

1ST READING

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INDEX NO

8-11-09  
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ORDINANCE NO. 12277

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, TO INCLUDE SUBURBAN INFILL LOT FRONTAGE AND SETBACK REGULATIONS AND URBAN INFILL LOT COMPATIBILITY SUBDIVISION OPTION, DELETE FLAG LOT PROVISIONS, AND CHANGE THE DEFINITION OF FRONTAGE.

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**WHEREAS**, the current definition for Lot, Infill needs clarification for identifying properties to which infill lot guidelines apply; and

**WHEREAS**, the revised Infill Lot definition and Suburban Infill Lot frontage and setback regulations will help to enforce infill lot development during the subdivision review process; and

**WHEREAS**, infill Lots should be compatible with existing lot frontages; and

**WHEREAS**, infill Lots should respect the existing neighborhood character and development patterns; and

**WHEREAS**, infill Lot regulations should be applied fairly in all neighborhoods and in all parts of the City; and

**WHEREAS**, the Chattanooga-Hamilton County Regional Planning Commission has determined that there is a need to allow development to take a more traditional urban form; and

**WHEREAS**, urban standards can help ensure that the site and character of new development complements the existing urban fabric; and

**WHEREAS**, the standards proposed in the new subdivision option apply only to the Urban Overlay Area; and

**WHEREAS**, the Urban Infill Lot Compatibility Option allows for the development of single-family detached residential development that is compatible in terms of lot size, setbacks, and parking access and location to the community in which the new subdivision is proposed; and

**WHEREAS**, the Urban Infill Lot Compatibility Option can help maintain the existing urban residential character of the City of Chattanooga; and

**WHEREAS**, the current definition of flag lot is confusing; and

**WHEREAS**, the current definition of flag lot was intended to apply to lots which do not meet the frontage requirement of the Chattanooga Zoning Ordinance; and

**WHEREAS**, the current definition of flag lot can be interpreted to apply to lots of an undefined shape even if they meet the frontage requirements or there is no frontage requirement; and

**WHEREAS**, in the extreme the current definition of flag lot could be applied to any lot that is wider at the rear than it is at the front; and

**WHEREAS**, the proposed changes would require that any lot that does not meet the frontage requirements of the Chattanooga Zoning Ordinance would require a variance from the Chattanooga Board of Zoning Appeals (Chattanooga-Hamilton County Regional Planning Commission);

**WHEREAS**, the Chattanooga-Hamilton County Regional Planning Commission on July 13, 2009, recommended that Chapter 38 of the Chattanooga City Code also known as the Chattanooga Zoning Ordinance be amended to include suburban infill lot frontage and setback regulations and urban infill lot compatibility subdivision option, delete flag lot provisions, and change the definition of frontage.

**NOW, THEREFORE,**

SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, Article II, Section 38-2, Definitions, be and hereby is amended by deleting the

definitions of "Lot, Flag" in its entirety and by deleting the definitions of "Lot, Infill" and "Frontage" in their entirety and substituting in lieu thereof the following definitions respectively:

*Lot, Infill:* Any proposed residential lot zoned R-1, R-2 or R-3 in the Urban Overlay Zone or Zoned R-1 in other areas which, also, is not a combination of existing lots.

*Frontage:* The width of the lot measured along the dedicated street right-of-way except that lot frontage on cul-de-sac turn-arounds or curves with a radius of 500 feet or less at the lot line may be less than the lot frontage required by this Zoning Ordinance, provided that the lot has the required minimum lot frontage at the rear of the front yard required by this Zoning Ordinance.

SECTION 2. BE IT FURTHER ORDAINED, That Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, be and hereby is amended as follows:

**Amend Article IV, General Regulations, by adding Section 38-32 as follows:**

**Sec. 38-32. Lot Frontage not to be reduced; exception**

Lot frontage for new lots as part of a new subdivision shall not have less than the required minimum lot frontage as specified in this zoning ordinance, unless approval for such variance is obtained by the Chattanooga-Hamilton County Regional Planning Commission or if the Urban Infill Compatibility Option is used. A variance request of this nature is submitted to the Planning Commission Staff per Section 111 of the Subdivision Regulations.

