



AGENDA
Ordinance Advisory Board Meeting
May 6, 2021 - 3:30 PM
TOWN CENTER (105 GILEAD ROAD)

Virtual Meeting Information- *Members of the public may view or access the meeting on Facebook Live at <https://www.facebook.com/HuntersvilleNCTownGovernment>. If you would like to speak at the upcoming meeting during public comment, please send your name and email address to Tracy Barron tbarron@huntersville.org by 3:00 pm on the day of the meeting, to be added to the speaker's list. The Town will use your email address to send you an email invitation from Ring Central. This will allow you to call in and/or access the meeting to deliver your comments (the 3-minute time limit still applies). In addition, the Town will receive written comments below by email to Tracy Barron tbarron@huntersville.org until twenty-four (24) hours prior to the meeting.*

1 Roll Call/Quorum

2 Adoption of Minutes

Consider adoption of the April 1, 2021 Minutes of the Meeting

3 Public Comments

4 Other Business

Discussion on Section 9.9 Commercial Communication Towers

Discussion on Metrolina Greenhouse request for amendment to the definition of Dormitory and adding dormitory to allowed uses in the Transitional Residential (TR) zoning district to allow H-2A housing

Detached Garage in Side Yard

Discussion on 160D Amendments to the Subdivision Ordinance and recommendation all Zoning and Subdivision Ordinance changes related to 160D and clean-up language.

5 Adjourn



**Huntersville Ordinances Advisory
Board Minutes
April 1, 2021
3:30 p.m. – 5:00 p.m.
Location: VIRTUAL MEETING**

- NOTICE VIRTUAL MEETING -

Virtual Meeting Information - Members of the public may view the meeting on Facebook Live at <https://www.facebook.com/HuntersvilleNCTownGovernment>. If you would like to speak at the upcoming meeting during public comment, please send your name and email address to Tracy Barron at tbarron@huntersville.org to be added to the speaker's list. The Town will use your email address to send you an email invitation from Ring Central. This will allow you to call in and/or access the meeting to deliver your comments (the 3-minute time limit still applies). In addition, the Town will receive written comments for the public comment below by email to Tracy Barron at tbarron@huntersville.org.

A. Call to Order

Attendance: M. Jones, T. Taylor, L. Munger, K. Jones, J. Henson, T. Finlay, B. Skelly, S. Moore, F. Gammon

Non-voting members present: J. Simoneau, J. Glass & T. Barron

B. Adoption of March 4, 2021 Minutes (Attachment 1)

T. Taylor made a Motion to Approve, L. Munger seconded the motion. The motion passed (8-0-1), with S. Moore abstaining due to absence.

C. Comments from Audience (3 minutes per person allocation)

D. Other Business

1. TA21-04: Administrative Tree Mitigation Process (Attachment 2)

B. Priest, Principal Planner reviewed the current process and proposed adjusting the process to have staff administratively review the tree save items that currently fall under Article 7.4.2 F, foot note 2 "Mitigation Allowance." This would remove the requirement which currently states, "and approval by the Planning Board is granted."

F. Gammon asked for staff to confirm that the Zoning Ordinance has already been adjusted, and this request is simply to adjust who is determining it meetings the Zoning Ordinance standards. Staff confirmed that is correct, staff would be allowed to determine that it meets the standards versus the Planning Board being required to do so.

J. Henson stated that he was in support as it appears to just clean up the process which must still be reviewed and confirmed as meeting the standard.

M. Jones asked staff if these adjustments comply with the local statutes that enable the local zoning to have authority over tree save. Staff commented that it is their understanding that it is in compliance, but they will confirm with the Town Attorneys.

J. Henson made a Motion to Approve the amendment as presented by staff. F. Gammon seconded the motion. The motion passed unanimously (9-0).

2. Discussion on amendments to Article 11, 12, and 14 of the Zoning Ordinance related to State Statute 160D changes (Attachment 3, 4, 5) NOTE: Amendments to Article 13 Adequate Public Facilities will be on the April 6, 2021 Town Board agenda (Attachment 6)

J. Simoneau, Planning Director asked if there were any questions or comments regarding the proposed amendments provided in the agenda packet.

M. Jones commented that he believes we need to do a deeper dive into the TIA process to ensure that the amendments are compliant with the local statutes that govern it.

S. Trott commented that both the Town and NCDOT have a TIA process and most of the roads are controlled by NCDOT and the results of the TIA are very similar or the same. Given this he asked if it would make more sense for the Town to do away with their TIA process and rely on the NCDOT TIA results.

M. Jones commented on the findings of the TIA Committee that there are limitations to what the curb cut statute and the NCDOT driveway permit which have some defining limits. In addition to that, there are additional considerations that must be reviewed and will require more time and attention due to complexity.

S. Trott commented that the time, effort, and benefit of the Town TIA process versus the NCDOT TIA process seems to be yielding little to no results, causing the question as to whether the Town TIA process should continue.

T. Finlay asked if the feedback from current Town Counsel has changed from the previous Town Counsel. J. Glass, Town Attorney responded that he does not believe E. Sloop has done a full deep dive into the Article. M. Jones commented that he will provide the Town Counsel with a copy of the recommendations made during the TIA Committee's process.

J. Henson commented that in his experience it is a lengthy, costly and time-consuming process and he agrees that it may be time to remove the Town TIA process and study what the potential effects of utilizing the NCDOT TIA process only would be.

L. Munger commented that the Commissioners often are asked why some of the smaller intersections are not being studied by the Town TIA process, since NCDOT is already studying their intersections. S. Trott commented that the criteria of the ordinance in Article 14.2.1(a) indicates that the study looks at 100 or more vehicle trips in a peak hour. Average vehicle traffic for many of our smaller intersections may be 150 vehicles per day, so under the current TIA criteria the report is going to tell you that the conditions are good. During peak times that intersection may still benefit from a turn lane or a through lane, but the TIA will not reflect that due to the criteria. He went on to explain how the TIA process is a snapshot of a single day and should not be viewed as what you may find at that location in 5 years. Identifying what the information is that would be valuable for the decisions that need to be made, or to answer local residents about the conditions, would be a good starting point to adjusting the criteria or determining how to best answer the question.

T. Finlay spoke about the varying conditions that could impact the TIA results and the inability to look at the data from a single intersection against the balance of the factors for that day or time

to generate useful data.

K. Jones commented that she thinks it is important for us to turn our attention to the affect that all the development is having on our roads and our infrastructure.

M. Jones asked if staff could provide the new member of the Board with the results of the TIA Committee so they could be up-to-speed on the attempted approach to be fair and equitable to new development and the Town could accurately prioritize based on the greatest need. Staff confirmed that they would send that out.

J. Simoneau restated that the purpose of the amendments today is the much more all encompassing 160D requirements. The conversation is productive because it highlights possible additional amendments that may need to be addressed to remove redundancy and address the smaller roads with improved criteria to accurately address those needs.

Staff advised that Article 13 has been submitted to the Town Board for recommendation to withdraw given that the reporting is no longer being used by the various departments, who are relying on different methods to provide them with accurate data to ensure that adequate facilities are being met.

E. Adjourn

S. Moore made a Motion to Adjourn. J. Henson seconded the motion. The motion passed unanimously (9-0).

Article 9.9 - Commercial Communication Tower

A Commercial Communication tower shall meet the following standards:

.1 To encourage future shared use of commercial communication towers, the tower owner must demonstrate that the tower will support a specified number of antennas, and must file a letter of intent with the town to lease the space to other users in good faith. In turn, the owner may charge users a proportionate share of capital, financing, and operating costs, plus the cost of insulating equipment so that the transmissions do not interfere with one another. To encourage co-location of commercial communication antenna and facilities and to reduce the need for new commercial communication towers, co-location of such antennae and facilities shall be permitted on any commercial communication tower or tower for radio communication for business or governmental purposes of which the tower was in existence on July 20, 2009, regardless of when constructed, the underlying zoning district, or any condition of approval for the existing tower other than a condition which was imposed or accepted by the Board of Commissioners. To the extent practical as determined by the Planning Director, all standards of this [Section 9.9](#) shall be applicable.

.2 No new commercial communication tower may be established if there is a technically suitable space available on an existing communications tower within the geographic area that the proposed tower is to serve.

.3 The entire facility must be aesthetically compatible with its environment. If not otherwise camouflaged, towers shall be of a coloration that will blend with the surroundings. Example: brown/green/gray

.4 Fencing must be provided to secure the communication equipment on site. If chain link or similar fencing material is used on the site, an opaque screen shall be provided on the exterior side of the fence.

.5 All obsolete or unused facilities must be removed within 12 months of cessation of operations at the site.

.6 No equipment, mobile or immobile, not used in direct support of the transmission or relay facility shall be stored or parked on the site unless repairs to the facility are being made.

.7 Towers shall not be artificially lighted except to insure human safety as required by the Federal Aviation Administration (FAA) regulations. To the extent possible, tower lighting shall be located and directed to avoid flashing or shining into the interior spaces of dwellings.

.8 An opaque screen expected to reach minimum 8' height at maturity shall be planted around the perimeter of the area occupied by the tower, security fencing, and auxiliary uses such as parking. In addition, existing on-site trees and other vegetation shall be preserved to the extent possible.

.9 No more than one communication tower shall be constructed on a single tract of land.

.10 If such a structure is located on a lot adjacent to a lot or lots located in a residential or mixed use district, it must be located at least 200 feet from all property lines adjacent to the residential or mixed use district(s).

.11 To be permitted as an incidental accessory use in any zoning district, a tower shall be camouflaged on, with, or in an existing or proposed conforming structure (e.g., inside religious institution steeple, on utility transmission line tower). A detailed site plan and structural elevations must be submitted to the Planning Department for approval. The affirmative decision of the Planning Department shall be based upon a determination that the proposed tower is so camouflaged as to be unnoticeable to the public; or if placed upon a utility transmission line tower, that the additional equipment would not further diminish the quality of the view from surrounding properties and public streets, nor would additional light(s) intrude upon the private interior or exterior living areas of existing dwellings.

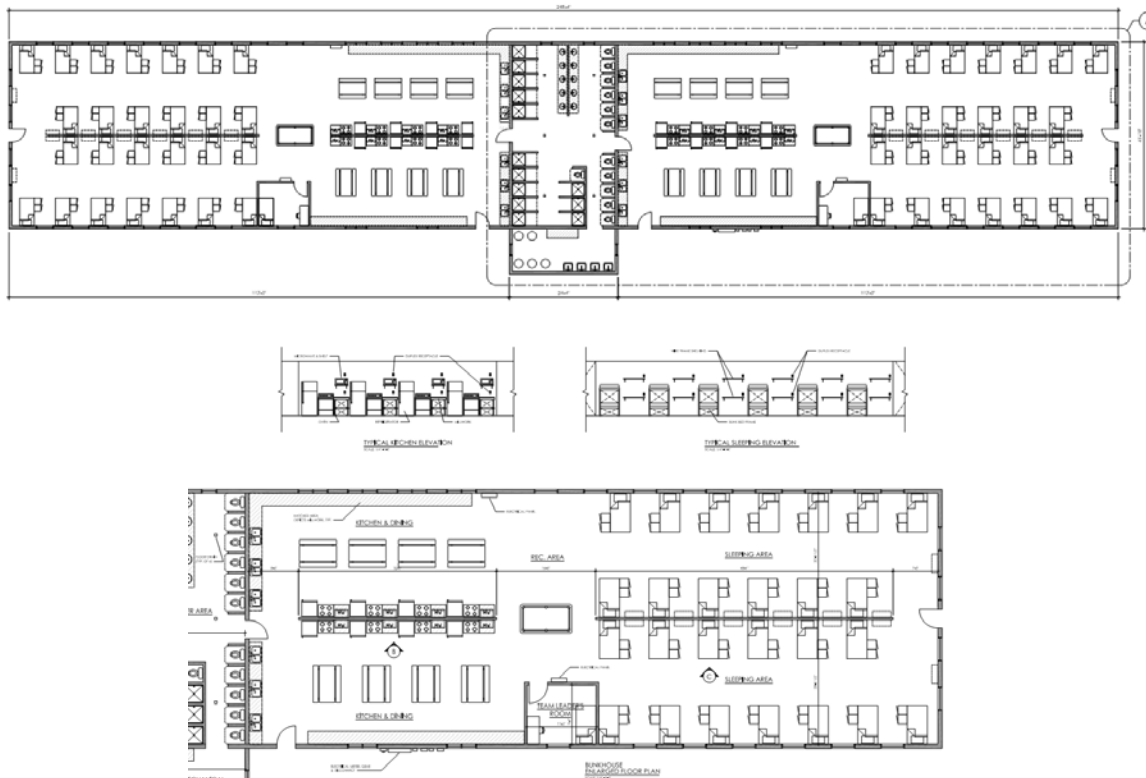
.12 Commercial Communication Towers in addition to meeting criteria 9.9.1-10 may be allowed in the Rural (R) district only if they meet the following criteria and are subject to a Special Use Permit, according to the procedures of Section 11.4.10:

- a) The height of the commercial communication tower may not exceed 199 feet above ground level;
- b) The commercial communication tower may only be placed on properties in eight and a half (8.5) acres on a tract that existed as an eight and a half (8.5) acre tract or greater on February 6, 2012;
- c) The commercial communication tower must be set back a distance of at least 500 feet from any public right-of-way and 200 feet from any property line;
- d) The commercial communication tower may only be placed on a property where it will not require artificial illumination;
- e) The commercial communication tower must provide technically-suitable space for at least four (4) users;
- f) The commercial communication tower must be set back a distance of at least the tower's fall zone, as certified by a North Carolina Professional Engineer, from any occupied structure.
- g) All commercial communication towers in the Rural district shall be constructed using a monopole design.
- h) A new communication tower cannot be placed within a one mile radius of an existing tower.

METROLINA GREENHOUSE H-2A HOUSING

Zoned: Transitional Residential (Metrolina also has property zoned Special Purpose and Rural)

Proposed Use: H-2A housing for workers



U.S. Department of Labor
Wage and Hour Division



(February 2010)

Fact Sheet #26: Section H-2A of the Immigration and Nationality Act (INA)

This fact sheet provides general information concerning the application of the H-2A requirements to the agricultural industry for H-2A applications submitted on or after March 15, 2010.

Introduction

The Immigration and Nationality Act (INA) authorizes the lawful admission of temporary, nonimmigrant workers (H-2A workers) to perform agricultural labor or services of a temporary or seasonal nature. The Department of Labor's regulations governing the H-2A Program also apply to the employment of U.S. workers by an employer of H-2A workers in any work included in the ETA-approved job order or in any agricultural work performed by the H-2A workers during the period of the job order. Such U.S. workers are engaged in corresponding employment.

Housing: Employers must provide housing at no cost to H-2A workers and to workers in corresponding employment who are not reasonably able to return to their residence within the same day. If the employer elects to secure rental (public) accommodations for such workers, the employer is required to pay all housing-related charges directly to the housing's management.

In addition, employers are required to either provide each covered worker with three meals per day, at no more than a DOL-specified cost, or to furnish free and convenient cooking and kitchen facilities where workers can prepare their own meals.

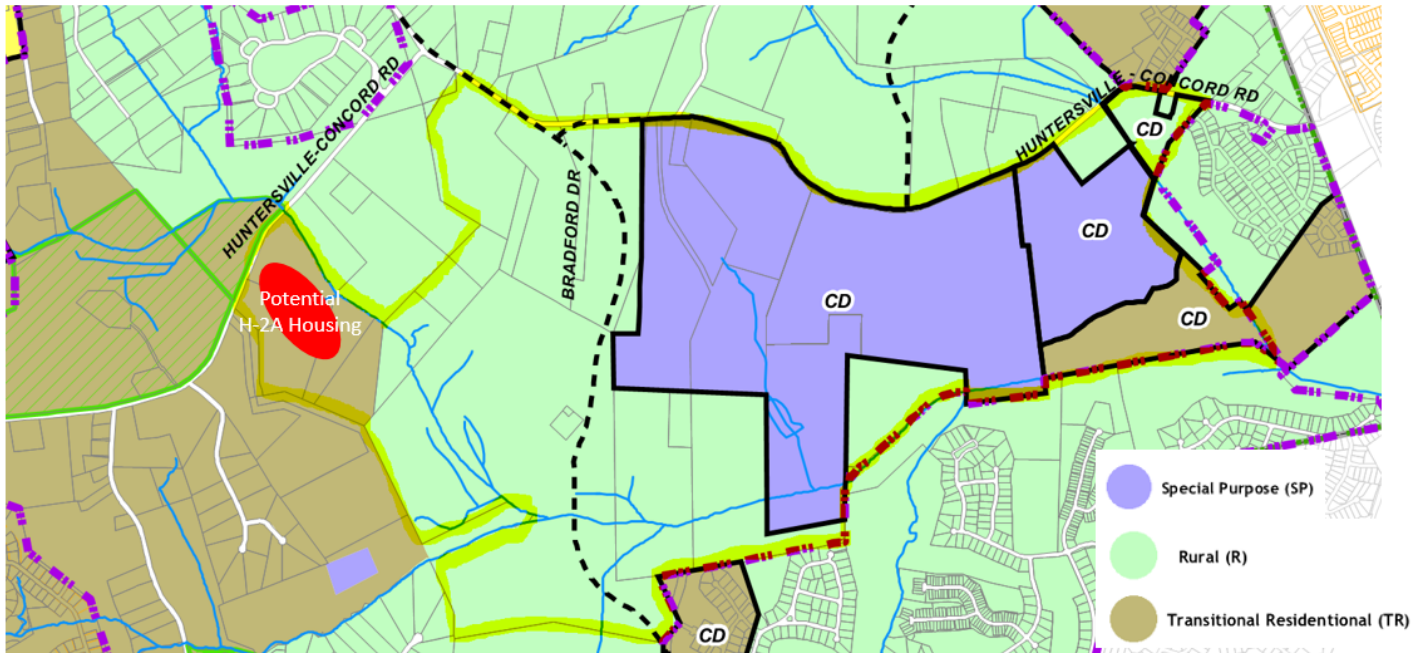
Employer-provided or secured housing must meet all applicable safety standards.

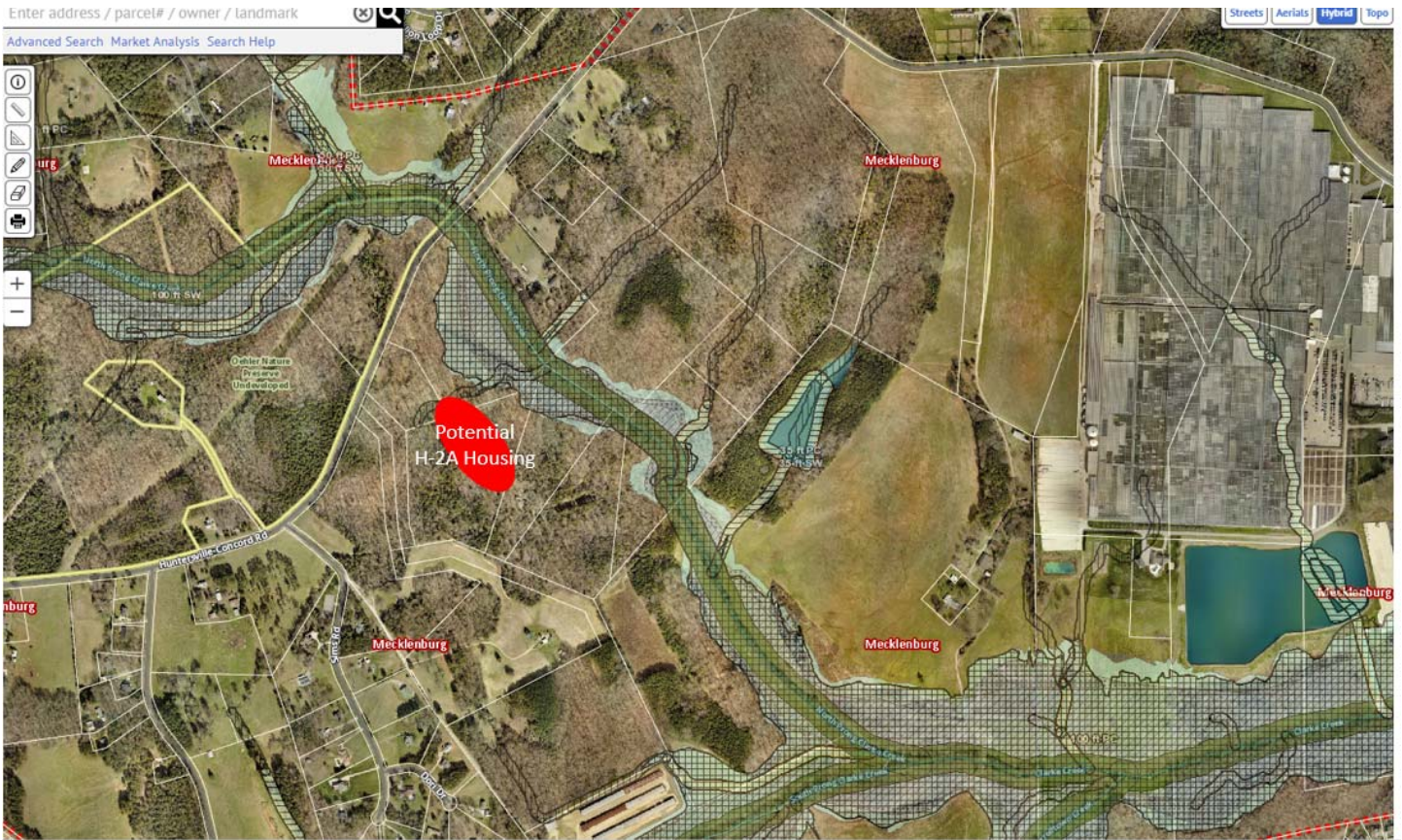
Land Use classification:

Dormitory. A building containing bathroom facilities available for common use by the residents of the building, which is occupied or intended to be occupied as the dwelling for more than six persons who are not related by blood, marriage, or adoption but who are enrolled in, affiliated with, or employed by the same educational, religious, or health institution. "Dormitory" shall not include a boarding house, motel, hotel, group home, or health institution.

