ORDINANCE NO. 775

INTRODUCED BY:_____

AN ORDINANCE OF THE TOWN OF DENTON TO AMEND CHAPTER 128, ZONING, OF THE DENTON TOWN CODE TO ADDRESS CERTAIN LANDSCAPE AND OPEN SPACE REQUIREMENTS FOR CERTAIN DEVELOPMENT PROJECTS

WHEREAS, Md. Code Ann. Local Government § 5-213 authorizes municipalities to adopt zoning regulations, subject to any right of referendum of the voters at a regular or special election as may be provided by the municipal charter; and

WHEREAS, Md. Code Ann. Land Use § 4-102 authorizes municipalities to regulate zoning and land use to promote the public health, safety and welfare; and

WHEREAS, the Town of Denton has certain landscaping and open space requirements for certain developments and construction activities within Town; and

WHEREAS, the Town of Denton also requires forest conservation measures for certain development projects within Town; and

WHEREAS, the Planning Commission recognized a benefit to the Town, and to developers and owners of development projects, in permitting a project or site to offset landscape requirements that may be necessary if the project otherwise meets the landscape requirements through the project's forest conservation plan; and

WHEREAS, the Planning Commission further recognized open space requirements within the Code are required for all residential developments and recommended that the open space requirements be amended to provide an exemption from open space for small projects and residential subdivisions; and

WHEREAS, to provide the benefit of additional landscaping and open space for larger-scale projects, but eliminate the cost and burden on smaller scale projects, the Council finds it desirable and in the interest of the public to adopt the recommended amendments.

NOW, THEREFORE, BE IT ENACTED, the Denton Town Council hereby ordains as follows:

SECTION 1: Article X, Environmental Standards, Landscaping, Shading and Buffers, Section 128-149 is hereby amended as follows:

§ 128-149 Alternative compliance.

To encourage creativity in landscape and screening design and to allow for flexibility in addressing atypical, site-specific development/redevelopment

challenges when administering the landscape requirements of this Article, the Planning Commission is authorized to approve alternative compliance landscape plans when it is determined that one or more of the following conditions are present:

A. The site has space limitations or an unusual shape that makes strict compliance impossible or impractical;

B. Conditions on or adjacent to the site, such as topography, soils, vegetation, or existing structures or utilities, are such that strict compliance is impossible, impractical, or of no value in terms of advancing the general purposes of this article;

C. The project is being considered under the provisions of the IRD Infill and Redevelopment Overlay District;

D. Safety considerations such as intersection visibility, utility locations, etc., make alternative compliance necessary or

E. Creative, alternative landscape plans will provide an equal or better means of meeting the intent of this article's landscaping and screening regulations.

F. Landscape plantings required in this Article, and meeting the size and specification requirements of this Section, may be credited against afforestation or reforestation requirements of a related Forest Conservation Plan for the same site, in accordance with the following schedule:

(1) Deciduous, shade/canopy trees (assumed 22' avg. canopy)	**400 sq. ft. area**
(2) Evergreen trees (assumed 18' avg. canopy)	**250 sq. ft. area**
(3) Understory trees (assumed 12' avg. canopy)	**125 sq. ft. area**

G. Afforestation or Reforestation plantings required under a related Forest Conservation Plan for the same site may be credited against the required landscape improvements of this Article only when the plantings meet the minimum size and locational requirements outlined herein.

SECTION 2: Article XII, Common Open Space, is hereby amended as follows:

§ 128-165. Purpose and intent; applicability.

A. This section intends to establish minimum common open space requirements for all residential developments, as well as standards and requirements that shall constitute prerequisites for approval of common open space and use areas and/or facilities. These provisions shall apply to all such proposed areas and facilities, including but not limited to conventional subdivisions, planned developments, cottage developments, and multifamily developments.

B. These provisions ensure that all common open space and use areas and/or facilities are planned, constructed, managed, and maintained suitably. They ensure these areas become integral parts of the various developments proposed at the time of approval.

C. Where a proposed greenway shown in the Comprehensive Plan of the Town or Caroline County crosses a proposed subdivision, the approving authority may require a greenway public use easement.

D. Exemptions. The common open space requirements of § 128-166 do not apply to:

(1) a project approved under Article IV, Part C (IRD Infill and Redevelopment Overlay Zone); or

(2) a residential subdivision creating ten (10) or fewer lots, other than a cottage housing development or a subdivision within a PUD Planned Unit Development or PN Planned Neighborhood District, which remain subject to the open space requirements applicable to them. For purposes of this paragraph, all lots created from the same parcel, or from contiguous parcels under common ownership, within any three-year period, including any residual lot, are counted together.

