEMENT PROHIBITING LAND DISTURBANCE OF ANY KIND WITHIN THE HILLSIDE OVERLAY DISTRICT BEFORE OBTAINING SITE PLAN APPROVAL. OTHERWISE, THE HILLSIDE COULD BE REMOVED PRIOR TO ANY REVIEW.

3. To avoid any confusion, Article 8, 8.4 D, needs to be revised from: "D. Site Plan Review: All development of lots that are zoned residential within the HP Overlay District are subject to site plan review per Section 15.5" to "All development within the HP Overlay District is subject to site plan review per Section 15.5. Please note that Article 2, 2.3, page 2-6, defines "Development" as: "The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure, any mining, excavation, landfill or land disturbance, or any alteration of land."

This reference to Article 2, 2.3, Definition of "Development" should also be cited in Article 8, 8.4.

4. As proposed in **Article 8, 8.4 B**, the "Hillside Protection Overlay District" applies only to Residentially zoned property.

REQUEST: All zoning districts should be included in the overlay, as was intended by City Council when it originally adopted the Hillside and Ridgetop Protection Plan and incorporated it into the General Plan in 2011.

TOPIC (6): ANIMAL CARE FACILITY-SMALL ANIMAL:

1. We appreciate "exterior exercise areas" being deleted from the Office (O) zoning district. **Article 9, 9.3, A. 1.**

2. We repeat our May 10, 2018, comments.

3. Kennel: IS IT THE CITY'S INTENT TO ALLOW AN UNLIMITED NUMBER OF DOGS ON A RESIDENTIAL LOT?

REQUEST: A definition of "kennel" must be included in the zoning ordinance in order to limit the number of dogs that can be kept on a lot, including the number that can be kept on a residentially zoned lot. Absent the definition of "kennel", an unlimited number of dogs can be kept, even in residentially zoned areas.

The existing ordinance, **Article II**, includes a definition of ***"Kennel: Any lot or premises on which five (5) or more dogs, more than six (6) months of age are kept."*** Furthermore, the **Knoxville Code, Animals, Chapter 5, Article 1, Section 5-7)** requires a permit be obtained to operate a Kennel, and the code references the Knoxville Zoning Ordinance. The Animal section of the code specifically states that the zoning ordinance determines where a "kennel" is permitted within the City of Knoxville.

The Recode **Article 2, 2.3, page 2-2**, definition of **"Animal Breeder"** is not an effective alternative to "kennel." It is almost impossible to enforce and it is not consistent with the Knoxville Code, Chapter 5, Animals. The definition of "Animal Breeder" requires that the "establishment" (undefined) be operating for "commercial gain." Proving the purpose of "commercial gain" is an enforcement nightmare.

TOPIC (7): ANCILLARY vs. ACCESSORY USES AND STRUCTURES:

1. We repeat our May 10, 2018, comments.

REQUESTS: 1. Use the clearer definitions provided in the existing zoning ordinance.

2. Better distinguish "Ancillary" from "Accessory". Introduction of the term "ancillary" seems to provide confusion.

QUESTION: Can an "Ancillary use" be larger than the principal use?

Definitions: Article 2, 2.3, page 2-3: "**Ancillary**: In regard to principal uses (Article 9), an additional structure or use that provides support and is **typically integral to the principal structure or use.**"

Accessory Structure: A detached structure located on the same lot as the principal building that is incidental to the use of the principal building."

Accessory Use: A use of land or a structure, or portion thereof, customarily incidental and subordinate to the principal use of the land or structure."

3. Examples of confusion:

A. Please see Article 2, 2.3, page 2-9, "**Healthcare Institution: Facilities for primary health services and medical or surgical care to people, primarily in-patient, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, dormitories, or educational facilities, and ancillary uses such as, but not limited to, cafeterias, restaurants, retail sales, and similar uses.**"

The definition of "ancillary" includes the term "integral". Therefore, in the example of Healthcare Institution, aren't "ancillary" uses those uses described as "**...an integral part of the institution, related facilities such as laboratories, outpatient facilities, dormitories or educational facilities...**"?

Are cafeterias, restaurants, retail sales, and similar uses, "ancillary" or "accessory"?

B. Please see Article 2, 2.3, page 2-8, "Food Pantry", states: "**...A Food Pantry may be an ancillary use to a place of worship, social service center, and/or homeless shelter.**" Does a Food Pantry really fit the definition of an "ancillary use" to a house of worship? Is a "food pantry" integral to a "place of worship"? Can the "Food Pantry" be larger than the "place of worship"?