1. Amend ordinance definition to include agriculture
2. Amend SP OR Rural zone to allow dormitories (OPTIONS: by-right accessory use; by right use with conditions; special use permit)
3. Standards? i.e. parking; building location; open space; buffers; setbacks, emergency accessibility, etc.

Metrolina Properties Highlighted





Town of Huntersville, North Carolina 2021 Plan Submission Schedule

Description of Steps on
Following Page


DESCRIPTION OF STEPS ON THE FOLLOWING PAGE

Process Type	Pre-Submittal Meeting & APFO/TIA 1	Plan Submission Deadline 2	Neighborhood Meeting 3	Call Public Hearing 4	Agenda Deadline 5	Town/Planning Joint Public Hearing 6	Planning Board Meeting 7	Town Board Final Action 8
Rezoning/Text Amend		May 3		Jun 7	Jun 14	Jul 6	Jul 27	Aug 16
Special Use Permit	Anytime prior to plan submission date	May 3					Jun 22	Jul 19
Conditional Rezoning		May 3	prior to Jun 6	Jul 6	Jul 12	Aug 2	Aug 24	Sep 20
Subdivision		May 3	prior to Jun 22				Jul 27	Aug 16
Rezoning/Text Amend		Jun 1		Jul 6	Jul 12	Aug 2	Aug 24	Sep 20
Special Use Permit	Anytime prior to plan submission date	Jun 1					Jul 27	Aug 16
Conditional Rezoning		Jun 1	prior to Aug 2	Aug 2	Aug 16	Sep 7	Sep 28	Oct 18
Subdivision		Jun 1	prior to Jul 27				Aug 24	Sep 20

Ordinance Item for Discussion: Detached Garages in Side Yard

Proposed Text Amendment for Article 3.2.1 (e, 6) and Article 3.2.2 (e, 6)

6. No minimum lot size or width is required, so long as the project meets all other standards of the district. Lots in farmhouse clusters are exempt from the requirements for the placement of detached residential garages in Article 4: Detached House and Article 8.16.

Background: This is a proposal by Jason Richardson, property owner of 14120 LEA POINT CT HUNTERSVILLE NC 28078 in the Lea Woods Farmhouse Cluster. The rationale is that under current regulations farmhouse clusters must maintain a generally rural appearance from public road(s) and at least 50% of the tract shall be designated as open space. Also, current regulations of the Zoning Ordinance require tree preservation per [Article 7.4](#) of the Zoning Ordinance. As a result of the appearance, open space, and tree preservation requirements, farmhouse clusters generally include significant vegetation such that detached garages in the side yard may be less visible from public street for lots in farmhouse clusters.

Related Zoning Articles:

Article 3.2.1 (e, 9) and Article 3.2.2 (e, 9)

9) The project shall maintain a generally rural appearance from public road(s).

Article 4: Detached House

2. Garages may be detached (entered from front or rear), or attached to the main dwelling, with or without habitable rooms above. Front loaded garages, if provided, shall meet the standards of Section 8.16.

3. A detached garage may be located only in the rear yard.

Article 8.16

.7 Detached garages may only be placed in the established rear yard. Garages for more than two cars must be detached and located in the established rear yard or be attached side or rear loading.

Article 7.4 : Minimum Tree Preservation Required

Zoning District	Existing Canopy $\geq$ 10% of total site area	Existing Canopy < 10% of total site area	Heritage Trees	Specimen Trees
R	50% of existing trees [notes 2,3,4]	10% of total site area (existing and planted) [1,2,3,4]	100% [2]	50% [2,4]
TR	35% of existing trees [2,3]	10% of total site area (existing and planted) [1,2,3]	100% [2]	35% [2]
GR and NR Districts	10% of total site area (existing and planted) [2,3]	10% of total site area (existing and planted)	100% [2]	10% [2]
TC, CI, TND, NC, TOD, HC, SP, CB, VS Districts	0%	0%	100% [2]	30% [2]

Notes 1-4 follow:

[1] If the tree save requirement does not meet 10% of the total site area, then additional trees must be planted. Each large maturing tree planted shall be given a canopy equivalent of 2,000 square feet and each small maturing tree planted a canopy equivalent of 500 square feet to reach the total of 10% of the total site area. Trees planted in buffer yards shall count towards meeting the required planting rate. However, street trees and newly planted residential lot trees shall not. Trees planted shall be a minimum of 2 inches in caliper and shall be 75% large maturing and 25% evergreen.

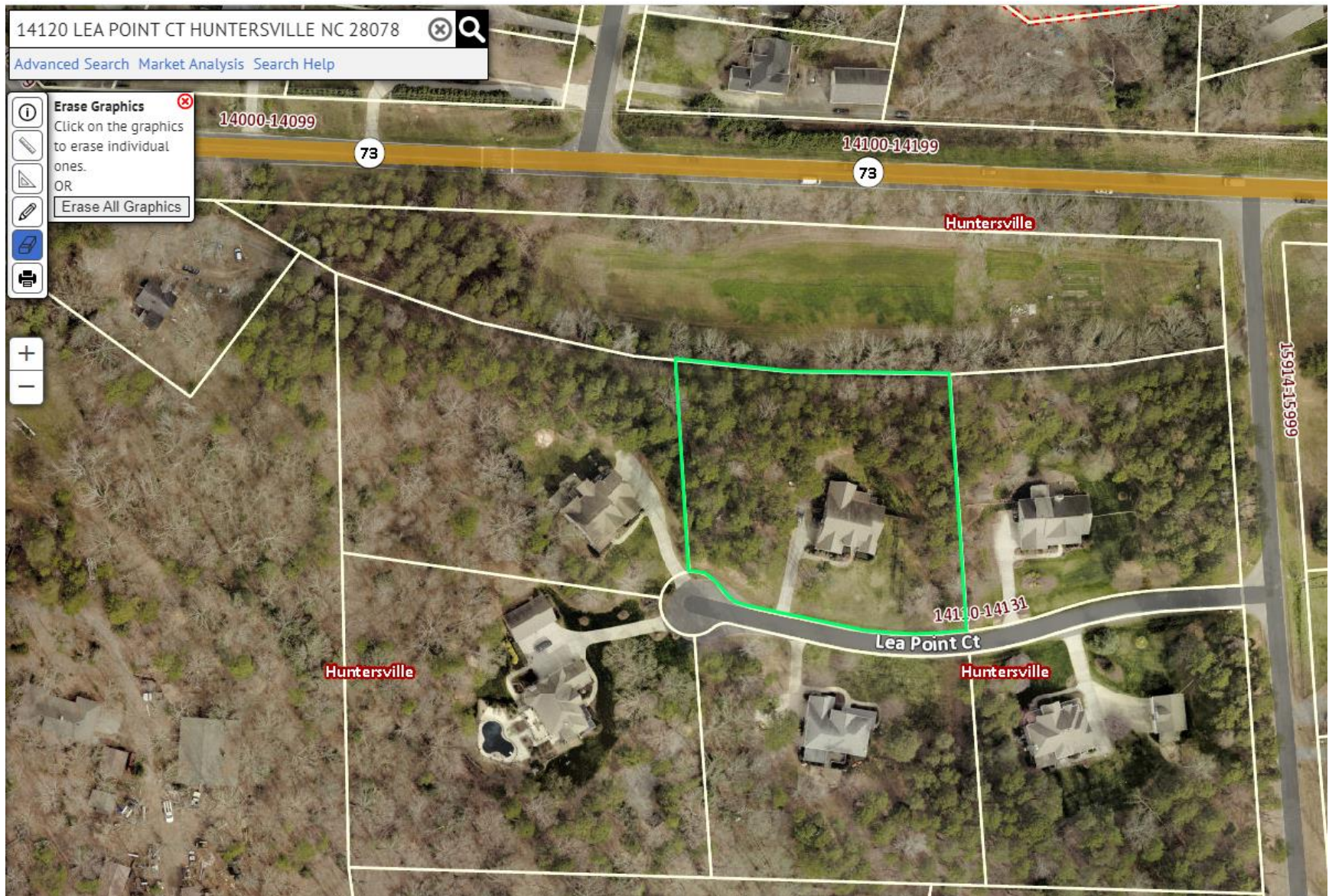
[2] Where circumstances prevent locating the required tree plantings or preservation standards on site and approval by the Planning Board is granted, the developer may mitigate protected tree canopy removal by planting new trees on the site whose canopy equals that of the canopy to be removed (new tree canopy credits are described above). If site conditions are not conducive for healthy tree replacement plant on site, the developer may contribute to a Tree Fund/Bank set up by the town for the planting and maintenance of such trees elsewhere in the community. A combination of planting and contribution in lieu of planting is acceptable. The amount of contribution is based on the total cost of the required mitigation trees plus that of their installation.

For Specimen Tree Mitigation, the developer may mitigate the removal of specimen trees by planting new trees on the site whose total caliper (DBH) equals 100% of the total caliper of trees (DBH) to be removed above the ordinance requirement. If site conditions are not conducive for healthy tree planting on site, the developer may contribute to a Tree Fund/Bank as described above. Newly planted street trees, parking lot trees, and buffer trees do not count toward the mitigation calculation.

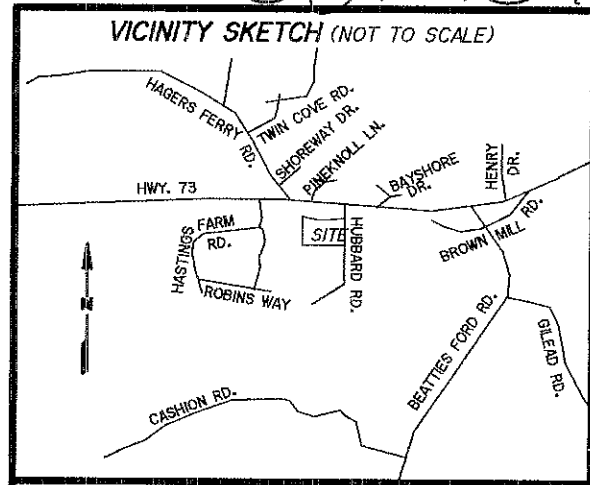
[3] When calculating the tree save area, 150% of the canopy area of each specimen tree and 200% of the canopy area of each heritage tree shall count towards the required tree save area. For example:

Saved Number of Trees	Canopy Area of Saved Trees	Calculated Tree Save Area
4 Specimen Trees	3,900 square feet	5,850 square feet
2 Heritage Trees	2,000 square feet	4,000 square feet

[4] In the Rural district (R) minimum tree save required for non-residential uses, are reduced to require preservation of >30% of existing canopy and specimen trees.



Polaris 3G Aerial of Lea Woods Farmhouse Cluster



FILED FOR
REGISTRATION
OCT 15 2002
AT 1:43 PM
JUDITH A. GIBSON
MECKLENBURG COUNTY, N. C.
REGISTER OF DEEDS

N.C.G.S. STATION "MO10"
N.C. GRID COORDS.
N = 188,436.185 METERS
E = 433,353.374 METERS
COMBINED GRID FACTOR = 0.9998394
N.C.G.S. STATION "MO10 AZ MK"
N.C. GRID COORDS.
N = 187,852.896 METERS
E = 433,384.189 METERS

NOTES :

PRIVATE ROAD WILL BE MAINTAINED BY THE OWNER UNTIL 75% OCCUPANCY IS ACHIEVED AT WHICH TIME IT WILL BE THE RESPONSIBILITY OF THE HOME OWNERS ASSOCIATION.

FRONT-LOADING GARAGES SHALL BE RECESSED AT LEAST 10' BEHIND THE PRIMARY PLANE OF THE FRONT FACADE OF THE STRUCTURE. EXCEPTION FOR SINGLE FAMILY DETACHED DWELLINGS WITH 1400 SQ. FT. OR LESS OF HEATED SPACE; SINGLE BAY FRONT LOADING GARAGES MAY BE BUILT FLUSH WITH, BUT MAY NOT PROJECT IN FRONT OF, THE PRIMARY PLANE OF THE FRONT FACADE OF THE STRUCTURE; DOUBLE BAY FRONT LOADING GARAGES SHALL BE RECESSED AT LEAST 10' BEHIND THE PRIMARY PLANE OF THE FRONT FACADE OF THE STRUCTURE.

BUILD-TO-LINE : A LINE EXTENDING THROUGH A LOT, WHICH IS GENERALLY PARALLEL TO THE FRONT PROPERTY LINE AND MARKS THE LOCATION FROM WHICH THE PRINCIPLE VERTICAL PLANE OF THE FRONT BUILDING ELEVATION MUST BE ERCTED; INTENDED TO CREATE AN EVEN BUILDING FACADE LINE ON A STREET.

TYPE OF SUBDIVISION = FARMHOUSE CLUSTER

NUMBER OF LOTS = 6

ZONING : OPS (OPEN SPACE DISTRICT)

MINIMUM SETBACK LINES :
FRONT = 40'
SIDE = 5'
SIDE STREET = 17.5'
REAR = 25'

NO. 6 REBAR SET AT ALL CORNERS UNLESS OTHERWISE NOTED.

PROPOSED USE OF NEW LOTS = SINGLE FAMILY RESIDENTIAL

TOTAL ACREAGE BEING DIVIDED = 10.0673 ACRES

ACREAGE COMPUTED BY COORDINATE METHOD.

WATERSHED : MOUNTAIN ISLAND LAKE PA-1

INITIAL IMPROVEMENTS (RE: ROAD) WILL NOT INVOLVE CLEARING MORE THAN 1 ACRE.

DIRECT VEHICULAR ACCESS TO HUBBARD ROAD FROM ANY LOT IS PROHIBITED.

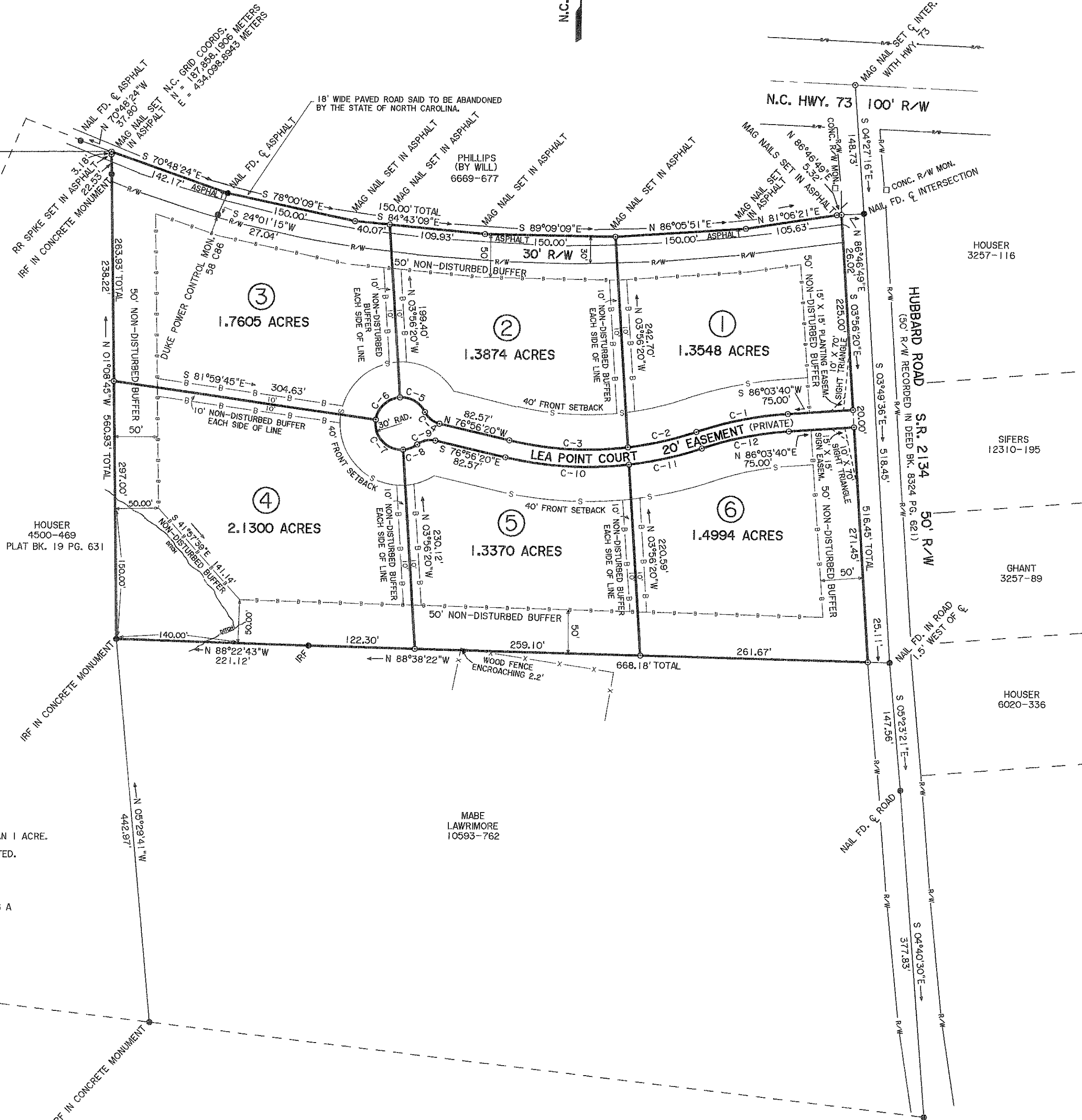
PROPERTY MAY BE SUBJECT TO RECORDED OR UNRECORDED RIGHTS-OF-WAY OR EASEMENTS NOT OBSERVED.

THIS PLAT COMPLIES WITH TOWN OF HUNTERSVILLE ZONING ORDINANCE AS A FARMHOUSE CLUSTER AND MEETS ALL STANDARDS LISTED IN ARTICLE 3 OF THE ZONING ORDINANCE.

THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

CERTIFIED BY: *W. Bradley Freeman*
W. BRADLEY FREEMAN
P.L.S. L-3119

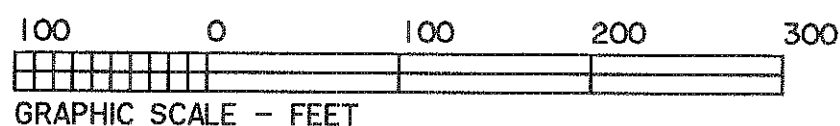
CURVE	CH. BEARING	CHORD	ARC	RADIUS
C-1	S 78°33'40"W	107.03	107.34	410.00
C-2	S 76°58'51"W	80.45	80.59	390.00
C-3	N 87°01'09"W	136.52	137.23	390.00
C-4	N 51°41'58"W	21.32	22.03	25.00
C-5	N 60°11'58"W	33.33	35.33	30.00
C-6	S 47°01'57"W	37.78	40.87	30.00
C-7	S 42°58'03"E	46.61	53.38	30.00
C-8	N 69°19'18"E	17.28	17.53	30.00
C-9	N 77°49'18"E	21.32	22.03	25.00
C-10	S 86°56'31"E	142.44	143.16	410.00
C-11	N 77°03'29"E	85.67	85.83	410.00
C-12	N 78°33'40"E	101.81	102.10	390.00



LEGEND :

- : EXISTING CORNER; TYPE NOTED
- : IPF : IRON PIPE FD.
- : IRF : IRON ROD FD.
- : CORNER SET; TYPE NOTED
- : CENTER LINE
- R/W : RIGHT OF WAY
- P : PROPERTY LINE
- PP : POWER POLE
- : POWER LINE
- S - : SETBACK LINE
- E - : EASEMENT
- C.M.P. : CORRUGATED METAL PIPE
- R.C.P. : REINFORCED CONCRETE PIPE

FLOOD CERTIFICATE :
BASED UPON REVIEW OF FLOOD INSURANCE RATE MAP, PANEL 30 OF 210, COMMUNITY PANEL NUMBER 370158 0030 D (EFFECTIVE DATE: JAN. 19, 2000), THE PROPERTY DEPICTED ON THIS SURVEY IS LOCATED WITHIN ZONE X (AREAS DETERMINED TO BE OUTSIDE 500 YEAR FLOOD PLAIN).