(3) Where a project that is exempt under Subsection D voluntarily provides common open space, § 128-166.C and E through H apply to that open space.

§ 128-166. Requirements for approval.

The following requirements governing the approval of common open space and use areas and/or facilities shall apply to all residential developments, **except as provided in § 128-165.D**. For purposes of computing common open space requirements, net site area includes the entire land area within the boundaries of a development site minus all street and utility rights-of-way existing prior to development.

A. Minimum common open space requirements for residential developments are as follows:

(1) Convention subdivision: 15% of the net site area.
(2) Cluster subdivision: 15% of the net site area.
(3) Cottage housing development: 400 square feet per cottage.
(4) PUD Planned unit development: 20% of the net site area.
(5) PN Planned Neighborhood Development: 30% of the net site area.
(6) IRD Infill and Redevelopment Overlay Zone project: 15% of the net site area.

. . .

I. IRD Infill and Redevelopment Overlay Zone projects — distributed open space credit. For a project approved under Article IV, Part C (IRD Infill and Redevelopment Overlay Zone), and notwithstanding the exclusion of yards from the definition of COMMON OPEN SPACE in § 128-15, the open space requirement in Subsection A(6) above may be satisfied in whole or in part by distributed open space — including private yards, required setbacks, buffers, and other unbuilt, pervious areas on the development site or on individual lots — without a separate dedicated common open space area, subject to the following:

(1) the distributed open space relied upon is shown on the approved site plan;

(2) Subsection B's requirement that not less than 50% of the minimum required common open space be in a form usable to and accessible by the residents does not apply to open space credited under this Subsection I, given the individual rather than shared nature of that space;

(3) the Planning Commission may require that a portion of the open space required under Subsection A(6) be provided as a shared amenity usable to and accessible by the residents where the project's scale and the Comprehensive Plan's objectives warrant one; and

(4) any portion of the requirement in Subsection A(6) not satisfied by distributed open space shall be satisfied by common open space meeting the requirements of this Article or, where the Planning Commission permits, by a fee in lieu under Subsection D.

J. For a project relying on Subsection I above, Subsections E(1), F, and H of this section do not apply. Instead:

(1) Before initial occupancy of any dwelling unit in the development, or before the sale of any lot or unit if the development is subdivided, whichever occurs first, the developer shall record among the land records of Caroline County a maintenance covenant, approved by the Town Council, obligating the owner to maintain the distributed open space credited under Subsection I in accordance with the approved site plan. Where the development remains under single ownership, the covenant binds the owner of the site as a whole. Where the development is subdivided into separately-owned lots or units, the covenant binds each lot or unit owner for that owner's portion of the distributed open space. The covenant shall run with the land and bind all successors in title, including a subsequent purchaser of the site as a whole.

(2) If the responsible owner fails to maintain the required area after written notice from the Town and a reasonable opportunity to cure, the Town may perform the necessary maintenance and assess the cost as a lien against the site or the applicable lot, as the case may be, collectible in the same manner as other Town liens.

(3) Nothing in this Subsection J requires a compulsory association, dues structure, or corporate governance beyond the covenant itself, unless the developer elects to establish one.

SECTION 3: If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Denton Town Council hereby declares that it would have passed this Ordinance and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

SECTION 4: In accordance with § C3-12 of the Town Charter, this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect seven (7) days from and after the date of its final passage and adoption, except that in accordance with Md. Code Ann., Land Use § 4-203(b)(3), this Ordinance shall not be effective until at least ten (10) days after a public hearing is held.

ENACTED THIS _____ DAY OF _____, 2027.

DENTON TOWN COUNCIL:

_____
Abigail McNinch, Mayor

_____
Dallas Lister, Councilperson

_____
Lester L. Branson, Councilperson

_____
Walter Keith Johnson, Councilperson

_____
Frank Taylor, Councilperson

ATTEST:

_____
Karen L. Monteith, Clerk-Treasurer

Approved for legal sufficiency this _____ day of _____, 2027.

_____
Lyndsey Ryan, Town Attorney

Date Introduced _____
Date Amendments Introduced _____
Date Passed _____
Effective Date _____

Text that is ~~stricken~~ reflects language omitted from the Town Code
Text in **bold and underlined** reflects additions to the Town Code