C. Please see Article 6, 6.1, A., page 6-1, OP, Office Park Zoning District. The OP description states: "**The district is oriented toward larger-scale complexes that may include ancillary services for employees such as personal services, restaurants, and retail establishments.**"

Please note that Table 9-1, Use Matrix, lists "Eating and Drinking Establishments, "Personal Service Establishments" and "Retail Goods Establishments", as Permitted Principal Uses. Is the intent to allow free-standing "Eating and Drinking Establishments", etc., in the OP zoning district?

TOPIC (8): MORE THAN ONE PRINCIPAL USE ON A "SITE":

1. Article 9, Uses, 9.1 D, page 9-1, states: "***A site may contain more than one principal use, so long as each principal use is allowed in the district. Each principal use is approved separately. In certain cases, uses are defined to include ancillary uses that provide necessary support or are functionally integrated into principal uses.***"

QUESTIONS: 1. Please define "site".

2. What is the mechanism for approving each principal use separately? (Note that **Article 15, Section 15.9, Zoning Certificate, page 15-4**, has been deleted.)

3. How do we determine in which "***...certain cases, uses are defined to include ancillary uses...***"? Again, "ancillary" must be better defined to avoid confusion.

4. Explain how more than one principal use on a site is applied to residential districts.

Article 10, Site Development Standards, Section 10.1, A., Number of Structures on a Lot, page 10-1, must also be considered. It states: "***There must be no more than one principal building per lot on any lot used for a single-family or two-family dwelling. This does not include permitted accessory structures or permitted accessory dwelling units. In all other cases, more than one principal building is permitted on a lot, provided that all structures comply with the dimensional standards of the district.***"

QUESTION: What about developments in RN-4, RN-5, etc.? Can't there be developments comprised of several duplexes or detached-single family homes on one lot?

TOPIC (9): SPECIAL USE

1. We repeat our May 10, 2018, comments.

2. **Article 15, 15.2, Special Use, G. Approval Standards, page 15-4.**

REQUEST: Keep the General Standards of the existing zoning ordinance, **Article V., 3. A.**, instead of the weaker proposed standards.

3. **Section F. Conditions, page 15-4:** Explain how **F. 2. "*Conditions....must be related to the physical development of the site and must be able to be shown on the site plan.***" comports with **F.1.**, which states: "***The Metropolitan Planning Commission may impose conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special use....***"

4. **Section F.2** states: "***...The Metropolitan Planning Commission will approve the special use with conditions after receipt of the staff recommendation.***"

What is the role/power of MPC Commissioners regarding conditions? Is approval mandatory?

5. **Section G. 3.** states: *"The special use in the specific location proposed is consistent with the spirit and intent of this Code and adopted City land use policies."* In this Chapter and throughout the proposed ordinance, cite the specific plans that contain the *"...adopted City land use policies."* It is unreasonable to require every citizen of Knoxville to read and study every City document in search of *"...adopted City land use policies."*

TOPIC (10): ROLE OF THE LEGALLY-MANDATED ADOPTED COMPREHENSIVE PLAN

1. We repeat our May 10, 2018, comments.

QUESTIONS: 1. Do the land use standards in various components of the Comprehensive Plan need to be included in the proposed Zoning Ordinance in order to be enforced?

2. Should the One Year Plan definitions of Low, Medium and High Density Residential, be included in the Zoning Ordinance?

3. **Article 4, Residential Neighborhood Districts, 4.1, page 4-1, Purpose Statements,** Why has all reference to "Low density" and "Medium density" been deleted from Draft 1.? Please see **TOPIC (15): Density Statement in Zoning Districts.**

TOPIC (11): HEALTH FACILITIES AND LIVING FACILITIES:

1. We repeat our May 10, 2018 comments.

TOPIC (12): PERSONAL SERVICE ESTABLISHMENT:

1. We repeat our May 10, 2018, comments.

TOPIC (13): DWELLING --MANUFACTURED HOME, Previously referred to as: SUPPLEMENT 1: May 10, 2018, TOPIC (1): DWELLING--MANUFACTURED HOME

1. **Article 16, 16.3, Nonconforming Structure, E. Nonconforming Single-Wide Manufactured Homes, page 16-3.**

REQUEST: Please see **TOPIC (20): NONCONFORMING MANUFACTURED HOMES**

SUPPLEMENT 2: May 17, 2018

TOPIC (14): OFFICE ZONING DISTRICT

As noted earlier, we appreciate the deletion of Outdoor exercise areas as part of Animal Care Facility-Small Animal, in the Office Zoning District. **(Article 9, 9.3., A. 1., page 9-3.)**

We appreciate the changes made to the Office (O) Zoning District, including the deletion of "Eating and Drinking Establishments" and "Retail Goods Establishments".

REQUEST: It is our understanding that the **Use Matrix, Article 9.1**, erroneously shows "Retail Goods Establishments" as a permitted principal use in Office. To correct the error, we request "Retail Goods Establishments" be deleted as a permitted principal use from the Use Matrix.