CERTIFICATE FOR TOWN PLANNING DEPT. :
THIS PLAT COMPLIES WITH TOWN OF HUNTERSVILLE ZONING ORDINANCE AS A FARMHOUSE CLUSTER AND MEETS ALL STANDARDS LISTED IN ARTICLE 3 OF THE ZONING ORDINANCE.

Lori Tomaszewski 8-8-02
TOWN PLANNER DATE

CERTIFICATE OF OWNERSHIP & DEDICATION :

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT, AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS, AND OTHER SITES AND EASEMENTS TO PUBLIC OR PRIVATE USE AS NOTED. FURTHERMORE, I DEDICATE ALL SEWER LINES AND ALL WATER LINES TO THE CHARLOTTE-MECKLENBURG UTILITY DEPARTMENT, IF APPLICABLE.

Ronald Locatis 8/7/02
OWNER DATE
Michael C. Bunting 8-7-02
OWNER DATE

REVIEW OFFICER CERTIFICATE :

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG
I, *Lori Tomaszewski*, REVIEW OFFICER OF MECKLENBURG COUNTY
CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

Lori Tomaszewski 8-8-02
REVIEW OFFICER DATE

CERTIFICATE OF SURVEY AND ACCURACY :

I, W. BRADLEY FREEMAN, PROFESSIONAL LAND SURVEYOR, CERTIFY THAT THIS PLAT WAS PREPARED FROM AN ACTUAL FIELD SURVEY PERFORMED UNDER MY DIRECTION AND SUPERVISION; THAT THE RATIO OF PRECISION IS 1 : 10,000+; THAT BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION SHOWN HEREON; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS 12th DAY OF JULY, 2002.

W. Bradley Freeman
PROFESSIONAL LAND SURVEYOR
L-3119
LICENSE NUMBER

FARMHOUSE CLUSTER

LEAWOODS

TOWN OF HUNTERSVILLE
LEMLEY TOWNSHIP
MECKLENBURG COUNTY, N.C.

REF. DEED BK. 10471 PG. 592 PARCEL # 01314104
REF. PLAT BK. 19 PG. 631

SURVEY FOR : **MICHAEL BUNTING & RONALD LOCATIS**

9139 WIND KNOB COURT
HUNTERSVILLE, NC 28078
PHONE : 704-875-1040

FREEMAN SURVEYING
W. BRADLEY FREEMAN, P.L.S. L-3119
1416 PLEASANT GROVE CHURCH ROAD
CROUSE, N.C. 28033
PHONE (704) 732-0404

SCALE : 1" = 100'
SURVEY BY : WBF
CHECKED BY : WBF DATE OF PLAT PREPARATION : JULY 12, 2002
DRAWN BY : DWF DATE OF SURVEY : JUNE 17, 2002
FD. BK. TDS JOB NO. 0291 DRAW FILE 0291510B



TREES

	QTY	COMMON NAME	SCIENTIFIC NAME	SIZE	HEIGHT	CONDITION
	16	Little Leaf Linden	<i>Tilia cordata</i>	2' cal.	8'	B&B
	9	Red Maple	<i>Acer rubrum</i>	2' cal.	8'	B&B
	14	Lily Magnolia	<i>Magnolia liliiflora</i>	2' cal.	8'	B&B
	31	Hinoki Falsecypress	<i>Chamaecyparis obtusa</i> "Filicoides"	2' cal.	8'	B&B
SHRUBS						
	QTY	COMMON NAME	SCIENTIFIC NAME	SIZE	HEIGHT	CONDITION
	99	Leatherleaf Viburnum	<i>Viburnum rhytidophyllum</i>	3 gal.	36"	Cont.

NOTE: 60' BUFFER TO BE MAINTAINED BY PROPERTY OWNER OR HOA AND SHALL NOT BE REMOVED.

NOTE: PERMITTED USES OF OPEN SPACE LANDS TO BE PRESERVED SHALL CORRESPOND GENERALLY TO PHYSICAL CONDITIONS AT THE TIME OF SUBDIVISION APPROVAL. RESTRICTIVE COVENANTS SHALL LIMIT USES TO THE CONTINUATION OF CERTAIN AGRICULTURAL ACTIVITIES (PASTURELAND, CROP CULTIVATION) OR RECREATION USES THAT PRESERVE THE VIEW FROM PUBLIC STREETS OR RURAL HERITAGE FEATURES TO BE PRESERVED.

TREE PROTECTION NOTES:

PROTECTIVE BARRICADES SHALL BE PLACED AROUND ALL PROTECTED TREES DESIGNATED TO BE SAVED IN DEVELOPMENT AREAS, PRIOR TO THE START OF DEVELOPMENT ACTIVITIES OR GRADING. PROTECTIVE BARRICADES SHALL REMAIN IN PLACE UNTIL DEVELOPMENT ACTIVITIES ARE COMPLETE OR CONSTRUCTION IN ACCORDANCE WITH STANDARDS SET FORTH IN THIS SECTION COMMENCES. THE AREA WITHIN THE PROTECTIVE BARRICADE SHALL REMAIN FREE OF ALL BUILDING MATERIALS, DEBRIS OR OTHER CONSTRUCTION DEBRIS, CONSTRUCTION TRAFFIC, STORAGE OF VEHICLES AND MATERIALS, AND GRADING SHALL NOT TAKE PLACE WITHIN THE DRILLPIENE OF THE EXISTING TREES TO BE PROTECTED. BARRICADES SHALL BE ERECTED AT A MINIMUM DISTANCE FROM THE BASE OF PROTECTED TREES ACCORDING TO THE FOLLOWING STANDARDS:

- A. FOR TREES 10' OR LESS DBH: PROTECTIVE BARRICADES SHALL BE PLACED A MINIMUM DISTANCE OF 5' FROM THE BASE OF EACH TREE. TREES 10' OR LESS DBH: PROTECTIVE BARRICADES SHALL BE GREATER.
- B. FOR TREES GREATER THAN 10' DBH: PROTECTIVE BARRICADES SHALL BE PLACED AT A MINIMUM DISTANCE EQUAL TO 10' FROM THE BASE OF THE PROTECTED TREE PLUS AN ADDITIONAL 1' FOR EACH ADDITIONAL 1" DBH GREATER THAN 10" DBH, OR OUTSIDE THE DRIFLINE, WHICHEVER IS GREATER.
- C. CONSTRUCTION ACTIVITIES SHALL BE LOCATED WHERE THERE ARE NO EXISTING OR PROPOSED ENTRANCE/EXIT IS LOCATED.
- D. EXCEPT FOR DRIVEWAY ACCESS POINTS, SIDEWALKS, CURB AND GUTTER, NO PAVING WITH CONCRETE OR OTHER IMPERMEABLE MATERIALS WITHIN A TREE DRIFLINE SHALL BE ALLOWED.
- E. WHERE GRADING WITHIN A TREE DRIFLINE CANNOT BE AVOIDED:
 - F. LIMIT CUT AND FILL TO $\frac{1}{2}$ THE AREA WITHIN THE DRIFLINE.
 - G. AVOID CUT AND FILL AROUND ENTIRE CIRCUMFERENCE OF TRUNK.
 - H. WHERE GRADING LEAVES ROOTS EXPOSED, CUT ROOTS CLEAN.
- I. AVOID FILLING WITHIN THE DRIFLINE OF A TREE WITHOUT SOME MEANS TO ALLOW AIR AND WATER TO REACH THE ROOTS.

SEED/SOD/MULCH:

1. TURF AREAS WILL BE SEEDED OR SODDED WITH REBEL II FESCUE WITH EXCEPTION OF SOD WITHIN THE FLOOR OF STORMWATER MANAGEMENT AND WATER QUALITY BASINS AND FILTERS. SOD WILL BE REQUIRED NEXT TO BUILDING STRUCTURES, DRIVEWAYS ENTRANCES AND AREAS DISTURBED IN THE FRONT SETBACK AS NOTED ON PLAN. LANDSCAPE CONTRACTOR TO SEED ALL OTHER DISTURBED AREAS.
2. PINE NEEDLE MULCH IS THE GENERALLY ACCEPTED MULCH. FOR THE INITIAL PLANTING, IT IS ALSO ACCEPTABLE TO UTILIZE DOUBLE HAMMERED BARK MULCH FOR GOOD SOIL AND BED MANAGEMENT. FUTURE YEARS, THOUGH, WILL REQUIRE THE PROPERTY TO BE CONVERTED TO PINE NEEDLES.

1.1 PLANTING SOIL MIX

- A. MIX TOPSOIL WITH THE FOLLOWING SOIL AMENDMENTS IN THE FOLLOWING QUANTITIES:
1. WEIGHT OF LIME PER 1000 SQ. FT
 2. RATIO OF LOOSE COMPOST TO TOPSOIL BY VOLUME: 1:4
 3. RATIO OF LOOSE WOOD DERIVATIVES TO TOPSOIL BY VOLUME:
 4. WEIGHT OF BONEMEAL PER 1000 SQ. FT.
 5. WEIGHT OF COMMERCIAL FERTILIZER PER 1000 SQ. FT.
 6. WEIGHT OF SLOW-RELEASE FERTILIZER PER 1000 SQ. FT.
- SOIL TEST PROVIDED BY CONTRACTOR REQUIRED FOR TOPSOIL MIX.

INSTALLATION GUARANTEE REQUIRED

1. A FINAL CERTIFICATE OF OCCUPANCY MAY BE ISSUED PRIOR TO THE INSTALLATION OF TREES AND SHRUBS, EXCLUDING YARD TREES DURING THE NON-PLANTING SEASON IF A CASH BOND, SURETY BOND OR LETTER OF CREDIT IS ISSUED FOR 120% OF THE COST OF MATERIALS AND INSTALLATION. PLANTING SHALL BE COMPLETED DURING THE NEXT PLANTING SEASON.
2. THE PLANTING SEASON SHALL RUN FROM OCTOBER 15 TO MARCH 15, EXCEPT FOR EXTREME WEATHER CONDITIONS AS DETERMINED BY STAFF. A FINAL CERTIFICATE OF OCCUPANCY SHALL NOT BE GIVEN DURING THE PLANTING SEASON UNLESS ALL OF THE LANDSCAPING IS COMPLETELY INSTALLED ACCORDING TO THIS ARTICLE.

MAINTENANCE SURETY REQUIRED

1. DEVELOPERS SHALL ENTER INTO A MAINTENANCE SURETY AGREEMENT WITH MECKLENBURG COUNTY GUARANTEEING THE VIABILITY OF STREET TREES AND TREES AND SHRUBS PLANTED IN BUFFER YARDS FOR A PERIOD OF 1 YEAR FOLLOWING PLANTING. THE AMOUNT OF THE SURETY SHALL BE EQUAL TO 50% OF THE VALUE OF THE NEW TREES OR LANDSCAPE MATERIAL AND THEIR INSTALLATION. THE MAINTENANCE SURETY SHALL BE PROVIDED WHEN ALL OF THE REQUIRED TREES AND SHRUBS HAVE BEEN PLANTED.

RESIDENTIAL LOT TREE TABLE

- | | | |
|--|---|--|
| * 3 FRONT AND 3 REAR YARD TREES REQUIRED FOR LOTS GREATER THAN 20,000 SF | | |
| LOT 1 TREES REQUIRED | 3 FRONT YARD, 3 REAR YARD | |
| LOT 1 TREES PROVIDED | 3 FRONT YARD, 2 REAR YARD WITH BUFFER TREES | |
| LOT 2 TREES REQUIRED | 3 FRONT YARD, 3 REAR YARD | |
| LOT 2 TREES PROVIDED | 3 FRONT YARD, 2 REAR YARD WITH EXISTING TREES | |
| LOT 3 TREES REQUIRED | 3 FRONT YARD, 3 REAR YARD | |
| LOT 3 TREES PROVIDED | 1 FRONT YARD WITH EXISTING TREES
ALL EXISTING TREES IN REAR YARD | |
| LOT 4 TREES REQUIRED | 3 FRONT YARD, 3 REAR YARD | |
| LOT 4 TREES PROVIDED | 2 FRONT YARD WITH EXISTING TREES
ALL EXISTING TREES IN REAR YARD | |
| LOT 5 TREES REQUIRED | 3 FRONT YARD, 3 REAR YARD | |
| LOT 5 TREES PROVIDED | 3 FRONT YARD, ALL EXISTING TREES
IN REAR YARD | |
| LOT 6 TREES REQUIRED | 3 FRONT YARD, 3 REAR YARD | |
| LOT 6 TREES PROVIDED | 1 FRONT YARD WITH BUFFER TREES,
EXISTING TREES IN REAR YARD | |

1. CONTRACTOR IS FULLY RESPONSIBLE FOR CONTACTING APPROPRIATE PARTIES AND ASSURING THAT EXISTING UTILITIES ARE LOCATED PRIOR TO BEGINNING CONSTRUCTION.
2. CONTRACTOR IS RESPONSIBLE FOR PLACING BARRICADES USING FLAGMEN, ETC., AS NECESSARY TO INSURE SAFETY TO THE PUBLIC.
3. ALL PAVEMENT CUTS, CONCRETE OR ASPHALT, ARE TO BE REPLACED ACCORDING TO STANDARDS OF THE DEPARTMENT OF TRANSPORTATION
4. SHORING WILL BE ACCORDING TO OSHA TRENCHING STANDARDS PART 1926 SUBPART P. OR AS AMENDED.

GENERAL PLANTING NOTES:

1. THIS PLAN FOR PLANTING LOCATIONS ONLY. IF FOUND CONDITIONS VARY FROM THIS, CONTRACTOR TO CONTACT OWNER'S REPRESENTATIVE FOR RESOLUTION. FAILURE TO DO SO WILL RESULT IN CONTRACTORS LIABILITY TO REPLACE PLANT MATERIALS.
2. CONTRACTOR TO COORDINATE WITH OWNER'S REPRESENTATIVE FOR EXISTING PLANT MATERIAL TO BE REMOVED AND/OR RELOCATED.
3. CONTRACTOR WILL BE RESPONSIBLE FOR LOCATING AND PROTECTING ALL UNDERGROUND AND ABOVE GROUND UTILITIES. CONTRACTOR SHALL BE RESPONSIBLE FOR DAMAGE TO ANY AND ALL PUBLIC OR PRIVATE UTILITIES. CONTRACTOR WILL BE HELD RESPONSIBLE FOR THE COST OF REPAIR TO ALL DAMAGED UTILITIES.
4. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL PLANT MAINTENANCE, INCLUDING SHRUBS AND GROUNDCOVER, AND SHALL MAINTAIN AREA IN A WEED AND DEBRIS FREE CONDITION, THROUGHOUT GUARANTEE PERIOD.
5. WHERE TREES ARE PLANTED IN ROWS, THEY SHALL BE UNIFORM IN SIZE AND SHAPE.
6. SIZES SPECIFIED IN THE PLANT LIST ARE MINIMUM SIZES TO WHICH THE PLANTS ARE TO BE JUDGED. FAILURE TO MEET MINIMUM SIZE ON ANY PLANT WILL RESULT IN REJECTION OF THAT PLANT.
7. PLANTING SITE DETERMINATION:
SHADE TREES: HEIGHT SHALL BE MEASURED FROM THE CROWN OF THE ROOT BALL TO THE TOP OF MATURE GROWTH, SPREAD SHALL BE THE DISTANCE FROM THE END OF THE BRANCHING LIGNAL AROUND THE CROWN FROM THE CENTER OF THE TRUNK. MEASUREMENTS ARE NOT TO INCLUDE ANY TERMINAL GROWTH. SINGLE TRUNK TREES SHALL BE FREE OF "Y" CROUCHES THAT COULD BE POINTS OF WEAK LIMBS STRUCTURE OR DISEASE INVESTIGATION.
8. SHRUBS: HEIGHT SHALL BE MEASURED FROM THE CROWN OF THE ROOT BALL TO THE AVERAGE HEIGHT OF THE TOP OF THE PLANT. SPREAD SHALL BE MEASURED TO THE END OF BRANCHING AROUND THE SHRUB MASS. MEASUREMENTS ARE NOT TO INCLUDE ANY TERMINAL GROWTH.
9. ALL PLANTS SHALL BE FRESHLY DUG, SOUND, HEALTHY, VIGOROUS, WELL BRANCHED, FREE OF DISEASE, INSECTS AND LARVAE, AND SHALL HAVE ADEQUATE ROOT SYSTEMS.
10. ALL CONTAINER GROWN MATERIAL SHALL BE HEALTHY, VIGOROUS, WELL-ROOTED PLANTS AND ESTABLISHED IN THE CONTAINER IN WHICH THEY ARE SOLD. THE PLANTS SHALL HAVE TOPS WHICH ARE CROWNED AND IN THE STAGE OF GROWING CONDITION. ALL ROOT BOUND PLANTS SHALL BE REJECTED.
11. GROUPS OF SHRUBS SHALL BE PLANTED IN A CONTINUOUS MULCH BED WITH SMOOTH CONTINUOUS LINES. ALL MULCHED BED EDGES SHALL BE CURVILINEAR IN SHAPE FOLLOWING THE CONTOUR OF THE PLANT MASS. TREES LOCATED WITHIN FOUR FEET OF SHRUB BEDS SHALL SHARE SAME MULCH BED.
12. CONTRACTOR TO SLIGHTLY ADJUST PLANT LOCATIONS IN THE FIELD AS NECESSARY TO CLEAR OF DRAINAGE WAVES AND UTILITIES, REMAINING BEDS SHALL BE ADJUSTED TO BE AT OR TO NOT IMPED DRAINAGE AWAY FROM BUILDINGS. IF SIGNIFICANT RELOCATIONS ARE REQUIRED, CONTRACTOR SHALL CONTACT OWNER'S REPRESENTATIVE FOR RESOLUTION. FAILURE TO MAKE SUCH RELOCATIONS KNOWN TO THE OWNER'S REPRESENTATIVE WILL RESULT IN CONTRACTOR'S LIABILITY OF PLANT MATERIALS.

12. ALL PLANT MATERIAL SHALL BE SPACED AND LOCATED PER PLAN. IF CONFLICTS ARISE BETWEEN ACTUAL SIZE OF AREA AND PLANS, CONTRACTOR SHALL CONTACT OWNER'S REPRESENTATIVE FOR RESOLUTION. FAILURE TO MAKE SUCH CONNECTIONS KNOWN TO THE OWNER'S REPRESENTATIVE WILL RESULT IN CONTRACTOR'S LIABILITY TO UNACCEPTABLE MATERIALS.
13. ALL SUBSTITUTIONS OF PLANT MATERIAL ARE TO BE REQUESTED IN WRITING TO THE OWNER'S REPRESENTATIVE AND APPROVED IN WRITING BY THE OWNER PRIOR TO INSTALLATION. FAILURE TO OBTAIN SUCH APPROVAL IN WRITING MAY RESULT IN LIABILITY TO THE CONTRACTOR.
14. ALL CONTRACTORS SHALL BE REQUIRED TO COMPLETELY REMOVE ALL BRUSH, DEBRIS AND EXCESS MATERIALS FROM THE WORK AREA AND THE PROPERTY (ESPECIALLY AT ALL CURBS, GUTTERS AND SIDEWALKS) DAILY DURING INSTALLATION.
15. CONTRACTOR SHALL GUARANTEE ALL LANDSCAPE IMPROVEMENTS, INCLUDING SEEDING. CONTRACTOR MUST CONTACT THE OWNER AT LEAST TO WORKING DAYS IN ADVANCE TO SCHEDULE ACCEPTANCE INSPECTIONS). CONTRACTOR MUST REPLACE ALL DEAD OR UNACCEPTABLE PLANTS DURING THE FOLLOWING RECOMMENDED PLANTING SEASON.
16. ADJUST TREE PLANTING LOCATIONS TO AVOID UNDERGROUND UTILITIES WHERE POSSIBLE. CONTACT OWNER'S REPRESENTATIVE FOR A COORDINATED SOLUTION FOR ANY UTILITY CONFLICTS. CONTRACTOR SHALL BE LIABLE FOR DAMAGE TO ANY AND ALL PUBLIC OR PRIVATE UTILITIES.
17. REFER TO PLANTING DETAILS FOR ADDITIONAL PLANTING INFORMATION.
18. ALL PLANTINGS SHALL COMPLY WITH CURRENT LOCAL ORDINANCES AND GUIDELINES.
19. LANDSCAPE AREAS TO BE IRRIGATED WITH AUTOMATIC IRRIGATION SYSTEM.