**Amend Article V, Division 1, R-1 Residential Zone, by removing Section 38-44, Height and area regulations, Subsection (2) in its entirety and replace with the following:**

(2) Front Setbacks: There shall be a front yard of not less than 25 feet. For minimum Suburban Infill Lot Setback, see item 7 (f) of this section. For the Urban Infill Lot Compatibility Option, see Article V, Division 30.

**Amend Article V, Division 1, R-1 Residential Zone, by removing Section 38-44, Height and area regulations, Subsection (6) in its entirety and replace with the following:**

(6) Minimum Lot Frontage: The minimum lot frontage shall be 60 feet on sewers and 75 feet on septic tanks. For Suburban Infill

Lot minimum frontage, see subsection (7). For Urban Infill Lot minimum frontage alternative, see Division 30, Urban Infill Lot Compatibility Option.

(7) Minimum Suburban Infill Lot Frontage and Setback: The minimum frontage and front yard setback for Suburban Infill Lots shall be determined as follows:

- (a) Applicability. The Minimum Suburban Infill Lot Frontage Regulations shall apply only to:
- i. Proposed or existing lots *outside* of the Urban Overlay Zone.
  - ii. Lots zoned R-1 Residential.
  - iii. Proposed lot frontage less than 120 feet.
  - iv. Lots fronting an existing public street.
  - v. Lots served by sewers.
  - vi. Exceptions. This rule shall not apply to:
  - vii. Planned Unit Developments (PUDs).
  - viii. Lots created on a new street.
  - ix. The consolidation of lots.
  - x. Lots at the terminus of permanent dead end streets with 35 feet of street frontage or more.
  - xi. Lots that are a combination of existing lots where all of the lots are as large or larger than the previous lots and have equal or greater frontage than the previous lots.
  - xii. Lots, if, in the opinion of the Regional Planning Agency Staff, a smaller lot frontage is consistent with the Comprehensive Plan and the intent and purposes of these regulations.
- (b) Compatible Lots. The following properties shall be used to determine the block character for purposes of establishing lot compatibility:

- i. Lots with on the same and opposing block face within 300 feet of the boundary of the property proposed to be subdivided.
  - ii. Lots abutting each quadrant of an intersection when the proposal involves a corner lot; and
  - iii. Lots that abut or are directly across a public way, but not to the rear of the property, from the property proposed to be subdivided.
- (c) Excluded Lots. The following properties shall not be used to determine the block character for purposes of establishing lot compatibility:
  - i. Properties zoned non-residential or multi-family.
  - ii. Properties zoned for single-family, but used for legal non-residential uses or other legal non-conforming uses.
  - iii. Properties where development continuity cannot be provided due to a natural or man-made barrier, including but not limited to, arterial or collector streets, public land, railroad right-of-way, waterways, or
  - iv. Properties that face a block face within a non-residential zoning district.
  - v. Interior lots located to the rear of another lot but with a narrow portion extending to the street when that narrow portion is less than the frontage required by the Chattanooga Zoning Ordinance.
- (d) Lot Frontage Compatibility Calculation. New residential infill lots shall have a minimum lot frontage that is no smaller than the smallest frontage on the same and opposing block face within 300 feet of the lot to be subdivided.
  - i. The new infill lot frontage is not required to exceed one hundred twenty (120) feet.
  - ii. The new infill lot frontage shall not be less than the minimum allowed by the R1 Residential zone.

- iii. If, in the opinion of the Regional Planning Agency Staff, a smaller lot frontage is not consistent with other lot frontages on the same and opposing block face or the intent and purposes of these regulations, a larger frontage may be required.
  - iv. Each lot frontage shall be the actual access to the property as well as the legal access (e.g. - no sole access via common easement).
- (f) Front Setback. For Suburban Infill Lots recorded after July 9, 2007, the minimum front yard setback shall be the average of the two front yard setbacks of existing dwellings on the abutting lots fronting on the same street if both abutting lots have dwellings within 150-feet of the area to be subdivided. The Suburban Infill setback is not required to exceed fifty (50) feet, but shall not be less than the twenty-five (25) foot minimum front yard. This requirement does not apply to Planned Unit Development (PUDs).

