



Nice Matters!

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**DATE:** December 2, 2019  
**TO:** Matt Zapp, Town Manager  
**FROM:** Josh Edmondson, CZO, Town Planner  
**SUBJECT:** **Amendment to Chapter 5 Density, Intensity and Dimensional Table, Minimum Dwelling Unit Size (Heated Square Feet)**

A recent statutory change by the State of North Carolina has limited municipalities and counties ability through the local zoning ordinance to regulate small house (tiny homes). S.L. 2019-174 (H.B. 675) amended G.S. 160A-381 and 153A-340 to prohibit cities and counties from including a minimum square footage for any structure subject to the State Building. Below is an excerpt from the Planning and Zoning Law Bulletin, by the UNC School of Government in September 2019 on the subject:

*“Small houses are increasingly proposed in North Carolina. The proposals arise in a variety of settings, including affordable housing, “tiny homes,” accessory dwellings, assisted living, and others. Very few North Carolina cities and counties prohibit these structures, provided that if one is to be used as a residence, it must be built to the State Building Code. However, in order to forestall any prohibition movement, S.L. 2019-174 (H.B. 675) amends G.S. 160A-381 and 153A-340 to prohibit city and county zoning ordinances from including a minimum square footage for any structure subject to the State Building Code for one- and two-family residential dwellings. The act also includes this restriction in the county subdivision-enabling statute. These provisions became effective on July 26, 2019. This law does not affect private restrictive covenants, which are far more likely to address this issue than local zoning ordinances”.*

The implications to the Town are significant. Our current ordinance provisions require each single-family residential structure to be a minimum of 1,000 heated square feet and two-family (duplex) unit's a minimum of 750 heated square feet per each unit. Because of this statutory change, our ordinance will require an amendment to remove the minimum square foot requirement. This means that as long as the minimum square footages are complied with as outlined in the North Carolina Residential Code, small houses will be allowed to be placed in any zoning district allowing single and dual family structures without limitation. Section R304 Minimum Room Areas of the North Carolina Residential Code requires habitable rooms to have a floor area of not less than 70 square feet with the exception of kitchens. Habitable space is defined as a space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

Staff has been at work since the approval of this new legislation trying to identify a zoning amendment that would regulate small homes. After review with the UNC School and Government and Town Attorney Stanley, there is no viable option to regulate small homes through a zoning ordinance at this time. Because of this and in order to be in compliance with H.B. 675 staff recommended to the Planning Board at their November meeting to amend Chapter 5 Density, Intensity and Dimensional Table, Minimum Dwelling Unit Size to remove the minimum heated square feet requirement for single family and duplex dwelling units in the R2 and RMF zoning districts. The Planning Board voted unanimously to approve the amendment as submitted in order to comply with H.B. 675,

I look forward to discussing this with the Commissioners at their December meeting.