TREE PLANTING NOTES:

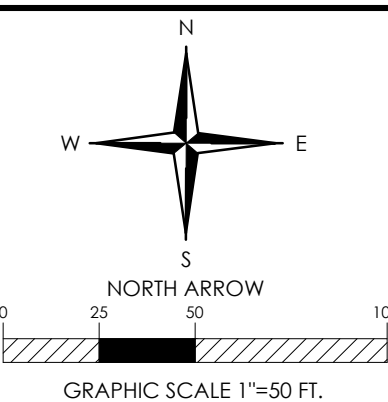
1. ALL TREES SHALL BE PLANTED PER TOWN OF HUNTSVILLE STANDARDS AND DETAILS
2. ALL PLANTING AND TOP 2/3 OF WIRE BASKET MUST BE CUT AWAY AND REMOVED FROM THE ROOT BALL PRIOR TO RECKLING PLANTING
3. LARGE MATURING TREES MAY NOT BE PLANTED WHERE OVERHEAD POWER LINES OR TRANSMISSION LINES EXIST IF THEY CONFLICT WITH POWER LINES OR SIGNS. CALL THE URBAN FORESTER TO RESOLVE BEFORE PLANTING.
4. ADDITIONAL PLANTING LOCATIONS AVOID UNDERGROUND UTILITIES.
5. NEW TREES SHALL BE A MINIMUM 2" CALIPER FOR STREET TREE REQUIREMENTS.
6. PREPARED OBSERVATION NOTES ON GRADING AND EROSION CONTROL SHEETS.
7. ALL TREES ARE TO BE NURSERY GROWN, BALL AND BURL(B&B) PREFERRED. A MINIMUM TREE CALIPER (MEASURED 4" ABOVE ROOT BALL) & MINIMUM HEIGHT.
8. STAKING IS OPTIONAL. RUBBER HOES AND ROPE OR WIRE FOR STAKING IS REQUIRED. STAKES ARE TO BE PLACED AT LEAST 18" IN DIRECT CONTACT WITH TRUNK. REMOVE ALL TRUNK WRAP, TREE STRAPS, AND STAKING WIRE OR ROPE AFTER ONE GROWING SEASON. STAKES ARE TO BE REMOVED PRIOR TO AVOIDING DAMAGE TO ALL TREES AND SHRUBS SHALL MEET THE NORMAL REQUIREMENTS FOR THE AMERICAN STANDARD FOR NURSERY STOCK, LATEST EDITION, PUBLISHED BY THE AMERICAN ASSOCIATION OF NURSERYMAN (AAN).
9. ALL TREES AND SHRUBS TO BE PLANTED TO AVOID TRIANGLE BUT MUST BE LIMBED UP TO 6" HEIGHT CLEARANCE PER ADA REQUIREMENTS.
10. SNIP OR CRITERIA FOR TREE PLACEMENT AND PRUNING UP SHOULD BE DETERMINED AT DRIVEWAY/STREET INTERSECTIONS.
11. CONTRACTOR TO MAINTAIN CLEAR VIEWLINE BETWEEN 30° AND 72° FROM DRIVEWAY TO STREET MUST BE TREE OF LIMBS AND FOLIAGE FOR SAFE CROSS VISIBILITY.



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ASBURY CHAPEL FARMHOUSE CLUSTER

Parcel ID# 01935117 11901 Asbury Chapel Road
Huntersville, NC 28078

LANDSCAPE PLAN

REVISIONS:

- REV1 - 11/23/2020 1ST EPM COMM.
REV2 - 01/06/2021 2ND EPM COMM.
REV3 - 01/07/2021 NCDOT COMM.

C11 LANDSCAPE PLAN.DWG

PROJECT NUMBER: 220047

DATE: 10/14/2020 DRAWN BY: TS

SHEET C11 OF 18

ARTICLE 1: AUTHORITY AND PURPOSE

1.1 Authority

These regulations are adopted pursuant to the authority vested in the Town of Huntersville by its charter, the Session Laws, and the General Statutes of North Carolina, particularly Chapter 160A-D, Article 19, Part 3 and any special local legislation enacted by the General Assembly for the Town of Huntersville.

1.2 Purpose

The purposes of these regulations are to promote the public health, safety, and general welfare. To that end, [these](#) regulations address, among other things, the following public purposes: to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the efficient, adequate and economic provision of transportation, water, sewerage, schools, parks and other public requirements, to conserve the value of buildings, and encourage the most appropriate use of land throughout the corporate area and extraterritorial zoning jurisdiction, in accordance with the Huntersville Community Plan ([Strategic Update](#)) and other adopted long range plans for the Town of Huntersville.

[“It is our describable outside that defines us, willy-nilly, to others, that may save us, or destroy us, in the world; it may be our shield against chaos, our mask against exposure; but whatever it is, the move we make in the place we live has to signify our intent and meaning.”](#)

*[Eudora Welty](#)
[The Eye of the Story \(122\)](#)*

1.3 Title

These regulations shall be known as The Zoning Ordinance of the Town of Huntersville, North Carolina, and may be cited as the "Zoning Ordinance"; the maps referred to herein titled Official Zoning Maps, Huntersville, North Carolina may be cited as the "Zoning Maps".

1.4 Jurisdiction

These regulations govern the development and use of all land and structures within the corporate limits and the extraterritorial zoning jurisdiction of the Town of Huntersville, as shall be defined by [this](#) ordinance [and amended](#) from time to time as [provided in authorized by](#) the General Statutes of North Carolina.

1.5 Zoning Maps

The Town Board, upon the recommendation of the Planning Board, shall adopt a series of Zoning Maps entitled "Official Zoning Maps, Town of Huntersville, NC" which shall be retained in the office of the Planning Department. The Zoning Maps shall set out and delineate into the zoning districts established in Article 3 all land within the jurisdiction of these regulations. The Zoning Maps and notations thereon are hereby designated, established, and incorporated as a part of these regulations and shall be as much a part of these regulations as if they were fully described herein.

1.6 Separability

If any section, specific provision, or standard of these regulations, or any zoning district boundary that now exists or may exist in the future is found by a court of competent jurisdiction to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

1.7 Relation to Other Ordinances

When regulations made under authority of this [Ordinance](#) require a greater width or size of yards or courts, or require a lower height of a building or fewer number or stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local [Ordinance](#) or regulation, the regulations made under authority of this [Ordinance](#) shall govern. In the event this [Ordinance](#) conflicts with other provisions of local, state or federal law, that law which provides the greatest protection to environment and natural features shall govern unless preempted by state or federal law. Where that intent is not clear from a superficial reading of the Ordinance and laws, that law or [Ordinance](#) which is most restrictive shall apply.

1.8 Effective Date

These regulations shall become effective on November 19, 1996.

ARTICLE 2: APPLICABILITY OF ORDINANCE

2.1 Applicability

.1 Applicability.

No building, structure, or land shall be used or occupied, nor any building, structure, or part thereof be erected, constructed, reconstructed, moved, enlarged, or structurally altered, nor any changed use be established for any building, structure, or land, nor substantial clearing, grading, filling or excavation be commenced unless in conformity with the general provisions of this ordinance and the specific provisions for the district in which it is located, except as otherwise provided by these regulations.

.2 Exceptions to Applicability.

- a) These regulations shall not apply to bona fide farms, as defined in Article 12, except that non-farm uses on farms shall be regulated herein, and land within the Mountain Island Lake and Lake Norman Watershed Overlay Districts shall comply with the regulations of Section 3.3.2 and 3.3.3.
- b) ~~These regulations shall not apply to horse farms on three or more acres, as defined in Article 12, except that uses on the premises not accessory to horse farms shall be regulated herein, and land within the Mountain Island Lake Watershed Overlay District shall comply with the regulations of Section 3.3.2 and 3.3.3.~~

2.2 ~~Permit Choice and Vested Development Rights~~ and Permit Choice

- .1 Any amendments ~~to, modifications, supplements, repeal or other changes in~~ these land development regulations or the Zoning Maps shall not be applicable or enforceable without the written consent of the owner with regard ~~to buildings and uses:~~

- a) buildings or uses of buildings or land for which:
 - i. a development permit application was submitted, review of which was not discontinued pursuant to N.C.G.S. § 143-755(b1), and a development permit decision was not made prior to the effective date of the amendment making the change; or
 - ii. a development permit was issued prior to the effective date of the amendment making the change so long as the permit remains valid and unrevoked pursuant to subsection 2.2.2;
- b) subdivision of land for a which a development permit authorizing the subdivision was issued prior to the effective date of the amendment making the change;
- c) a valid and unexpired site-specific vesting plan established pursuant to subsection 2.2.3 prior to the effective date the amendment making the change;
- d) an approved multi-phased development established pursuant to subsection 2.2.4 prior to the effective date of the amendment making the change; or
- e) a vested right established pursuant to a development agreement satisfying the requirements of Article 10, Chapter 160D of the North Carolina General Statutes executed prior to the effective date of the amendment making the change.

Commented [ES1]: Rephrased to match statutory language and for consistency with below subsection language as proposed.

Commented [ES2]: Note: Development permit is statutorily defined by NCGS 143-755(e)(2) essentially the same as 160D-102 defines development approval. I recommend adding the definition of the latter. See below comment.

Commented [ES3]: Addresses permit choice

Commented [ES4]: Add definition of vested right to definition section to match 160D-102:
The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in G.S. 160D-108 or under common law.

.2 Buildings or uses of buildings or land for which a development permit application was issued.

Building permits expire six months after issuance unless work under the permit has commenced. Upon commencement of work under the building permit, the permit will expire if there is a discontinuation

of work for a period of 12 months from the date of commencement of work. Building permits may be revoked pursuant to N.C.G.S. 160D-1115.

Unless otherwise specified by this Section 2.2, other local development permits: expire one year after issuance; unless work authorized by the permit has substantially commenced. After work has substantially commenced, a development approval shall expire if development work is intentionally and voluntarily discontinued for a period of 24 consecutive months, unless the discontinuance is tolled pursuant to N.C.G.S. § 160D-108. As used in the subsection, substantially commenced shall include any of the following:

- (a) The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than thirty (30) days;
- (b) The development has installed substantial on-site infrastructure; or
- (c) The development has received and maintained a valid building permit for the construction and approval of a building foundation.

3 Valid and unexpired site-specific vesting plan.

- a) for which a building permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to G.S. 160A-418 and the building permit has not been revoked pursuant to G.S. 160A-422; or
- b) for which a vested right has been established pursuant to Section 2.2.2 and such vested right remains valid and unexpired pursuant to Section 2.2.2.

2

A vested right to commence development and use of property according to a site-specific vesting plan as subject to the provisions of N.C.G.S. § 160D-108.1 may be established as a result of any one of the following development approvals listed in a) through e) below, provided that the approved plan include a description within reasonable certainty of the intended type and intensity of use for the specific parcel(s) subject to the plan:

- a) a special use permit;
- b) any overlay district for which a site-specific vesting plan is required under the provisions of this ordinance;
- c) a conditional zoning district;
- d) a subdivision sketch plan or a preliminary plan when required by the subdivision ordinance; or
- e) a final plat when no sketch plan or preliminary plan is required.

The vested right thus established is subject to the terms and conditions of the site-specific vesting plan; it shall remain in force for two years from date of approval (unless otherwise specified at the time of approval). Failure to abide by the terms and conditions of the approval will result in a forfeiture of any vested rights.

Plans legally vested by the Mecklenburg County Board of Commissioners, according to county ordinance standards, shall be honored for the vesting period specified by the County Board.

Procedures for Establishing Vested Rights Pursuant to G.S. 160A-385.1. On or after October 1, 1991, a vested right to commence the development and use of property according to a site specific development plan is established upon approval of any one of the plans listed in a) through e) d) below. The vested right thus established is subject to the terms and conditions of the site plan; it shall remain in force for three years from date of approval (unless otherwise specified).

- a) a special use permit;
- b) any overlay district for which a site specific development plan is required under the provisions of this ordinance;
- e) a conditional zoning district; or

Commented [ES5]: Substantially commenced is not defined by the statute, but UNC-SOG suggests that local regulations can define. Examples are provided in the microsite guidance. I removed the language from prior subsections .4 and .5 regarding subdivisions as it would seemingly contradict with this paragraph, but we could incorporate similar limitations by defining substantially commenced.

Commented [ES6]: Sufficient to incorporate exceptions found in 160D-108.1(f).

Commented [ES7]: Add definition of development approval to the definition section to match definition in 160D-102: A written quasi-judicial or administrative approval that is required prior to commencing development or undertaking a specific activity, project, or development proposal.

See above note that the definition is essentially the same as development permit.

Commented [ES8]: Required by 160D-108.1(a).

Commented [ES9]: The statutory default is 2 years. See 160D-108.1(e)(2). The default may be extended up to five years based on factors set forth in 160D-108.1(e)(2), which appear to require analysis on a case-by-case basis. Suggest we keep the default and, based on an analysis of the statutory factors for each individual project, determine if the vesting period should be expanded at the time of approval. The vesting period as determined will be included into the approved plan.

d) ~~a subdivision sketch plan or a preliminary plan when required by the subdivision ordinance~~
 e) ~~a final plat when no sketch plan or preliminary plan is required.~~
 The plans and conditions set out in a) through e) above, as approved by the Board of Commissioners of the Town of Huntersville, constitute site-specific development plans for purposes of G.S. 160A-385.1. Plans legally vested by the Mecklenburg County Board of Commissioners, according to county ordinance standards, shall be honored for the vesting period specified by the County Board.

A right which has been vested by the Town of Huntersville shall remain vested for a period of **three years** from date of approval. Modifications or amendments to an approved site-specific vesting plan do not extend the period of vesting unless specifically so provided by the Town Board **or Town Staff** when it approves the modification or amendment **is approved**. ~~A vested right obtained under this subsection is not a personal right, but shall attach to and run with the subject property.~~ A right which has been vested under the provisions of this sub-section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued. ~~When a~~ vested development plan has been partially, but not wholly built to completion by the end of the vesting period, the project as a whole may be completed in conformance with the development standards in effect at the time of approval, however individual sites within the development shall individually conform to the sign regulations in effect at the time of sign-permitting.

Commented [ES10]: Assuming staff approves minor modifications.

.4 An approved multi-phased development.

For purposes of this subsection, a multi-phased development is a development containing 25 acres or more, which is submitted for development approval to occur in more than one phase and **which is** subject to a master development plan with committed elements showing the type and intensity of use of each phase.

~~All development phases~~ **phases of development** subject to a multi-phased development approval are vested under the land regulations in place at the time the site plan approval is granted for the initial phase of the development. A vested right provided for in this subsection remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

.53 Miscellaneous provisions.

~~A vested right obtained under this Section 2.2. is not a personal right, but shall attach to and run with the subject property.~~

Commented [ES11]: 160D-108(i) applies this provision to each of the categories listed in 2.2.1

~~Voluntary Annexation.~~ A petition for annexation filed with the town under **N.C.G.S. § G.S. 160A-31** or **N.C.G.S. § G.S. 160A-58.1** shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established. A statement that declares that no zoning vested right has been established under **N.C.G.S. § G.S. 160A-385.1 or G.S. 153A-344.1D-108**, ~~or the failure to sign a statement declaring whether or not a zoning vested right has been established~~, shall be binding on the landowner and any such **zoning** vested right shall be terminated.

~~.4 Right to complete subdivisions: Subject to the provisions of .5, subdivisions not subject to a site specific development plan as defined in .2 above, shall be built to completion according to the zoning and subdivision regulations in force at the time and in the jurisdiction of approval unless a revised subdivision plan is subsequently submitted and approved according to the standards of these regulations.~~

~~.5 Any subdivision having been given sketch plan approval which has not obtained preliminary plat approval for one or more sections and made improvements costing more than 5% of the total project costs shall be deemed void except as provided by law (vested rights) after three years from date of approval.~~

2.3 Expansion/Redevelopment of Existing Structures and Projects

- .1 Individual structures which become non-conforming as of the effective date of these regulations may be expanded upon a finding by the Planning Director that:
 - a) the proposed expansion meets the requirements of these regulations to the extent practicable, given the shape and topography of the tract and the location of existing buildings and site improvements; and
 - b) the proposed expansion does not cause the structure to exceed maximum building size for the district; and
 - c) the development site taken as a whole, including parking, sidewalks, screening, landscaping and signage, will be brought into conformance with these regulations to the extent practicable.
- .2 Existing multi-building development projects, such as shopping centers, apartment complexes, and business parks, which become non-conforming as of the effective date of these regulations, are eligible for partial redevelopment, which may include expansion, upon a finding by the Planning Director that:
 - a) the redevelopment or expansion meets the requirements of these regulations to the extent possible, given the shape and topography of the tract and the location of existing buildings; and
 - b) the development site taken as a whole, including parking, sidewalks, screening, landscaping and signage, will be brought into conformance with these regulations to the extent practicable.
- .3 Appeal of the Planning Director's decision regarding expansion or redevelopment according to subsections 2.3.1 or 2.3.2, above shall be to the Huntersville Board of Adjustment following the procedures of Section 11.3.2.

2.4 Consecutive or Sequential Development Applications

Proposed developments may not be phased or subdivided in piecemeal fashion to avoid application of this Ordinance. Two or more developments represented to be separate developments shall be aggregated and treated as a single development under this Ordinance if the Administrator determines them to be part of a unified plan of development and physically proximate to one another, based on any of the following factors:

- a) There is unified ownership, indicated by the fact that:
 - 1) The same person has retained or shared control of the developments;
 - 2) The same person has ownership or a significant legal or equitable interest in the developments; or
 - 3) There is common management of the developments controlling the form of physical development or disposition of parcels of the development.
- b) There is a reasonable closeness in time between the completion of eighty (80)% or less of one development and the submission to the Town of a development proposal for a subsequent development that is indicative of a common development effort.
- c) The voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments.

Commented [JS12]: Moved this section from the TIA Article because it is universal in application.

Commented [LS13]:

Commented [JS14R13]:

ARTICLE 3: ZONING DISTRICTS

3.1 ZONING DISTRICTS ESTABLISHED

.1 General Districts

The General Zoning Districts are established below in a hierarchy from “highest” to “lowest”. Reclassification of property to any general zoning district is considered under the procedures of Section 11.4. The requirements of each general district are established in Section 3.2.

District		Classification
R:	Rural District	Residential
TR:	Transitional Residential District	Residential
NR:	Neighborhood Residential District	Residential
GR:	General Residential District	Residential
TND-R:	Rural Traditional Neighborhood Development District	Mixed Use
TND-U:	Urban Traditional Neighborhood Development District	Mixed Use
TOD-R:	Transit-Oriented Development District – Residentially Led	Mixed Use
NC:	Neighborhood Center District	Mixed Use
TC:	Town Center District	Mixed Use
CI:	Campus Institutional District	Mixed Use
TOD-E:	Transit-Oriented Development District – Employment Led	Commercial
HC:	Highway Commercial District	Commercial
CB:	Corporate Business District	Commercial
VS:	Passenger Vehicle Sales District	Commercial
SP:	Special Purpose District	Commercial

.2 Conditional Zoning Districts

Conditional zoning districts correspond to general districts. They provide for those situations where a particular use, properly planned, may be appropriate for a particular site, but where the general district has insufficient standards to mitigate the site-specific impact on surrounding areas. Uses which may be considered for a conditional zoning district are restricted to those uses permitted in the corresponding general zoning district. Conditional Zoning Districts are established on an individualized basis, at the request of ~~all owners of the~~ property ~~to be included-owner~~, according to the procedures of Section 11.4. Zoning of a conditional zoning district is not intended for securing early or speculative reclassification of property. It is expected that, in most cases, the standards of the General Districts appropriately regulate site-specific impact of permitted uses and structures on surrounding areas.

District		Classification
R (CD):	Conditional Zoning Rural District	Residential
TR (CD):	Conditional Zoning Transitional Residential District	Residential
NR (CD):	Conditional Zoning Neighborhood Residential District	Residential
GR (CD):	Conditional Zoning General Residential District	Residential
TND-R (CD):	Conditional Rural Traditional Neighborhood Development District	Mixed Use
TND-U (CD):	Conditional Urban Traditional Neighborhood Development	Mixed Use

	District	
TOD-R (CD):	Conditional Transit-Oriented Development District – Residential	Mixed Use
NC (CD):	Conditional Zoning Neighborhood Center District	Mixed Use
TC (CD):	Conditional Zoning Town Center District	Mixed Use
CI (CD):	Conditional Zoning Campus Institutional District	Mixed Use
TOD-E (CD):	Conditional Transit-Oriented Development District – Employment	Commercial
HC (CD):	Conditional Zoning Highway Commercial District	Commercial
CB (CD):	Conditional Zoning Corporate Business District	Commercial
VS (CD):	Conditional Passenger Vehicle Sales District	Commercial
SP (CD):	Conditional Zoning Special Purpose District	Commercial

.3 Overlay Districts

An Overlay District is a zoning district which is applied only in conjunction with another zoning district. It may grant additional uses, restrict permitted uses, or impose development requirements which differ from those of the underlying district. The underlying district and the overlay district, taken together, will control development. The Overlay Districts are established below. The requirements of each Overlay District are set forth in Section 3.3.