**Amend Chapter 38, Article V, by adding a new Division 30 as follows:**

**DIVISION 30. URBAN INFILL LOT COMPATIBILITY OPTION**

**Sec. 38-477. Intent.**

(1) In areas previously subdivided and predominantly developed, lot sizes resulting from a proposed subdivision may be generally in keeping with the lot sizes of surrounding lots with setbacks reflecting both an urban form and maintaining compatibility with existing residential development.

(2) The adopted Comprehensive Plan encourages appropriate development forms in the Urban Infill Development Sector which contains the Urban Overlay Zone. The plan supports urban neighborhoods which have a denser and more urban fabric than other areas of the city. New development should follow urban patterns with smaller blocks, a connected street grid, alleys, smaller lots, and shallow building setbacks. This subdivision option allows this development form to occur by determining compatible lot size, frontage, and front setback, and allowing reduced side yard setbacks, and requiring appropriate parking and access.

- (3) The intent of this ordinance is to:
- (a) stimulate economic investment and development in older, established neighborhoods by allowing for the subdivision of a parcel into lots of a similar size as existing lots of record in the neighborhood; and
  - (b) reduce the need for zoning variances for building setbacks, lot dimensions, and related physical characteristics; and
  - (c) promote neighborhood preservation by fostering new construction that is in harmony with the character of the neighborhood and urban fabric of the city.

**Sec. 38-478. Applicability**

- (1) Reduced lot size and yard regulations apply only to:
- (a) Creation of new lots
  - (b) Lots in the Urban Overlay Zone
  - (c) Single-family detached dwellings
  - (d) Lots on sewers
  - (e) Lots zoned R-1 Residential, R-2 Residential, or R-3 Residential
  - (f) Lots that are not in a Local Historic District
  - (g) Lot area to be subdivided to be less than one acre

**Sec. 38-479. Lot area and frontage compatibility**

- (1) Lots excluded from establishing lot compatibility. The following properties shall not be used to determine the block character for purposes of establishing lot compatibility:
- (a) Properties zoned non-residential, zoned for attached single-family residential, or multi-family.
  - (b) Properties zoned for single-family, but used for legal non-residential uses or other legal non-conforming uses.

(c) Properties zoned R-1, R-2, or R-3 but used for non-residential purposes such as schools, day cares, or religious facilities.

(d) Lots that are part of a Planned Unit Development.

(e) Properties where development continuity cannot be provided due to a natural or man-made barrier, including but not limited to, arterial or collector streets, public land, railroad right-of-way, waterways, or

(f) Properties that face a block face within a non-residential zoning district.

(g) Interior lots located to the rear of another lot but with a narrow portion extending to the street when that narrow portion is less than the frontage required by the Chattanooga Zoning Ordinance.

(2) Compatible Lots. The following properties shall be used to determine the block character for purposes of establishing lot compatibility:

(a) Lots on the same and opposing block face (as defined in Section 17.04.060 of the Zoning Code) that are within 300 feet of the boundary of the property proposed to be subdivided.

(b) Lots abutting each quadrant of an intersection when the proposal involves a corner lot; and

(c) Lots that abut or are directly across a public way, but not to the rear of the property, from the property proposed to be subdivided.

(3) Lot Compatibility Calculation. To determine if a proposed subdivision meets the requirements of this Section, the allowable minimum lot frontage and area of the surrounding comparable lots shall be calculated as follows:

(a) The surrounding lot frontages and areas shall be stratified and any lot varying more than 50 percent from the median shall not be included in the calculations.

(b) Determine the average frontage of the applicable surrounding lots and multiply the result by 90 percent. This result then is the minimum lot frontage required for comparability. If the lot proposed to be subdivided has frontage on two or more streets,

the frontage of the lot proposed to be created shall be compatible with the existing lots on the same street frontage.

(c) Determine the average area of the applicable surrounding lots and multiply the result by 75 percent. This result then is the minimum lot area required for comparability.

**Sec. 38-480. Minimum yard requirements.**

(1) For lot sizes created with the reduction allowed under the Lot Compatibility Calculation that are less than 7,500 sq. ft., the following minimum yard requirements shall apply:

(a) Building setback shall be equal to the average of the building setbacks of adjacent residential structures on the same street,  $\pm$  5 feet. Maximum setback allowed is 25'. If adjacent lots are vacant, the nearest residential structures on the same side of the street shall be used. Exceptions for hardships due to topography, lots of record or other factors must be approved by the Chattanooga-Hamilton County Regional Planning Commission.