District		Classification
MH-O:	Manufactured Home Overlay District	Residential
MIL-O:	Mountain Island Lake Watershed Overlay District	Environmental Protection
LN-O:	Lake Norman Watershed Overlay District	Environmental Protection

.4 Zoning District Boundary Interpretation

- Where district boundaries are shown within a street or alley right-of-way, railroad or utility line right-of-way, recorded easement, or navigable or non-navigable waterway, such boundaries shall be construed to be in the center of the right-of-way, easement, or waterway.
- Where district boundaries are so indicated that they approximately follow lot lines, or town, city, or county borders, such lines shall be construed to be said district boundaries, unless otherwise indicated.
- Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways, or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is shown, such distance shall be determined by use of the scale shown on the official Zoning Maps.
- Where a district boundary line divides a single lot, each part of the lot shall be used in conformity with the standards established by these regulations for the district in which that part is located.
- Zoning district boundaries are automatically amended to remain consistent with the boundaries of the Zoning Maps incorporated herein by reference pursuant to Section 1.5.** If, because of error or omission in the maps, any property within the jurisdiction of this ordinance is not shown as being in a zoning district, such property will be classified as TRANSITIONAL until changed by amendment.
- When a zoning case file contains detailed, verifiable information regarding the boundary, that information will be used as the correct boundary location.
- In instances where none of the above methods are sufficient to resolve the boundary location, the reasonable maintenance of a regular boundary will be used to establish the boundary location.

Commented [ES1]: 160D-1-5(b)

3.2 GENERAL DISTRICTS

3.2.1 RURAL DISTRICT (R)

Intent: The Rural District is provided to encourage the development of neighborhoods and rural compounds that set aside natural vistas and landscape features for permanent conservation. Density of development is regulated on a sliding scale; permitted densities rise with increased open space preservation. Development typologies associated with the Rural District are farms, the single house, the conservation subdivision, the farmhouse cluster, and the residential neighborhood. The section number in parenthesis following listed use indicates the ordinance section of development conditions.

“An environment without perceivable boundaries is amorphous, indistinguishable from its surroundings, and generally placeless.”

Alex Krieger

PLACES

Winter, 1996 (70)

Commented [ES2]: If possible, update formatting to stretch font across section for all removed quotes throughout.

a) Permitted Uses

Uses permitted by right

- bed and breakfast inns
- boarding or rooming houses for up to two roomers
- family care home
- single family detached homes

Uses permitted with conditions

- cemeteries, (9.7)
- religious institutions, (9.8)
- duplexes up to 10% of dwelling units in development, (9.13)
- essential services 1 and 2, (9.14)
- government buildings up to 5,000 sq. ft. square feet of gross floor area; fire stations are permitted in government buildings up to 15,000-000 sq. ft. square feet of gross floor area
- neighborhood and outdoor recreation, (9.21)
- parks, (9.29)
- plant nurseries, (9.46)
- riding academies and/or commercial stables, (9.33)
- schools, (9.35)
- transit shelters, (9.39)

Uses permitted with Special Use Permit

- agricultural industry, (9.3)
- banquet facility, (9.59)
- commercial communication towers (9.9)
- commercial par 3 golf course and / or golf driving range (9.61)

- off-site catering services performed in an agritourism facility (9.60)
- solar energy facility, major, (9.54)
- solar energy facility, free-standing minor, non-residential, (9.54)
- solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
- solar energy facility, minor, residential as follows: located on the façade elevation facing public street or common access; or located on the roof slope above the façade of the structure facing the public street or common access, (9.54)
- wind energy facility, major, (9.53)
- wind energy facility, minor, accessory (9.53)

b) Permitted Building and Lot Types

- attached house
- civic building
- detached house

c) Permitted Accessory Uses

- accessory dwelling, (9.11)
- day care home (small), (9.11)
- home occupations, (9.19)
- marinas, (9.42)
- solar energy facility, minor residential; located in the established rear or side yards or roof slopes, (9.54)
- solar facility, rooftop minor non-residential on a flat roof, a roof slope not facing a street and unnoticeable building integrated solar panels on roof slopes facing a street (9.54)

Commented [ES3]: Need to use uniform sq. ft., or SF throughout. I have not marked all instance, but needs to be uniform.

ARTICLE 3

RURAL DISTRICT

- accessory uses permitted in all districts (8.11)

d) General Requirements

1. **Frontage** on a public street is required for all lots in the Rural District except those comprising a Farmhouse Cluster (see Special Requirements, paragraph e), this section), those comprising a Conservation Subdivision (see Special Requirements, paragraph f), or those specifically exempted in Article 8.1.
2. **Development** in the Rural District shall meet the following standards:
 - a. Non-residential lots outside of planned developments and lots in exempt subdivisions not approved as Farmhouse Clusters or Conservation Subdivisions require a minimum lot size of 20,000 ~~square-feet-sq. ft.~~ and a minimum lot width of 90'; no open space requirement. Further, individual lots of less than 20,000 ~~square-feet-sq. ft.~~ and/or 90' width, existing prior to the effective date of this ordinance, are construed to be conforming.
 - b. Except as provided in a. above, Farmhouse Cluster and Conservation Subdivision Standards, density in the Rural zoning district shall be as follows:

Percent Open Space	0% unless tract is within a proposed greenway, in which case the greenway shall, at a minimum, be reserved as open space per the subdivision regulations	25%	45% or more
Units per Gross Acre	Less than .3 units per acre	.30	.90

For every 1% additional open space over 25%, density can be increased by .03 units per gross acre to a maximum of .90 units per gross acre.

- c. Open space which is improved, dedicated and accepted by a public agency for public use shall be counted as 1.5 times the actual acreage as an incentive to provide improved public open space. Written proof of willingness to accept the open space by a public agency shall be presented at all stages of the approval process. Access shall at least consist of trails built to public standards meandering through the open space with public access points readily available and public access signs posted at those locations and where the trail intersects with roads shown on the Thoroughfare Plan. Other improvements, such as parks, shall be in accordance with applicable governmental standards.
- d. In determining density permissible on a tract of land, fractions shall be dropped.
- e. Lot sizes shall average at least 15,000 sq. ft., but in no case shall any lot be less than 8,000 sq. ft. The front yard setback for residential lots shall be a minimum of 25'. The side yard setback shall be 8' and the rear yard setback shall be a minimum of 25'.
- f. Lot widths shall average at least 70 feet (excluding cul-de-sac lots), but in no case shall any lot be less than 60' wide. On cul-de-sac or turn-arounds, lots shall have at least 80% of the minimum lot width required when measured to a point 50' back from the street right-of-way. Further, these lots shall have a minimum 35' of frontage along the street right-of-way.
- g. In residential subdivisions, lots should not have a depth greater than 4 times the width at the build-to or setback line except where physical dimensions of the tract provide no other alternative layout or where the open space is for a required buffer. Emphasis shall be on quality of design as opposed to reduction of development costs.
- h. In order to preserve the low intensity development character found in the Rural zoning district, along existing state-maintained roads and future thoroughfares a visually opaque landscaped buffer of native vegetation at least 80 feet in width shall be required for major subdivisions unless a more restrictive buffer is established elsewhere in these regulations. The Board of Commissioners may allow modification to the buffer width when special site

conditions exist such as topography or the site has multiple road frontages. The buffer shall be in common area and shall be counted towards meeting open space requirements.

- i. In major residential subdivisions, a landscaped median at least 20' in width shall be required at all entrances into the subdivision. Modification to this standard may be allowed by the Board of Commissioners in the interest of traffic safety.
- j. Open space shall not be located in private residential lots, unless specifically allowed by this ordinance.

- 3. **Open Space.** Designated ~~o~~Open ~~s~~Space includes that parcel or parcels of land, which shall be set aside in perpetuity and shall have no buildings or permanent structures constructed within its perimeters except as provided for in this section. There are four types of open space in the Rural District – agriculture, common, natural, and recreation. Open space shall meet the provisions of this section and the provisions for open space established in Article 7, Part B.

- a. Areas containing buildings and other impervious surfaces in excess of 100 sq. ft. square feet, shall not be counted as Open Space. ~~This shall include, but not be limited to, barns, storage buildings, parking lots, clubhouses and tennis courts,~~
- b. Open Space that is dedicated and accepted by the general public shall be maintained and managed by the Town of Huntersville or Mecklenburg County. The town and county have the right to accept or deny the dedication of open space to the public.
- c. In the Farmhouse Cluster and in the Conservation Subdivision, open space may also include portions of private building lots subject to a conservation or open space easement.

~~Further, in addition to having the required 20% open space in common ownership, minor subdivisions are permitted to locate the open space with thin proposed private lots provided the lot size is 20% larger (1.2 ac) on average than the minimum required, subject to a conservation or open space easement.~~

- d. Open space preservation shall be irrevocable. A metes and bounds description of the space to be preserved and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deeds when open space lands are not held entirely in common. Alternative means of permanent open space preservation may include acceptance by a land conservation trust or a unit of government. Private management alternatives which ensure the open space preservation required by this section will also be permitted. Restrictive covenants shall limit uses to the continuation of certain agricultural activities (pastureland, crop cultivation) or recreation uses that preserve the view from public streets of rural heritage features to be preserved. Upon verification by the town that restriction of development has been established by a permanent and irrevocable instrument, a letter so noting shall be simultaneously issued to the property owner(s) and to the Mecklenburg County Tax Administrator, Office of Real Estate Appraisal.

- 4. **Compatibility with Surrounding Development.**

- a. Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
 - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.

Commented [JS4]: This provision should have been removed under TA 14-02 Rural amendments.

- A single-family detached house established on a lot of one acre or more that is created according to the provisions of Article 8.1, paragraph 1, need not adhere to the spacing, massing, scale, and street frontage relationships of existing buildings along an existing street or road, but shall, at a minimum, observe a front setback of 40 feet and a lot width of 90 feet. This paragraph shall take precedence over the requirement of Article 4: Lot Types/Detached House for placement of a building on its lot.
 - Nothing in this subsection shall be interpreted to conflict with the building design element provisions as found in N.C.G.S. 160D-702(b) ~~160A-381(h)~~ for structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.
- b. On new streets, allowable building and lot types will establish the development pattern.
5. See Section 8.16, Standards for Residential Lot Widths, Alleys, Garages and Parking in Residential Districts.

e) Special Requirements: Farmhouse Cluster Developments

A **Farmhouse Cluster** permits the subdivision of land for up to six house lots accessed by way of a shared private drive when the following conditions have been met:

- 1) Minimum project size and frontage on public road: 10 acres with a minimum of 30 feet of frontage on a public road either by fee simple ownership or by exclusive easement.
- 2) There shall be no more than two farmhouse cluster developments permitted per tract, as that tract existed on February 18, 2003.
- 3) Private drives shall be paved in accordance with the Town of Huntersville construction standards. The private street right-of-way or easement shall be sufficient width to accommodate drainage/water quality treatment associated with the private drive. Further, the recorded easement shall have at least 30' of frontage on a public street. In the event two farmhouse clusters are established, the private drive serving those farmhouse clusters may be connected provided:
 - a. The subdivision plat and associated deeds shall clearly state such drive shall remain private and will not be taken over by a public entity in the future unless such street complies with the construction standards of that public entity.
 - b. Where feasible, there shall be two means of ingress and egress into the combined farmhouse cluster development. Only in the event the original tract does not have the adequate frontage on a public road to obtain two driveway permits would one private drive be allowed to serve the combined farmhouse cluster development;
- 4) An association of all property owners shall be established for maintenance of all commonly held spaces, if any. Where there are no commonly held spaces except for a shared driveway or private street, a legally binding shared driveway and/or private street use and maintenance agreement shall be filed at the Register of Deeds of Mecklenburg County. Furthermore, the shared driveway or private road shall be shown, along with all appropriate and necessary easements, on a recorded plat and a note shall be attached thereto stipulating the use and maintenance of the driveway and referencing the recorded agreement(s).
- 5) The location of building sites shall be determined through a site analysis which identifies features listed in Article 7 to be preserved as open space;
- 6) No minimum lot size or width is required, so long as the project meets all other standards of the district;
- 7) At least 50% of the tract shall be designated as open space. Open space preservation shall be irrevocable. A metes and bounds description of the space to be preserved and limits on use shall be recorded on the subdivision plat and on individual deeds when open space lands are not held

Commented [ES5]:

Commented [JS6R5]: That is the date when the 2 farmhouse cluster limit was established. Can be deleted now.

entirely in common. Open space lands may be part of a deeded lot so long as it reflects an irrevocable conservation or open space easement requiring such portions of individual lots to remain and be used as open space as provided in this section.

- 8) Permitted uses of open space lands to be preserved shall correspond generally to physical conditions at the time of subdivision approval. Restrictive covenants shall limit uses to the continuation of certain agricultural activities (pastureland, crop cultivation) or recreation uses that preserve the view from public streets of rural heritage features to be preserved. For example, fields or pasture land preserved as required open space may continue to support cultivation or grazing; however existing woodlands may not be clear-cut. In order to ensure septic tanks are located on the most suitable soils, septic fields may be located in common open space provided a maintenance easement is established for access.
- 9) The project shall maintain a generally rural appearance from public road(s).
- 10) Where a farmhouse cluster would eliminate a planned street connection or a street connection indicated on a plan adopted by the Town of Huntsville or the Charlotte-Mecklenburg Thoroughfare Plan, and no alternate alignment can reasonably provide the connection, the design of the farmhouse cluster shall provide for said connection by the dedication of right-of-way for streets less than 70 feet in width and by the reservation of right-of-way for streets 70 feet or wider.
- 11) A Farmhouse Cluster requires an approved **Farmhouse Cluster subdivision plan**, according to the requirements of the Huntersville Subdivision Ordinance including approval by the Town Board and shall meet all other requirements for review and approval, which may include preliminary plan approval prior to approval of a final plat.

f) Special Requirements: Conservation Subdivisions

A **Conservation Subdivision** permits single-family building lots to be divided from a parent tract(s) according to a streamlined subdivision approval process. The approval process, coupled with exemption from most zoning and subdivision requirements, is available to owners who voluntarily place **conservation easements** on their land in favor of an established lands conservancy. A land division can be approved as a Conservation Subdivision when the following conditions are met:

- 1) An irrevocable conservation easement held by a conservation organization ~~(as authorized in U.S.C. 170(h); 2055(a) and N.C.G.S. 124-34 et seq.)~~ is placed upon the tract(s) to be subdivided, and documentation of the conservation easement, including a boundary description of the area subject to the conservation easement is submitted with the subdivision application.
- 2) Limits on location and extent of land disturbance and building construction are set out in the conservation easement(s), which shall at a minimum preserve the rural appearance of the land when viewed from public roads and from abutting properties.
- 3) Treatment of floodplain(s) and required water quality buffers, as described in the conservation easement(s), conform to the minimum standards of the Huntersville Zoning and Subdivision ordinances.
- 4) Minimum project size: 40 acres.
- 5) Maximum gross density: 1 dwelling unit per 20 acres.
- 6) No new public streets are to be created through the development process.
- 7) All parcels within the conservation subdivision will have frontage on an existing public road right-of-way or will be provided access to a permanent 20-foot wide access easement that connects to the public right-of-way. Permanent access easement(s) may be either exclusive or non-exclusive, however landlocked parcel(s) may not be created. Documentation of lot access shall be submitted with the subdivision application.

Commented [ES7]: Technically, the Conservation and Historic Preservation Agreements Act refers to "conservation agreements," which include conservation easements that accomplish the purpose set forth in N.C.G.S 121-35(1).

Suggest adding definition of "conservation easement" to ordinance definition section by reference to statutory definition of conservation agreement:

A conservation agreement as defined by N.C.G.S 121-35(1) in the form of an easement.

ARTICLE 3 (2-22-21)

RURAL DISTRICT

- 8) The holder of the conservation easement will be held responsible for enforcement of the terms of the conservation easement.
- 9) Where the parent tract(s) abuts or includes a segment of a thoroughfare that is shown on the adopted Comprehensive Transportation Thoroughfare Plan and for which an engineered alignment has been selected, any right of way reservation required by the subdivision regulations shall be made, either by the filing of a deed or the filing of a plat map.
- 10) Documentation of the above, including a copy of the recorded conservation easement with metes and bounds description, shall be provided with the subdivision application and shall entitle the subdivider to choose to divide the property by deed, as a metes and bounds subdivision, or by final plat approval and recordation according to the requirements of subdivision ordinance Section 6.520 for a minor subdivision.
- 11) A Conservation Subdivision and the lots and homes built therein are exempt from the following ordinance provisions:
 - Requirement that each building lot have frontage on a public street.
 - Requirement to provide Urban Open Space.
 - Requirements of Article 4: Lot Types/Detached House, which section describes the placement of a building on its lot.
 - Requirements for the placement and size of residential garages set out in Section 8.16, paragraphs .1 and .6. All other standards of Section 8.16 shall apply.
 - Requirement to plant street trees along existing public road(s) where existing, mature trees are to be preserved as a condition of the conservation easement.
 - Requirement to construct or escrow funds for sidewalks or alternative pedestrian paths along existing public road(s).

Commented [JS8]: Thoroughfare Plan renamed Comprehensive Transportation Plan

3.2.2 TRANSITIONAL RESIDENTIAL DISTRICT- (TR)

Intent: The Transitional Residential District serves as a bridge between rural zones and more urbanized development. It is provided to encourage the development of neighborhoods and rural compounds that set aside significant natural vistas and landscape features for permanent conservation. Density of development is regulated on a sliding scale; permitted densities rise with increased open space preservation. Development typologies associated with the Transitional District are farms, the single house, the conservation subdivision, the farmhouse cluster, and the residential neighborhood. The section number in parenthesis following listed use indicates the ordinance section of development conditions.

a) Permitted Uses

Uses permitted by right

- bed and breakfast inns
- boarding or rooming houses for up to two roomers
- family care home
- single family detached homes

Uses permitted with conditions

- cemeteries, (9.7)
- religious institutions, (9.8)
- duplexes up to 20% of dwelling units in development, (9.13)
- essential services 1 and 2, (9.14)
- government buildings up to 5,000 [square-feet-sq. ft.](#) of gross floor area; fire stations are permitted in government buildings up to 15,000 [square-feetsq. ft.](#) of gross floor area
- neighborhood and outdoor recreation, (9.21)
- parks, (9.29)
- plant nurseries, (9.46)
- riding academies and/or commercial stables, (9.33)
- schools, (9.35)
- transit shelters, (9.39)

Uses permitted with Special Use Permit

- agricultural industry, (9.3)
- country inn development (9.52)
- solar energy facility, major, (9.54)
- solar energy facility free-standing, minor, non-residential, (9.54)
- solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
- solar energy facility, minor residential as follows: located on the façade elevation facing public street or common access; or located on the roof slope above the façade of the structure facing public street or common access, (9.54)
- wind energy facility, major, (9.53)
- wind energy facility, minor, accessory, (9.53)

b) Permitted Building and Lot Types

- attached house
- civic building
- detached house

c) Permitted Accessory Uses

- accessory dwelling, (9.1)
- day care home (small), (9.11)
- home occupations, (9.19)
- marinas, (9.42)
- solar energy facility, minor residential; located in the established rear or side yards or roof slopes, (9.54)
- solar facility, rooftop minor non-residential on a flat roof, a roof slope not facing a street and unnoticeable building integrated solar panels on roof slopes facing a street (9.54) accessory uses permitted in all districts (8.11)

d) General Requirements

1. **Frontage** on a public street is required for all lots in the Transitional Residential District except those comprising a Farmhouse Cluster (see Special Requirements, paragraph e), this section), those comprising a Conservation Subdivision (see Special Requirements, paragraph f), or those specifically excepted in Article 8.1.
2. **Development** in the Transitional Residential District shall meet the following standards:
 - a. Non-residential lots outside of planned developments and lots in exempt subdivisions not approved as Farmhouse Clusters or Conservation Subdivisions require a minimum lot size of 20,000 square-feet-sq. ft. and a minimum lot width of 90'; no open space requirement. Further, individual lots of less than 20,000 square-feet-sq. ft. and/or 90' width, existing prior to the effective date of this ordinance, are construed to be conforming.
 - b. Except as provided in a. above, Farmhouse Cluster and Conservation Subdivision Standards, density in the Transitional zoning district shall be as follows:

Percent Open Space	20%	40% or more
Units per Gross Acre	.5	1.5

For every 1% additional open space over 20%, density can be increased by .05 units per gross acre to a maximum of 1.5 units per gross acre.

- c. Open space which is improved, dedicated and accepted by a public agency for public use shall be counted as 1.5 times the actual acreage as an incentive to provide improved public open space. In order to obtain credit the open space should align with the Town and County's future land use plans. Written proof of willingness to accept the open space by a public agency shall be presented at all stages of the approval process. Access shall at least consist of trails built to public standards meandering through the open space with public access points readily available and public access signs posted at those locations and where the trail intersects with roads shown on the Thoroughfare Plan. Other improvements, such as parks, shall be in accordance with applicable governmental standards.
- d. In determining density permissible on a tract of land, fractions shall be dropped.
In mixed use developments, areas used for nonresidential purposes shall be subtracted from the tract acreage to determine density permitted.
- e. Lot sizes shall average at least -7,500 sq. ft., but in no case shall any lot be less than -6,000 sq. ft. The front yard setback for residential lots shall be a minimum of 20'. The side yard setback shall be -6' and the rear yard setback shall be a minimum of 25'.
- f. Lot widths shall average at least -60 feet (excluding cul-de-sac lots), but in no case shall any lot be less than -50' wide. On cul-de-sac or turn-arounds, lots shall have at least 80% of the minimum lot width required when measured to a point 50' back from the street right-of-way. Further, these lots shall have a minimum -25' of frontage along the street right-of-way. No more than 50% of the lots in a subdivision shall be one width. A 10' differential in lot widths is required. At least 2 lot sizes-widths shall be required for subdivisions of 50 or less lots and at least 3 lot sizes-widths shall be required for subdivisions over 50 lots in size.
- g. In residential subdivisions, lots should not have a depth greater than four (4) times the width at the build-to or setback line except where physical dimensions of the tract provide no other alternative layout or where the open space is for a required buffer. Emphasis shall be on the quality of design as opposed to reduction of development costs.
- h. In order to preserve the low intensity development character found in the Transitional Residential zoning district, along existing state-maintained roads and future thoroughfares a visually opaque landscaped buffer of native vegetation at least 80 feet in width shall be

Commented [JS9]: To match with R listing all setbacks and to match with Article 4, Detached House.

Commented [JS10]: Clarification

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required for major subdivisions unless a more restrictive buffer is established elsewhere in these regulations. The Board of Commissioners may allow modification to the buffer width when special site conditions exist such as topography or the site has multiple road frontages. The buffer shall be in common area and shall be counted towards meeting open space requirements.

- i. In major residential subdivisions, a landscaped median at least 20' in width shall be required at all entrances into the subdivision. Modification to this standard may be allowed by the Board of Commissioners in the interest of traffic safety
- j. Open space shall not be located in private residential lots, unless specifically allowed by this ordinance.

- 3. **Open Space.** Designated ~~o~~Open ~~s~~Space includes that parcel or parcels of land, which shall be set aside in perpetuity and shall have no buildings or permanent structures constructed within its perimeters except as provided for in this section. There are ~~five~~ types of open space in the Transitional Residential District: ~~—~~urban, agricultural, common, natural, and recreational. Open space shall meet the provisions of this section and the provisions for open space established in Article 7, Part B.

- a. Areas containing buildings and other impervious surfaces in excess of 100 ~~square feet sq. ft.~~, shall not be counted as Open Space. ~~This shall include, but not be limited to, barns, storage buildings, parking lots, clubhouses and tennis courts,~~
- b. Open Space that is dedicated and accepted by the general public shall be maintained and managed by the Town of Huntersville or Mecklenburg County. The town and county have the right to accept or deny the dedication of open space to the public.
- c. In the Farmhouse Cluster and in the Conservation Subdivision, open space may also include portions of private building lots subject to a conservation or open space easement.

~~Further, in addition to having the required 20% open space in a common ownership, minor subdivisions are permitted to locate the open space within proposed private lots provided the lot size is 20% larger (.9 ac) on average than the minimum required, subject to a conservation or open space easement.~~

- d. Open space preservation shall be irrevocable. A metes and bounds description of the space to be preserved and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deeds when open space lands are not held entirely in common. Alternative means of permanent open space preservation may include acceptance by a land conservation trust or a unit of government. Private management alternatives which ensure the open space preservation required by this section will also be permitted. Restrictive covenants shall limit uses to the continuation of certain agricultural activities (pastureland, crop cultivation) or recreation uses that preserve the view from public streets of rural heritage features to be preserved. Upon verification by the town that restriction of development has been established by a permanent and irrevocable instrument, a letter so noting shall be simultaneously issued to the property owner(s) and to the Mecklenburg County Tax Administrator, Office of Real Estate Appraisal.

4. Compatibility with Surrounding Development.

- a. Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
 - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume.

Commented [JS11]: Should have removed with TA 13-05 TR amendments.

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The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.

- A single-family detached house established on a lot of one acre or more that is created according to the provisions of Article 8.1, paragraph 1, need not adhere to the spacing, massing, scale, and street frontage relationships of existing buildings along an existing street or road, but shall, at a minimum, observe a front setback of 40 feet and a lot width of 90 feet. This paragraph shall take precedence over the requirement of Article 4: Lot Types/Detached House for placement of a building on its lot.
 - Nothing in this subsection shall be interpreted to conflict with the building design element provision as found in N.C.G.S. 160D-702(b) + 60A-381(h) for structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.
- b. On new streets, allowable building and lot types will establish the development pattern.
5. See Section 8.16, Standards for Residential Lot Widths, Alleys, Garages and Parking in Residential Districts

e) Special Requirements: Farmhouse Cluster Developments

A **Farmhouse Cluster** permits the subdivision of land for up to six house lots accessed by way of a shared private drive when the following conditions have been met:

- 1) Minimum project size and frontage on public road: 10 acres with a minimum of 30 feet of frontage on a public road either by fee simple ownership or by exclusive easement.
- 2) There shall be no more than two farmhouse cluster developments permitted per tract ~~as that tract existed on February 18, 2003.~~
- 3) Private drives shall be paved in accordance with the Town of Huntersville construction standards. The private street right-of-way or easement shall be of sufficient width to accommodate drainage/water quality treatment associated with the private drive. ~~Gates are prohibited for farmhouse cluster private drives.~~ Further, the recorded easement shall have at least 30' of frontage on a public street. In the event two farmhouse clusters are established, the private drive serving those farmhouse clusters may be connected provided:
 - a. The subdivision plat and associated deeds shall clearly state such drive shall remain private and will not be taken over by a public entity in the future unless such street complies with the construction standards of that public entity.
 - b. Where feasible, there shall be two means of ingress and egress into the combined farmhouse cluster development. Only in the event the original tract does not have the adequate frontage on a public road to obtain two driveway permits would one private drive be allowed to serve the combined farmhouse cluster development;
- 4) An association of all property owners shall be established for maintenance of all commonly held spaces, if any. Where there are no commonly held spaces except for a shared driveway or private street, a legally binding shared driveway and/or private street use and maintenance agreement shall be filed at the Register of Deeds of Mecklenburg County. Furthermore, the shared driveway or private road shall be shown, along with all appropriate and necessary easements, on a recorded plat and a note shall be attached thereto stipulating the use and maintenance of the driveway and referencing the recorded agreement(s).
- 5) The location of building sites shall be determined through a site analysis which identifies features to be preserved as open space;
- 6) No minimum lot size or width is required, so long as the project meets all other standards of the district;

Commented [ES12]: See above comment re date.

Commented [ES13]:

Commented [JS14R13]: Text amendment dropped gates in R district. Should be dropped in TR for consistency.

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- 7) At least 50% of the tract shall be designated as open space. Open space preservation shall be irrevocable. A metes and bounds description of the space to be preserved and limits on use shall be recorded on the subdivision plat and on individual deeds when open space lands are not held entirely in common. Open space lands may be part of a deeded lot so long as it reflects an irrevocable conservation or open space easement requiring such portions of individual lots to remain and be used as open space as provided in this section.
- 8) Permitted uses of open space lands to be preserved shall correspond generally to physical conditions at the time of subdivision approval. Restrictive covenants shall limit uses to the continuation of certain agricultural activities (pastureland, crop cultivation) or recreation uses that preserve the view from public streets of rural heritage features to be preserved. For example, fields or pasture land preserved as required open space may continue to support cultivation or grazing; however existing woodlands may not be clear-cut. In order to ensure septic tanks are located on the most suitable soils, septic fields may be located in the common open space provided a maintenance easement is established for access.
- 9) The project shall maintain a generally rural appearance from public road(s).
- 10) Where a farmhouse cluster would eliminate a planned street connection or a street connection indicated on a plan adopted by the Town of Huntsville or the Charlotte-Mecklenburg Thoroughfare Plan, and no alternate alignment can reasonably provide the connection, the design of the farmhouse cluster shall provide for said connection by the dedication of right-of-way for streets less than 70 feet in width and by the reservation of right-of-way for streets 70 feet or wider.
- 11) A Farmhouse Cluster requires an approved **Farmhouse Cluster subdivision plan**, according to the requirements of the Huntersville Subdivision Ordinance including approval by the Town Board and shall meet all other requirements for review and approval, which may include preliminary plan approval prior to approval of a final plat.

f) Special Requirements: Conservation Subdivisions

A **Conservation Subdivision** permits single-family building lots to be divided from a parent tract(s) according to a streamlined subdivision approval process. The approval process, coupled with exemption from most zoning and subdivision requirements, is available to owners who voluntarily place conservation easements on their land in favor of an established lands conservancy. A land division can be approved as a Conservation Subdivision when the following conditions are met:

- 1) An irrevocable conservation easement held by a conservation organization (~~as authorized in U.S.C. 170(h); 2055(a) and N.C.G.S. 124-34 et seq.~~) is placed upon the tract(s) to be subdivided, and documentation of the conservation easement, including a boundary description of the area subject to the conservation easement is submitted with the subdivision application.
- 2) Limits on location and extent of land disturbance and building construction are set out in the conservation easement(s), which shall at a minimum preserve the rural appearance of the land when viewed from public roads and from abutting properties.
- 3) Treatment of floodplain(s) and required water quality buffers, as described in the conservation easement(s), conform to the minimum standards of the Huntersville Zoning and Subdivision ordinances.
- 4) Minimum project size: 40 acres.
- 5) Maximum gross density: 1 dwelling unit per 20 acres.
- 6) No new public streets are to be created through the development process.
- 7) All parcels within the conservation subdivision will have frontage on an existing public road right-of-way or will be provided access to a permanent 20-foot wide access easement that connects to the public right-of-way. Permanent access easement(s) may be either exclusive or

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non-exclusive, however landlocked parcel(s) may not be created. Documentation of lot access shall be submitted with the subdivision application.

- 8) The holder of the conservation easement will be held responsible for enforcement of the terms of the conservation easement.
- 9) Where the parent tract(s) abuts or includes a segment of a thoroughfare that is shown on the adopted thoroughfare plan and for which an engineered alignment has been selected, any right of way reservation required by the subdivision regulations shall be made, either by the filing of a deed or the filing of a plat map.
- 10) Documentation of the above, including a copy of the recorded conservation easement with metes and bounds description, shall be provided with the subdivision application and shall entitle the subdivider to choose to divide the property by deed, as a metes and bounds subdivision, or by final plat approval and recordation according to the requirements of subdivision ordinance Section 6.520 for a minor subdivision.
- 11) A Conservation Subdivision and the lots and homes built therein are exempt from the following ordinance provisions:
 - Requirement that each building lot have frontage on a public street.
 - Requirement to provide Urban Open Space.
 - Requirements of Article 4: Lot Types/Detached House, which section describes the placement of a building on its lot.
 - Requirements for the placement and size of residential garages set out in Section 8.16, paragraphs .1, and .6. All other standards of Section 8.16 shall apply.
 - Requirement to plant street trees along existing public road(s) where existing, mature trees are to be preserved as a condition of the conservation easement.
 - Requirement to construct or escrow funds for sidewalks or alternative pedestrian paths along existing public road(s).

3.2.3 GENERAL RESIDENTIAL DISTRICT (GR)

Intent: The General Residential District is coded to permit the completion and conformity of conventional residential subdivisions already existing or approved in sketch plan form by the Huntersville Board of Commissioners prior to the effective date of these regulations or by the Charlotte-Mecklenburg Planning Commission under the prior jurisdiction of Mecklenburg County. The application of the General Residential District is not intended for development projects in the Huntersville jurisdiction which are initiated after the effective date of this ordinance (November 19, 1996).

a) Permitted Uses

Uses permitted by right

- single family homes
- family care home

Uses permitted with conditions

- cemeteries, (9.7)
- religious institutions, (9.8)
- duplexes on corner lots, (9.13)
- essential services 1 and 2, (9.14)
- government buildings up to 5,000 square feet-sq. ft. of gross floor area
- neighborhood and outdoor recreation, (9.21)
- parks, (9.29)
- schools, (9.35)
- transit shelters, (9.39)

Uses permitted with Special Use Permit

- solar energy facility free-standing, minor, non-residential, (9.54)
- solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
- solar energy facility, minor residential as follows: located on the façade elevation facing public street or common access; or located on the roof slope above the façade of

the structure facing public street or common access, (9.54)

- wind energy facility, minor, accessory (9.53)

b) Permitted Building and Lot Types

- civic building
- detached house
- other building types previously approved by the Board of Commissioners as elements of a cluster development plan

c) Permitted Accessory Uses

- accessory dwellings for use by related person(s), (9.1)
- day care home (small), (9.11)
- home occupations, (9.19)
- marinas, (9.42)
- solar facility, rooftop minor non-residential on a flat roof, a roof slope not facing a street and unnoticeable building integrated solar panels on roof slopes facing a street (9.54)
- solar energy facility, minor residential; located in the established rear or side yards or roof slopes, (9.54)
- accessory uses permitted in all districts (8.11)

d) General Requirements

- 1) Development density, amount and location of open space, arrangement of streets and lots, yard dimensions, and access to existing roads shall be controlled by the most recently approved subdivision plan (sketch, preliminary, or plat) unless the lot size and width in question is less than 50% of the standards found in (D)(3) below. If below 50% of the lot area and width, then Section 11.5.5 of these regulations shall apply. Any modifications to an approved subdivision plan shall maintain the density of the original plan.
- 2) Developments in the general residential district which are approved but not yet built are permitted minor modifications through the administrative process; such developments, if redesigned, must conform to all of the requirements of this ordinance for the GR District (3, below) or may petition for a district change according to Section 11.4.
- 3) In the absence of a subdivision sketch or preliminary plan approved prior to the effective date of this ordinance, the following lot dimensions shall apply:

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NEIGHBORHOOD RESIDENTIAL DISTRICT

Minimum Lot Size	Minimum Lot Width	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yards	Minimum Corner Lot Side Yard
20,000	90'	40'	50'	10'	20'

3.2.4 NEIGHBORHOOD RESIDENTIAL DISTRICT -(NR)

Intent: The Neighborhood Residential District provides for residential **infill** development around the Town Core, Activity Centers and Mixed Use Centers surrounding the traditional town center and its their logical extensions identified in adopted long range plans. This district also provides for town-sealed residential development within walking distance (generally ½ mile) of satellite village centers, identified on the Land Development Plan. Streets in the Neighborhood Residential District must be interconnected, according to Article 5, Streets, and Urban Open Space provided according to Article 7. A range of housing types is encouraged. Low-intensity business activity is permitted in mixed-use and commercial buildings at residential scale, according to locational criteria. The intensity to which permitted uses may be built is regulated by the building type which corresponds to the use.

Commented [JS15]: Reflects new terms used in the 2040 Plan and other future small area plans.

PLACES

Winter, 1996 (67)

“towns offer an important lesson in both architecture and citizenship: buildings, like citizens, warrant their idiosyncrasies so long as they behave civilly toward their neighbors...”

Alex-Krieger

a) Permitted Uses

Uses permitted by right

- bed and breakfast inns
- boarding or rooming houses for up to four roomers
- congregate housing designed within the “civic” building type
- family care home
- multi-family homes
- single family homes

Uses permitted with conditions

- cemeteries, (9.7)
- religious institutions, (9.8)
- commercial use in a mixed-use building¹, located on an arterial or at the intersection of a local street and a larger capacity street
- commercial use, in a detached house building type, located within ¼ mile of a Town Center district and fronting a major or minor thoroughfare (Includes properties in which any portion falls within the ¼ mile boundary) (9.51)
- essential services 1 and 2, (9.14)
- government buildings up to 5000 square feet-sq. ft. of gross floor area
- neighborhood and outdoor recreation, (9.21)
- parks, (9.29)
- retirement communities (9.50)
- schools, (9.35)
- transit-oriented parking lots as a principal use, (9.49)

- transit shelters, (9.39)

Uses permitted with Special Use Permit

- solar energy facility free-standing, minor, non-residential, (9.54)
- solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
- solar energy facility, minor residential as follows: located on the façade elevation facing public street or common access; or located on the roof slope above the façade of the structure facing public street or common access, (9.54)
- wind energy facility, minor, accessory, (9.53)

b) Permitted Building and Lot Types

- apartment
- attached house
- civic building
- detached house (Commercial uses up to 4,500 SF-sq. ft. of first floor area)
- mixed use¹, up to 3,000 SF-sq. ft. of first floor area

Commented [ES16]: Should add definition of mixed-use building to definition section.

¹ The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% of the habitable area of the building shall be in residential use, the remainder shall be in commercial use. However, when an existing residential building is redeveloped to a mixed-use, at least 40% of the habitable area shall be in residential use.

c) Permitted Accessory Uses

- accessory dwelling, (9.1)
- day care home (small), (9.11)
- home occupation, (9.19)
- marinas, (9.42)
- solar facility, rooftop minor non-residential on a flat roof, a roof slope not

facing a street and unnoticeable building integrated solar panels on roof slopes facing a street (9.54)

- solar energy facility, minor residential; located in the established rear or side yards or roof slopes, (9.54)
- accessory uses permitted in all districts (8.11)

d) General Requirements

- 1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
 - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - A single-family detached house established on a lot of one acre or more that is created according to the provisions of Article 8.1, paragraph 1, need not adhere to the spacing, massing, scale, and street frontage relationships of existing buildings along an existing street or road, but shall, at a minimum, observe a front setback of 40 feet and a lot width of 90 feet. This paragraph shall take precedence over the requirement of Article 4: Lot Types/Detached House for placement of a building on its lot.
 - Nothing in this subsection shall be interpreted to conflict with the building design element provision as found in N.C.G.S. 160D-702(b) ~~GS 160A-381(h)~~ for structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.
- 2) On new streets, allowable building and lot types will establish the development pattern.
- 3) In major subdivisions ~~which are extensions of the traditional town center and planned developments associated with new neighborhood centers~~, the aggregate number of dwelling units contained in attached houses, apartment buildings, and mixed-use buildings shall not exceed 30 percent of the total number of dwelling units in a project.
- 4) Notwithstanding the limitations of 3), above, in any section of a major subdivision located within ¼ mile of a designated rail transit station, the percentage of dwelling units contained in attached houses, apartment buildings, and mixed-use buildings is not limited. Higher overall density is encouraged within ¼ mile of rail transit stations. Rail transit stations are those locations designated by resolution adopted by the Board of Commissioners of the Town of Huntersville.
- 5) Every building lot shall have frontage upon a public street except as provided in Section 8.1.
- 6) The percentage of attached dwelling units contained in a retirement community is not limited when duplex style buildings are used.
- 7) See Section 8.16, Standards for Residential Lot Widths, Alleys, Garages and Parking in Residential Districts.

Commented [JS17]: Qualifiers are not needed

3.2.5 NEIGHBORHOOD CENTER DISTRICT- (NC)

Intent: The Neighborhood Center District is provided for the location of shops, services, small workplaces, civic and residential buildings central to a neighborhood or grouping of neighborhoods and within walking distance of dwellings. A neighborhood center shall be developed on an interconnected pattern of streets and is limited to approximately ¼ mile in radius. Uses in the neighborhood center will have a primary market area of 1 mile and buildings compatible with surrounding residences. If a neighborhood center is the focus of a planned transit stop, it should be designed to serve the neighborhood’s residential base plus transit riders. ~~The Huntersville Land Development Plan shows the general location of new neighborhood centers.~~

“Attachment to the area and the sense of place that it imparts expand with the individual’s walking familiarity with it. In such locales, parents and their children range freely. The streets are not only safe, they invite human connection.”