(b) Rear setback: There shall be a rear yard of not less than 25 feet.

(c) If the Infill Lot is an interior lot there shall be a side yard of not less than five (5) feet

(d) If the Infill Lot is a corner lot, the following minimum side yards on the street shall apply:

LOT WIDTH	
50 feet or less	10 feet
50.1 feet to 60 feet	10 feet
60.1 feet or more	25 feet

(e) On corner Infill Lots, the interior sidelines shall be permitted to have a side yard setback of five (5) feet.

(2) Height: No building shall exceed two and one-half stories or 35 feet in height except that a building may exceed these height regulations provided that for every one (1) foot of additional height over 35 feet the building shall be set back one (1) additional foot from all property lines.

**Sec. 38-481. Parking and access**

(1) The purpose is to locate off-street parking and provide paving design which improves the streetscape, to minimize curb cuts and maximize front yard landscaping and to maximize the opportunity for on-street parking.

(a) To assure that new buildings relate to the street in a manner that is similar to that seen traditionally in a neighborhood, the following standards shall apply:

- i. Where an alley is available and open for access, it shall be used for parking access and no parking area shall be allowed in the required front yard setback area (determined by building setback in E(1) above). Where an alley does not abut the side or rear of the lot, the standards below shall be applied to any garage.
- ii. All attached and detached garages shall remain subordinate to the primary wall plane and should be have a setback of a minimum of 12' behind the house's main facade line.

**Sec. 38-482. Process**

(1) Notification. Any lot(s) proposed to be created under the Lot Compatibility Calculation in Sec. 38-479 shall require notification by the Planning Agency Staff by first class mail to all property owners within 300 feet of an area to be subdivided.

The deadline for Urban Infill Lot proposals shall be the 10<sup>th</sup> of a month unless the 10<sup>th</sup> falls on a Saturday, Sunday or holiday in which case the deadline will be the next working day and shall be accompanied by a \$100 non-refundable fee.

(2) All lot(s) proposed to be created using the Lot Comparability Calculation shall be reviewed and approved or disapproved by the Chattanooga-Hamilton County Regional Planning Commission.

A subdivision may not be approved if it has determined from adequate investigations that the development would be detrimental to the public welfare. Such inhibiting factors may include, but are not limited to, flooding, adverse drainage problems, unsuitable soil, excessive slope of the land, surface or sub-surface rock formations, and other features which may endanger health, life, or property, aggravate erosion, increase flooding potential, or necessitate the excessive expenditure of public funds for supply

and maintenance of services. Other factors that may preclude development include land unsuitably located which might involve danger or injury to the health or safety of the future property owners; and uneconomical utilization of the land due to the lack of, or adverse affect on, the water supply, transportation facilities, or other public services or facilities which might necessitate an excessive expenditure of public funds.

(a) Applicant shall provide a plat for review by the Commission with the front setback line shown; and

(b) Applicant shall provide a site plan showing, where applicable, proposed building footprint, setbacks, parking, and access.

(3) The Chattanooga-Hamilton County Regional Planning Commission may allow a deviation from the setback and parking and access requirements of the Lot Compatibility option in Sec. 38-480 and Sec. 38-481. A variance may be considered under the following conditions:

(a) The applicant presents an alternative that complies with the stated intent, goals and general standards of the Zone.

(b) The deviation from the standard is consistent with adopted plans and principles for the area.

(c) The deviation is compatible with the character of the Zone where it is proposed, and with the size and location of the buildings in the vicinity.

(d) The physical conditions of the property, such as steep slopes, drainage, easements, or small or irregular lot shape make compliance to this specific requirement impossible.

(e) When using the calculated setback, frontage, or lot size will result in development which does not achieve the objective of maintaining a rhythm along the street, alternative setbacks may be considered.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two

(2) weeks from and after its passage.

PASSED on Second and Final Reading

August 18, 2009.

W. Joseph Benson  
CHAIRPERSON

APPROVED:   x   DISAPPROVED:       

DATE: 8-20, 2009

[Signature]  
MAYOR

/add