*Ray Oldenburg
The Great Good Place (210)*

a) Permitted Uses

Uses permitted by right

- bed and breakfast inns
- boarding or rooming houses for up to six roomers
- civic, fraternal, cultural, community, or club facilities
- commercial uses
- congregate housing designed within the “civic” building type
- family care home
- indoor amusement
- indoor recreation
- multi-family homes
- single family homes

Uses permitted with conditions

- cemeteries, (9.7)
- religious institutions, (9.8)
- commercial marinas, (9.43)
- day care center, (9.11)

- essential services 1 and 2, (9.14)
- government buildings up to 6,000 ~~SF~~ sq. ft. of first floor area
- neighborhood gasoline stations, excluding major service and repair of motor vehicles (9.22)
- parking lot as principal use (9.28)
- parks, (9.29)
- schools, (9.35)
- temporary mobile food sales (9.37)
- temporary outdoor sales of seasonal agricultural products and customary accessory products (example: farmers’ markets, Christmas tree/pumpkin sales), (9.37)
- transit-oriented parking lots as a principal use, (9.49)
- transit shelters, (9.39)

Uses permitted with Special Use Permit

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- solar energy facility free-standing, minor, non-residential, (9.54)
- solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
- solar energy facility, minor residential as follows: located on the façade elevation facing public street or common access; or located on the roof slope above the façade of the structure facing public street or common access, (9.54)
- wind energy facility, minor, accessory, (9.53)

NEIGHBORHOOD CENTER DISTRICT

b) Permitted Building and Lot Types

- apartment
- attached house
- civic
- detached house
- mixed use² up to 6,000 ~~SF~~sq. ft. of first floor area
- storefront up to 6,000 ~~SF~~sq. ft. of first floor area
- workplace up to 6,000 ~~SF~~sq. ft. of first floor area

² The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% of the habitable area of the building shall be in residential use, the remainder shall be in commercial use. However, when an existing residential building is redeveloped to a mixed-use, at least 40% of the habitable area shall be in residential use.

c) Permitted Accessory Uses

- accessory dwelling, (9.1)
- day care home (small), (9.11)
- drive through windows, excluding those associated with restaurants, (9.12)
- home occupation, (9.19)
- marinas accessory to residential uses, (9.42)
- solar facility, rooftop minor non-residential on a flat roof, a roof slope not facing a street and unnoticeable building integrated solar panels on roof slopes facing a street (9.54)
- solar energy facility, minor residential; located in the established rear or side yards or roof slopes, (9.54)
- stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be permitted by agreement with town); outdoor storage expressly prohibited³.
- accessory uses permitted in all Districts (8.11)

³ Items for outdoor sales are returned to building at end of each business day; goods not brought in at close of business day are considered outdoor storage.

d) General Requirements

- 1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - New buildings which adhere to the scale, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
 - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - Nothing in this subsection shall be interpreted to conflict with the building design element provision as found in N.C.G.S. 160D-702(b) ~~GS 160A-384(h)~~ for structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.
- 2) On new streets, allowable building and lot types will establish the development pattern.
- 3) In major subdivisions and planned developments, the aggregate number of dwelling units contained in attached houses, apartment buildings, and mixed-use buildings shall not exceed 30 percent of the total number of dwelling units in a project.
- 4) Notwithstanding the limitations of 3), above, in any section of a major subdivision located within ¼ mile of a designated rail transit station, the percentage of dwelling units contained in attached houses, apartment buildings, and mixed-use buildings is not limited. Higher overall density is encouraged within ¼ mile of rail transit stations. Rail transit stations are those locations designated by resolution adopted by the Board of Commissioners of the Town of Huntersville. Further, the percentage of dwelling units contained in attached houses, apartment buildings and mixed-use buildings is not limited when the dwellings are part of a mixed-use (office and/or commercial, residential) project provided that no more than 45% of the habitable floor area within the planned development project is for residential use.
- 5) New Construction favors retail first floor, office or residential second floor
- 6) Maximum radius of neighborhood center = ¼ mile
- 7) Incremental development of a neighborhood center is to be expected with individual sites developed in accordance with an approved, locationally explicit, town plan.
- 8) Every building lot shall have frontage upon a public street or urban open space.
- 9) See Section 8.16, Standards for Residential Lot Widths, Alleys, Garages and Parking in Residential Districts.

3.2.6 TOWN CENTER DISTRICT- (TC)

Intent: The Town Center District provides for revitalization, reuse, and infill development in Huntersville’s traditional town center. A broad array of uses is expected in a pattern which integrates shops, restaurants, services, work places, civic, educational, and religious facilities, and higher density housing in a compact, pedestrian-oriented environment. The Town Center anchors the surrounding residential neighborhoods while also serving the broader community. The district is coded to accommodate the higher overall intensity of development required to support a rail transit station. It is to be expected that the Town Center District will be expanded over time through the zoning change process to an approximate ½ mile radius to meet growth in demand for downtown facilities and services.

Place: “a piece of the whole environment that has been claimed by feelings”
Alan Gussow
Placeways: A Theory of the Human Environment (209)
“...begin with the place, with a sense of what it is, and then try to imagine a way of being public which would fit the place.”
Daniel Kemmis
Community and the Politics of Place (41)

a) Permitted Uses

Uses permitted by right

- bed and breakfast inns
- boarding or rooming houses for up to six roomers
- civic, fraternal, cultural, community, or club facilities
- commercial uses
- congregate housing designed within the “civic” building type
- family care home
- government buildings
- hotels
- indoor amusement
- multi-family homes
- nightclubs, music clubs, bars, and similar entertainment facilities
- single family homes

Uses permitted with conditions

- automobile and/or motorcycle sales, automobile service and repair, -up to 2 acres in size, -with a principal building of at least 8,000 ~~square feet sq. ft.~~, all

damaged vehicles and auto parts to be screened opaque (9.25)

- cemeteries, (9.7)
- religious institutions, (9.8)
- essential services 1 and 2, (9.14)
- neighborhood gasoline stations, excluding major service and repair of motor vehicles (9.22)
- parking lot as principal use (9.28)
- parks, (9.29)
- schools, (9.35)
- temporary mobile food sales (9.37)
- temporary outdoor sales of seasonal agricultural products and customary accessory products (example: farmers’ markets, Christmas tree/pumpkin sales), (9.37)
- transit-oriented parking lots as a principal use, (9.49)
- transit shelters, (9.39)

Uses permitted with Special Use Permit

- solar energy facility free-standing, minor, non-residential, (9.54)

ARTICLE 3

TOWN CENTER DISTRICT

- solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
- solar energy facility, minor residential as follows; located on the façade elevation facing public street or common access; or located on the roof slope above the façade of the structure facing public street or common access, (9.54)
- wind energy facility, minor, accessory, (9.53)

b) Permitted Building and Lot Types

- apartment
- attached house
- civic
- detached house
- mixed use⁴ up to 50,000 square-feet sq. ft. SF of first floor area; larger buildings may be permitted with a special use permit
- storefront up to 50,000 square-feet sq. ft. SF of first floor area; larger buildings may be permitted with a special use permit
- workplace up to 50,000 square-feet sq. ft. SF of first floor area; larger buildings may be permitted with a special use permit

c) Permitted Accessory Uses

- accessory dwelling, (9.1)
- day care home (small), (9.11)
- drive through windows, excluding those associated with restaurants, (9.12)
- home occupation, (9.19)
- solar facility, rooftop minor non-residential on a flat roof, a roof slope not facing a street and unnoticeable building integrated solar panels on roof slopes facing a street (9.54)
- solar energy facility, minor residential; located in the established rear or side yards or roof slopes, (9.54)
- stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be permitted by agreement with town); outdoor storage expressly prohibited⁵
- accessory uses permitted in all districts, (8.11)

⁴ The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% of the habitable area of the building shall be in residential use, the remainder shall be in commercial use. However, when an existing residential building is redeveloped to a mixed-use, at least 40% of the habitable area shall be in residential use.

⁵ Items for outdoor sales are returned to building at end of each business day; goods not brought in at close of business day are considered outdoor storage.

d) General Requirements

- 1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
 - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - Nothing in this subsection shall be interpreted to conflict with the building design element provision as found in N.C.G.S. 160D-702(b) ~~GS 160A-384(h)~~ for structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.
- 2) On new streets, allowable building and lot types will establish the development pattern.
- 3) In major subdivisions and planned developments, the aggregate number of dwelling units contained in attached houses, apartment buildings, and mixed-use buildings shall not exceed 30 percent of the total number of dwelling units in a project.
- 4) Notwithstanding the limitations of 3), above, in any portion of a major subdivision located within ¼ mile of a designated rail transit station, the percentage of dwelling units contained in attached houses, apartment buildings, and mixed-use buildings is not limited. Higher overall density is encouraged within ¼ mile of rail transit stations. Rail transit stations are those locations designated by resolution adopted by the Board of Commissioners of the Town of Huntersville.
- 5) New construction favors retail on first floor, office and/or residential on upper floors.
- 6) Every building lot shall have frontage upon a public street or urban open space.
- 7) Minimum Height. Mixed Use, Storefront and Workplace Buildings. New construction shall be a minimum of two stories for buildings fronting on the following roads:
 - Gilead Road- From Sherwood Drive to Old Statesville Road (NC 115)
 - Huntersville-Concord Road- From Old Statesville Road (NC 115) to Main Street
 - Old Statesville Road (NC 115) - From 400 feet north of the intersection of Gilead Road/Huntersville-Concord Road to Greenway Drive
 - Main Street- From Huntersville-Concord Road to Greenway Drive
- 8) See Section 8.16, Standards for Residential Lot Widths, Alleys, Garages and Parking in Residential Districts.

3.2.7 HIGHWAY COMMERCIAL DISTRICT ~~(HC)~~

Intent: The Highway Commercial District is established to provide primarily for auto-dependent uses in areas not amenable to easy pedestrian access and a comfortable pedestrian environment. It is expected that the Highway Commercial District will serve not only the Huntersville Community, but interstate travelers as well. Because of the scale and access requirements of uses in this category, they often cannot be compatibly integrated within the Town Center or Neighborhood Center Districts. Development at district boundaries must provide a compatible transition to uses outside the district; property boundaries adjacent to freeways or expressways will require a 50-foot foliated buffer yard; and frontages on major or minor arterials will require formal street tree planting.

a) Permitted Uses

Uses permitted by right

- amusement facilities: all indoor uses
- armories for meetings and training of military organizations
- auction sales
- boarding or rooming houses for up to six roomers
- religious institutions
- civic, fraternal, cultural, community, or club facilities
- commercial uses
- contractor offices and accessory storage yards, excluding the storage of general construction equipment and vehicles
- family care home
- government buildings
- indoor and outdoor recreation
- multi-family homes
- nightclubs, music clubs, bars, and similar entertainment facilities
- pawnshops and second-hand shops
- single family homes
- vocational and technical schools
- wholesale sales with related office, storage and warehousing entirely within an enclosed building; truck terminals not permitted

Uses permitted with conditions

- adult establishments, (9.2)
- amusement facilities, outdoor, limited to par 3 golf courses, golf driving ranges, and archery ranges, (9.5)
- car wash, (9.6)
- commercial marinas, (9.43)
- day care center, (9.11)

- essential services 1 and 2, (9.14)
- gasoline service stations, including service and repair of motor vehicles, (9.22)
- hotels spaced 250' or more from residential or mixed-use zones, (9.45)
- parks, (9.29)
- temporary outdoor sales of seasonal agricultural products (example: Christmas tree/pumpkin sales), (9.37)
- temporary mobile food sales, (9.37)
- transit-oriented parking lots as a principal use, (9.49)
- transit shelters, (9.39)
- vehicle and boat service, rental, cleaning, mechanical repair, and body repair, (9.25; 9.26)

Uses permitted with special use permit

- crematoriums, accessory, (9.56)
- halfway houses (9.55)
- hotels spaced less than 250' from residential or mixed-use zones, (9.45)
- hotels exceeding permitted building height, (9.45)
- solar energy facility free-standing, minor, non-residential, (9.54)
- solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
- solar energy facility, minor residential as follows: located on the façade elevation facing public street or common access; or located on the roof slope above the façade of the structure facing public street or common access, (9.54)
- wind energy facility minor, accessory, (9.53)

b) Permitted Building Types

- apartment
- attached house
- civic
- detached house
- highway commercial; up to 65,000 square-feet sq. ft. SF of first floor area on major thoroughfare; up to 15,000 square-feet sq. ft. SF of first floor area on minor thoroughfare.⁶
- mixed use⁷ up to 65,000 square-feet sq. ft. SF of first floor area on major thoroughfare; up to 15,000 SF-sq. ft. on minor thoroughfare
- shopfront, up to 65,000 square-feet-sq. ft. SF of first floor area on major thoroughfare; up to 15,000 SF-sq. ft. of first floor area on minor thoroughfare; second floor apartments or offices encouraged for most uses.
- workplaces; up to 65,000 square-feet sq. ft. SF of first floor area on major thoroughfare; up to 15,000 square-feet sq. ft. SF of first floor area on minor thoroughfare; second floor apartments or offices encouraged for most uses.

c) Permitted Accessory Uses

- commercial outdoor kennels, (9.10)
- drive through windows associated with any use (9.12)
- helistop, (9.18)
- home occupations, (9.19)
- outdoor storage, excluding construction equipment, (9.26)
- solar facility, rooftop minor non-residential on a flat roof, a roof slope not facing a street and unnoticeable building integrated solar panels on roof slopes facing a street (9.54)
- solar energy facility, minor residential; located in the established rear or side yards or roof slopes, (9.54)
- stalls or merchandise stands for outdoor sale of goods at street front; outdoor storage must be behind building and screened from view from public spaces⁸
- warehousing accessory to merchandise showroom, within an enclosed building
- accessory uses permitted in all districts, (8.11)

⁶ ~~M~~maximum first floor area for highway commercial buildings may be exceeded only where massing of building is varied to reduce perceived scale and volume. Maximum floor area of non-residential buildings on property located on a minor thoroughfare in the HC zoning district may be exceeded, in the sole discretion of the Town Board, with the following conditions: 1) a conditional district rezoning of the property specifying first floor area of non-residential buildings is approved by the Town Board; and 2) the applicant applies for and receives approval of the rezoning of other property (the "vested property") for which vested right exists to construct a non-residential building with a first floor area that exceeds the maximum permitted; and 3) the rezoning of the Vested Property is to a less intensive use and has the effect of terminating such vested right. NOTE: This provision was added by TA-06-12 allowing a transfer of vesting rights through a rezoning that was approved but overturned by the courts-provision is no longer needed.

⁷ The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% of the habitable area of the building shall be in residential use, the remainder shall be in commercial use.

⁸ ~~I~~tems for outdoor sales are returned to building at end of each business day; goods not brought in at close of business day are considered outdoor storage.

d) General Requirements

- 1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
 - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - Nothing in this subsection shall be interpreted to conflict with the building design element provision as found in N.C.G.S. 160D-702(b) ~~GS 160A-384(h)~~ for structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.
- 2) On new streets, allowable building and lot types will establish the development pattern.
- 3) In major subdivisions and planned developments, the aggregate number of dwelling units contained in attached houses, apartment buildings, and mixed-use buildings shall not exceed 30 percent of the total number of dwelling units in a project.
- 4) Notwithstanding the limitations of 3), above,
 - (a) In any section of a major subdivision located within ¼ mile of a designated rail transit station, the percentage of dwelling units contained in attached houses, apartment buildings, and mixed-use buildings is not limited. Higher overall density is encouraged within ¼ mile of rail transit stations. Rail transit stations are those locations designated by resolution adopted by the Board of Commissioners of the Town of Huntersville.
 - (b) In a pedestrian-oriented development organized around a system of streets and blocks, and anchored with retail, restaurant, and entertainment uses, 100 percent of the dwelling units which are located in the same block with commercial uses may be contained in attached houses, apartment buildings, and mixed-use buildings. To qualify under this paragraph, at least one parking space per dwelling unit must be replaced in a parking deck which is located on the interior of the block, and at least 20% of the habitable first floor area in each block must be devoted to commercial uses. Habitable first floor area includes all first floor building area that is used for interior human activity (including storage areas of retail shops, kitchen areas and pantries for restaurants, and similar uses). Habitable first floor area does not include the first floor of a parking deck nor outdoor areas used for restaurant seating or retail display. Hotels, light manufacturing and assembly facilities, and laboratories and associated research facilities are permitted within the development, but may not be used to meet the 20% minimum first floor commercial requirement. The higher density residential environment permitted by this exception provides a full-time population which animates the streets, supports the businesses on a daily basis, and accesses goods and services without sole dependence on private vehicles.
 - (c) Within a Mixed-Use Node, the aggregate number of dwelling units contained in attached houses, apartment buildings, and mixed-use buildings shall not exceed 80% subject to the following requirements:
 - i Housing density shall decrease in intensity on streets further away from the Commercial Use(s); apartment buildings and mixed-use buildings housing density shall not exceed 18 units per acre; attached housing density shall not exceed 8 units per acre; detached housing density shall not exceed 3 units per acre.
 - ii A minimum of 50% of the node acreage must be for residential use
 - iii All mixed-use buildings shall count towards the residential acreage requirements

ARTICLE 3

HIGHWAY COMMERCIAL DISTRICT

- iv An approved Mixed-Use Node that contains less than 100 acres may be expanded to include parcels that are adjacent to the approved Mixed-Use Node and its major thoroughfare. The number and type of dwelling units permitted at an expanded Mixed-Use Node shall not exceed the overall allowable density as prescribed herein.
- 5) Where screening is required by Article 9 for activities involving any sale, use, repair, storage, or cleaning operation, the specified standard of Section 7.5 shall apply.
- 6) Any Highway Commercial District shall be bordered on at least one side by a major or minor thoroughfare.
- 7) Abutting Interstate 77, the specified buffer requirement of Section 7.5 applies.
- 8) The arrangement of multiple buildings on a single lot shall establish building facades generally parallel to the frontage property lines along existing streets and proposed interior streets.
- 9) Every building lot shall have frontage upon a public street or urban open space except as follows: in specific locations where factors beyond developer control, such as a limited access highway, an existing development, or the location of an existing intersection, prohibit completing a street connection in the Highway Commercial District, a private drive may be substituted for the interior street which cannot be connected to the public network.
- 10) See Section 8.16, Standards for Residential Lot Widths, Alleys, Garages and Parking in Residential Districts.

3.2.8 CAMPUS INSTITUTIONAL DISTRICT -(CI)

Intent: The campus institutional district is established to provide for large institutional complexes which are already in place and for new institutional complexes on 15 acres or more which, because of the scale of the buildings or the nature of the use, cannot be fully integrated into the fabric of the community. Campus districts, unlike town districts, are buffered from neighboring properties; nonetheless, buildings in the campus district that front a town street shall relate to the street as prescribed by building type. Campus districts are intended primarily for existing institutions, as most new institutional projects can and should be designed within the fabric of the town.

a) Permitted Uses

Uses permitted by right

- academic institutions, including elementary, middle, and high schools, technical, vocational, college, and university
- religious institutions and religious institution-related facilities
- single family and multi-family homes on the premises which are intended for use by employee(s) of the institution or of companies providing on-site services to the institution
- governmental complexes, including indoor and outdoor recreation, but excluding correctional and waste management facilities
- health institutions, including hospitals and congregate care facilities with accessory shopfronts, sheltered workshops, and similar uses
- family care home, unlimited as to number of residents

Uses permitted with conditions

- day care centers, (9.11)
- essential services 1 and 2, (9.14)
- parks, (9.29)
- temporary outdoor sales of seasonal agricultural products (example: Christmas tree/pumpkin sales), (9.37)
- transit-oriented parking lots as a principal use, (9.49)
- transit shelters, (9.39)

Uses permitted with Special Use Permit

- halfway houses (9.55)
- solar energy facility free-standing, minor, non-residential, (9.54)
- solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
- solar energy facility, minor residential as follows: located on the façade elevation facing public street or common access; or located on the roof slope above the façade of the structure facing public street or common access, (9.54)
- wind energy facility, minor, accessory, (9.53)

b) Permitted Building and Lot Types

- apartment
- attached house
- civic building
- detached house
- mixed use⁹
- shopfront
- workplace

⁹ The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% of the habitable area of the building shall be in residential use, the remainder shall be in commercial use. However, when an existing residential building is redeveloped to a mixed-use, at least 40% of the habitable area shall be in residential use.

c) Permitted Accessory Uses

- commercial uses and structures that are clearly accessory to a permitted principal use
- helistop, (9.18)
- **home occupations, (9.19)**
- solar energy facility, minor residential; located in the established rear or side yards or roof slopes, (9.54)
- solar facility, rooftop minor non-residential on a flat roof, a roof slope not facing a street and unnoticeable building integrated solar panels on roof slopes facing a street (9.54)
- accessory uses permitted in all districts, (8.11)

d) General Requirements

- 1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - New buildings which adhere to the scale, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
 - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - Where necessary scale of building prevents design compatibility, buffer standards of Section 7.5 shall apply
- 2) On new streets, allowable building and lot types will establish the development pattern.
- 3) The interior of new campus developments shall be laid out along a street pattern and maintain well defined open space to give prominence to important structures and allow for assembly and pedestrian circulation; -quadrangles are recommended.
- 4) Every building lot shall have frontage upon a public street, or urban open space; buildings fronting urban open space shall provide for vehicular access from a rear alley or street.
- 5) The arrangement of multiple buildings on a single lot shall establish building facades generally parallel to the frontage property lines along existing streets and proposed interior streets.

3.2.9 CORPORATE BUSINESS- (CB)

Intent: The Corporate Business district is established to provide for large business or light industrial uses and parks which are already in place and for new business or light industrial uses or parks which, because of the scale of the buildings or the nature of the use, cannot be fully integrated into the fabric of the community. The predominant use is that of the workplace. Some institutional uses such as schools and religious institutions may be appropriate if they are sited properly and temporary. The corporate business district, unlike town districts, is buffered from neighboring properties; nonetheless, buildings in the corporate business district that front a town street shall relate to the street as prescribed by building type. Individual workplace buildings oriented to the street and scaled for compatibility with the surrounding environment are also permitted in the Highway Commercial district and, on a smaller scale, in the Town Center, Neighborhood Center, and TND Districts. Such workplaces should not be reclassified to the Corporate Business District. The corporate district is reserved for uses which require very large buildings and/or large parking and loading facilities such as warehouse/distribution operations.

“Any serious move by a local economic development organization goes hand-in-hand with an effort to identify and describe the characteristics of that locality which set it apart and give it a distinct identity.”

Daniel Kemmis

Community and the Politics of Place (88)

a) Permitted Uses

Uses Permitted by Right

- office
- distributive businesses
- inns
- laboratories and research facilities
- manufacturing and assembly, -excluding heavy manufacturing
- government buildings
- warehouses, except mini-warehouse storage
- wholesale sales
- vocational and technical schools

Uses Permitted With Conditions

- automotive country club, (9.57)
- day care center, (9.11)
- commercial communication tower, (9.9)

- essential services 1 and 2, (9.14)
- hotels and motels spaced 250' or more from residential or mixed use zones, (9.45)
- parks, (9.29)
- temporary mobile food sales, (9.37)
- transit-oriented parking lots as a principal use, (9.49)
- transit shelters, (9.39)

Uses Permitted with Special Use Permit

- hotels and motels spaced less than 250' from residential or mixed us zones (9.45)
- ~~religious institutions (9.8)~~

ARTICLE 3

CORPORATE BUSINESS DISTRICT

- schools (9.35)
- solar energy facility, minor residential, as follows: located on the façade elevation facing public street or common access; or located on the roof slope above the façade of the structure facing public street or common access (9.54)
- solar energy facility, minor free-standing non-residential (9.54)
- solar energy facility, minor rooftop non-residential, on roof slope facing a street that are noticeable (9.54)
- wind energy facility, minor (accessory) (9.53)

b) Permitted Building and Lot Types

- apartment
- attached house
- civic building
- highway commercial, up to 65,000 SF sq. ft. of first floor area

b) Permitted Building and Lot Types (continued)

- mixed use, up to 6,000 SF sq. ft. of first floor area¹⁰
- shopfront, as accessory to workplace
- workplace

¹⁰ The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% of the habitable area of the building shall be in residential use, the remainder shall be in commercial use. However, when an existing residential building is redeveloped to a mixed-use, at least 40% of the habitable area shall be in residential use.

c) Permitted Accessory Uses

- attached single family and multi-family homes intended for use by personnel employed for security or maintenance
- attached single family and multi-family homes in a corporate business development of 400 acres or more, with an approved, vested plan so long as (a) the gross land area of the attached single family and/or multi-family housing development(s) does not exceed 8 percent of the gross land area in the corporate business development; and (b) the number of attached single family and/or multi-family housing developments within the corporate business development is limited to 3
- helistop, (9.18)
- home occupations, (9.19)
- outdoor storage, excluding the storage of construction equipment, (9.26)
- retail, restaurant, personal services, branch banks, conference facilities, clinics, indoor recreation and similar workplace support uses up to 10 percent of gross floor area within the business or light industrial park or 70,000 SF sq. ft., whichever is less
- solar energy facility, minor residential; located in the established rear or side yards or roof slopes, (9.54)
- solar facility, rooftop minor non-residential on a flat roof, a roof slope not facing a street and unnoticeable building integrated solar panels on roof slopes facing a street (9.54)
- accessory uses permitted in all districts, (8.11)

Commented [JS18]: Religious institutions was removed as a Special Use Permit because that it treating them more restrictively than all the permitted uses.

d) General Requirements

- 1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
 - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - Buffer standards included in Article 7, Part A shall apply.
- 2) On new streets, allowable building and lot types will establish the development pattern.
- 3) Rezoning to the CB district shall only include one or more tracts of land or development sites that total fifteen acres or more in size except that proposals for less than fifteen acres adjoining an existing CB district may be considered.
- 4) The interior of new business and light industrial parks shall be laid out along a street pattern and shall maintain well defined open space to give prominence to important structures and allow for assembly and pedestrian circulation; quadrangles are recommended.
- 5) Every building lot shall have frontage upon a public street or urban open space unless an 80' buffer as provided in Article 7 is established; buildings fronting urban open space shall provide for vehicular access from a rear alley or street.
- 6) The arrangement of multiple buildings on a single lot shall have building facades established generally parallel to the frontage property lines along existing streets and proposed interior streets.

Commented [JS19]: Reflect current implementation.

3.2.10 SPECIAL PURPOSE DISTRICT -(SP)

Intent: The Special Purpose District is established to accommodate uses that may constitute health or safety hazards, have greater than average impacts on the environment, or diminish the use and enjoyment of nearby property by generation of noise, smoke, fumes, odors, glare, commercial vehicle traffic, or similar nuisances. Because uses permitted in the SP District vary as to their impacts on the community, they may likewise vary as to effective mitigating conditions. Therefore, the SP district exists as a General Zoning District, but will frequently benefit from application as a Parallel Conditional Zoning District.

a) Permitted Uses

Uses Permitted by Right

- abattoirs
- agricultural industries
- amusement facilities: all indoor uses
- commercial uses including office
- contractor offices and accessory storage yards
- foundries
- Indoor Recreation
- laboratories
- lumber mills and storage yards
- heavy manufacturing
- outdoor theatres
- power generation plants
- railroad freight yards, repair shops, and marshalling yards
- repair of products of heavy manufacturing operations
- all other uses permitted by right in the CB District
- mini-warehouse storage

Uses Permitted with a Special Use Permit

- airports, (9.4)
- correctional facilities, (9.41)
- essential services 3, (9.15)
- halfway houses (9.55)
- hazardous or infectious material incineration, handling, or storage, (9.17)
- off-site LCID and C&D landfills, (9.23)
- quarries, (9.31)
- raceways and drag strips, (9.32)
- sanitary landfill, (9.34)
- solar energy facility, major, (9.54)

- solar energy facility free-standing, minor, non-residential, (9.54)
- solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
- solar energy facility, minor residential as follows: located on the façade elevation facing public street or common access; or located on the roof slope above the façade of the structure facing public street or common access, (9.54)
- solid waste incineration, (9.36)
- transfer station for organic and inorganic waste products, (9.38)
- other environmentally sensitive uses not expressly permitted in the SP or other districts, (9.24)
- wind energy facility, major, (9.53)
- wind energy facility, minor, accessory, (9.53)

Uses Permitted with Conditions

- amusement facilities, outdoor, (9.5)
- commercial communication towers, (9.9)
- commercial kennels, indoor and outdoor (9.10)
- essential services 1 and 2, (9.14)
- inorganic residential household waste, intake and transfer off-site, (9.16)
- internet sweepstakes, (9.58)
- residential recycling center, (9.16)
- yard waste intake and processing, (9.16)
- junk yards, (9.20)
- outdoor storage, (9.26)
- outdoor storage of construction equipment, (9.27)

ARTICLE 3

SPECIAL PURPOSE DISTRICT

- petroleum storage facilities, (9.30)
- temporary mobile food sales, (9.37)
- transit-oriented parking lots as a principal use, (9.49)
- transit shelters, (9.39)
- trucking terminals, (9.40)
- all other uses permitted with conditions in the CB District

b) Permitted Building and Lot Types

- workplace
- highway commercial

c) Permitted Accessory Uses

- day care center, (9.11)
- helistop, (9.18)

d) General Requirements

- 1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
 - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings
 - Buffer standards of Section 7.5 shall apply
- 2) On new streets, allowable building and lot types will establish the development pattern.
- 3) The arrangement of multiple buildings on a single lot shall establish building facades generally parallel to the frontage property lines along existing streets and proposed interior streets

- outdoor storage, (9.26)
- outdoor storage of construction equipment, (9.27)
- accessory uses permitted in all districts, (8.11)
- modular home display as accessory to modular home sales office
- solar energy facility, minor residential; located in the established rear or side yards or roof slopes, (9.54)
- solar facility, rooftop minor non-residential on a flat roof, a roof slope not facing a street and unnoticeable building integrated solar panels on roof slopes facing a street (9.54)

3.2.11 TRADITIONAL NEIGHBORHOOD DEVELOPMENT DISTRICTS (TND-U AND TND-R)

Intent: The Traditional Neighborhood Development Districts are provided for the development of new neighborhoods and the revitalization or extension of existing neighborhoods, which are structured upon a fine network of interconnecting pedestrian-oriented streets and other public spaces. Traditional Neighborhood Developments (TND's) offer a mixture of housing types and prices, prominently sited civic or community building(s), and stores/offices/workplaces to provide a balanced mix of activities. Religious institution and pre-school/elementary school facilities are encouraged. A Traditional Neighborhood Development (TND) has a recognizable center and clearly defined edges; optimum size is a quarter mile from center to edge. A TND-U is urban in form, is an extension of the existing developed area of the town, and complies with density measures of the Neighborhood Residential (NR) District. Minimum size of a TND-U is 40 acres. A TND-R will resemble a rural village, will usually be surrounded by a rural landscape, and must comply with the density limits and bonuses of the Rural and Transitional District. Minimum size of a TND-R is 65 acres.

a) Permitted Uses

Uses permitted by right

- bed and breakfast inns
- boarding or rooming houses for up to six roomers
- civic, fraternal, cultural, community, or club facilities
- commercial uses
- congregate housing
- conference facilities
- family care home
- government buildings
- hotels
- multi-family homes
- single family homes

Uses permitted with conditions

- cemeteries, (9.7)
- religious institutions, (9.8)
- commercial marinas, (9.43)
- day care centers, (9.41)
- essential services 1 and 2, (9.14)
- neighborhood gasoline stations, excluding major service and repair of motor vehicles (9.22)
- parking lot as principal use (9.28)
- schools, (9.35)
- transit-oriented parking lots as a principal use, (9.49)
- transit shelters, (9.39)
- stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be

permitted by agreement with town); outdoor storage expressly prohibited¹¹.

Uses permitted with Special Use Permit

- solar energy facility free-standing, minor, non-residential, (9.54)
- solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
- solar energy facility, minor residential as follows: located on the façade elevation facing public street or common access; or located on the roof slope above the façade of the structure facing public street or common access, (9.54)
- wind energy facility, minor, accessory, (9.53)

Commented [JS20]: Correct reference

¹¹ Items for outdoor sales are returned to building at end of each business day; goods not brought in at close of business day are considered outdoor storage.

b) Permitted Building and Lot Types

- apartment
- attached house
- civic
- detached house
- mixed use¹² up to 6,000 [SF-sq. ft.](#) of first floor area; up to 65,000 [SF-sq. ft.](#) of first floor area within 2,000 feet of a freeway interchange or the intersection of two major thoroughfares
- storefront up to 6,000 [SF-sq. ft.](#) of first floor area; up to 65,000 [SF-sq. ft.](#) of first floor area within 2,000 feet of a freeway interchange or the intersection of two major thoroughfares
- workplace up to 6,000 [SF-sq. ft.](#) of first floor area; up to 65,000 [SF-sq. ft.](#) of first floor area within 2,000 feet of a freeway interchange or the intersection of two major thoroughfares

c) Permitted Accessory Uses

- accessory dwelling, (9.1)
- day care home (small), (9.11)
- drive through windows, excluding those associated with restaurants, (9.12)
- home occupation, (9.19)
- marinas accessory to residential uses, (9.42)
- solar energy facility, minor residential; located in the established rear or side yards or roof slopes, (9.54)
- solar facility, rooftop minor non-residential on a flat roof, a roof slope not facing a street and unnoticeable building integrated solar panels on roof slopes facing a street, (9.54)
- accessory uses permitted in all districts, (8.11)

¹² The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% of the habitable area of the building shall be in residential use, the remainder shall be in commercial use. However, when an existing residential building is redeveloped to a mixed-use, at least 40% of the habitable area shall be in residential use.

d) General Requirements

- 1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
 - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - Nothing in this subsection shall be interpreted to conflict with the building design element provision as found in N.C.G.S. 160D-702(b) ~~GS 160A-384(h)~~ for structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.
- 2) On new streets, allowable building and lot types will establish the development pattern.
- 3) A master plan in compliance with Traditional Neighborhood Development standards shall be provided with the subdivision sketch plan submittal for a general district TND or with the conditional district plan for reclassification to a parallel conditional TND zoning district. The master plan shall include a topographic survey and shall show the location and hierarchy of streets and public open spaces, location of residential, commercial, and civic building lots, street sections and/or plans, a master sign program, an outline of any additional regulatory intentions, phasing, and any other information, including building elevations, which may be required to evaluate the interior pedestrian environment and conditions at project edges.
- 4) See Section 8.16, Standards for Residential Lot Widths, Alleys, Garages and Parking in Residential Districts.

e) TND Development Provisions

- 1) Minimum Development Size: generally 40 acres in the TND-U
generally 65 acres in the TND-R

To allow for the gradual accretion of a TND, which may include the participation of several property owners over an extended period of time, a partial TND of less than the minimum number of acres may be considered for approval, so long as the project shows an integrated design for at least the minimum size and the potential to become a TND-U of at least 40 acres, or a TND-R of at least 65 acres.
- 2) Maximum Development Size: 200 acres

Tracts larger than 200 acres shall be developed as multiple Traditional Neighborhood Developments, each individually subject to all provisions.
- 3) Maximum Permitted Densities:

2TND-U may be developed to the density permitted in the NR district (see Section 3.2.3)
TND-R may be developed to the maximum density permitted in the R & TR district (see Section 3.2.1 & 3.2.2)

f) TND Design Provisions

1) Neighborhood Form

- The illustrations of Traditional Neighborhood Street Typologies in Article 5 show the general arrangement and distribution of elements in a more urban TND (designated TND-U), and in a less urban TND (designated TND-R).
- The area of the TND shall be divided into blocks, streets, lots, and open space.
- Similar land uses shall generally enfront across each street. Dissimilar categories shall generally abut at rear lot lines. Corner lots which front on streets of dissimilar use shall generally observe the setback established on each fronting street.

2) Streets

- Public streets shall provide access to all tracts and lots.
- Streets and alleys shall, wherever practicable, terminate at other streets within the neighborhood and connect to existing and projected streets outside the development. Cul-de sacs shall not exceed 250 feet in length, must be accessed from a street providing internal or external connectivity, shall be permanently terminated by a vehicular turnaround, and are permitted where topography makes a street connection impracticable. In most instances, a “close” or “eyebrow” is preferred to a cul-de-sac. Vehicular turnarounds of various configurations are acceptable so long as emergency access is adequately provided.
- The average perimeter of all blocks within the TND should not exceed 1,350 feet. No block face should have a length greater than 500 feet without a dedicated alley or pathway providing through access.
- A continuous network of rear alleys is recommended for all lots in a TND; rear alleys shall provide vehicular access to lots 60 feet or less in width.
- Utilities may run along alleys.
- TND streets shall be organized according to a hierarchy based on function, size, capacity, and design speed; streets and rights-of-way are therefore expected to differ in dimension. The proposed hierarchy of streets shall be indicated on the submitted sketch plan. Each street type in a TND shall be separately detailed. Street types illustrated in Article 5 represent the array of elements that are combined to meet the purposes of TND neighborhood streets: building placement line, optional utility allocation, sidewalk, planting strip, curb and gutter, optional parallel parking, and travel lane(s). Alternative methods of assembling the required street elements will be considered to allow neighborhood street designs that are most appropriate to setting and use.
- To prevent the buildup of vehicular speed, disperse traffic flow, and create a sense of visual enclosure, long uninterrupted segments of straight streets should be avoided. Methods: (1) a street can be interrupted by intersections designed to calm the speed and disperse the flow of traffic (Article 5) and terminate vistas with a significant feature (building, park, natural feature); (2) a street can be terminated with a public monument, specifically designed building facade, or a gateway to the ensuing space; (3) perceived street length can be reduced by a noticeable street curve where the outside edge of the curve is bounded by a building or other vertical elements that hug the curve and deflect the view; (4) other traffic calming configurations are acceptable so long as emergency access is adequately provided.

3) Buildings and Lots

- All lots shall share a frontage line with a street urban open space; lots fronting an urban open space shall [be](#) provided rear alley access.

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DISTRICTS

TND

- Consistent build-to lines shall be established along all streets and public space frontages; build-to lines determine the width and ratio of enclosure for each public street or space. A minimum percentage build-out at the build-to line shall be established on the plan along all streets and public square frontages.
- Building and lot types shall comply with Article 4.
- Large-scale, single use facilities (conference spaces, theaters, athletic facilities, for example) shall generally occur behind or above smaller scale uses of pedestrian orientation. Such facilities may exceed maximum first floor area standards if so sited.

4) Open Space

Open Space is defined as any area which is not divided into private or civic building lots, streets, rights-of-way, parking, or easements for purposes other than open space conservation. Design of urban open space shall comply with Article 7. In the TND-U, the open space requirements of the NR district shall apply. In the TND-R, the open space requirements of the R & TR districts, including rural open space, shall apply. Rural open space is site specific in its designation. Paragraphs d) 3 & 4 of Section 3.2.1 & 3.2.2, describe the site analysis required to identify qualifying rural open space.

5) Parking and Landscaping

Parking and landscaping shall comply with Article 6.

3.2.12 PASSENGER VEHICLE SALES DISTRICT- (VS)

Intent: The Passenger Vehicle Sales District is established to provide large accommodations for the sale of new and used passenger vehicles and trucks not exceeding the size, weight, and configuration of the medium duty truck standard. It is intended for use in areas not amenable to easy pedestrian access, where a comfortable pedestrian environment is unlikely to be achieved. It is expected that the Passenger Vehicle Sales District will serve the passenger and small business vehicle needs of those in the Huntersville Community and in the larger region. Because of the scale of buildings and parking, and the access requirements of uses in this category, they cannot be compatibly integrated within the Town Center, Neighborhood Center, or smaller scale Highway Commercial Districts. At district boundaries, compatible transitions must be provided by the use of landscaping and/or walls. Property boundaries adjacent to freeways or expressways will require a 50-foot foliated buffer yard and frontages on major or minor arterials will require formal street tree planting.

a) Permitted Uses

- Uses Permitted ~~w~~With Conditions**
- essential services 1, (9.14)
 - sales and leasing of vehicles not exceeding the industry standard for "medium duty trucks", (9.25)¹³
 - sales and leasing of boats and boat accessories (9.25)
 - transit shelters, (9.39)
- Uses Permitted with Special Use Permit**
- solar energy facility free-standing, minor, non-residential, (9.54)
 - solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
 - wind energy facility, minor, accessory, (9.53)

b) Permitted Building Types

- highway commercial; up to -65,000 [SF-sq. ft.](#) of first floor area on major thoroughfare;- up to 15,000 [SF-sq. ft.](#) of first floor area on minor thoroughfare.¹⁴

c) Permitted Accessory Uses

- car wash
- boat wash
- service, cleaning, mechanical repair and body repair in association with vehicle sales/leasing, including drive-in vehicle drop off facilities in compliance with Section 3.2.10 d), item 4 (9.25)
- solar facility, rooftop minor non-residential on a flat roof, a roof slope not facing a street and unnoticeable building integrated solar panels on roof slopes facing a street (9.54)
- warehousing accessory to merchandising and repair, within an enclosed building
- accessory uses permitted in all districts, (8.11)

¹³ Expressly prohibited is the sale or lease of campers, motor homes, trailers, and similar vehicles.

¹⁴ Maximum first floor area for highway commercial buildings may be exceeded only where massing of building is varied to reduce perceived scale and volume.

d) General requirements and district options

- 1) Along existing streets, new buildings shall respect the street frontage relationships of existing buildings in terms of building setback and orientation. On new streets, allowable building and lot types will establish the development pattern.
- 2) Where screening is required by Article 9 for activities involving any sale, use, repair, storage, or cleaning operation, the specified standard of Section 7.6 shall apply.
- 3) Any Vehicle Sales District shall be bordered on at least one side by a major or minor thoroughfare.
- 4) Drive-in service windows and service processing, stacking and circulation lanes, and circulation are prohibited in the established front setback of the principal building and prohibited within a 75-foot setback from the right-of-way in a principal building's side yard that abuts a major or minor thoroughfare. On-site stacking lanes for drive-in service windows shall be a minimum of 200 feet in length if accessed directly from a thoroughfare or minimum of 100 feet if accessed directly from a street of lesser capacity.
- 5) In the VS Zoning District only, the buffer requirement of Section 7.5 (yards abutting I-77 right-of-way) shall be met.
- 6) All other signs on the site and building shall conform to the standards of Article 10, Signs, including, but not limited to the prohibition of flashing signs, portable signs and fluttering signs such as pennants and pennant swags. Non-conforming signs, if present anywhere on the site, shall be removed prior to issuance of a change of use permit, issuance of grading permit, or commencement of new construction on the site.
- 7) Vehicles or boats for sale or lease shall not be displayed in the established front yard of the principal building on the site.
- 8) In the Vehicle Sales district only, the established front yard shall be designed in accordance with the Highway Commercial Building / Lot Type found in Article 4 or a) or b) below:
 - (a) Vehicles for sale or lease may be displayed in the established front yard in front of the principal building in the VS district only. Such areas shall be permitted on sites where the principal building consumes at least 35% of the frontage. The Highway Commercial Building Type build to line (15'), measured to the face of the canopy (if applicable), shall be increased by no more than 10' to accommodate one row of vehicle display. An established front yard used for display of vehicle sales or leasing must be constructed of a decorative paving material (if impervious), and must be screened in accordance with 10) of this section.
 - (b) Notwithstanding the limitations of off-street parking in front of buildings, as described by building type and parking lot specifications, vested parking and maneuvering areas in the established front yard may be constructed in accordance with an NCDOT driveway permit.
- 9) Outdoor storage of vehicles in process of repair and vehicles-for-sale that are in the process of dealer preparation for buyer pick up is permitted.
 - (a) Such storage areas are exempt from the interior landscaping requirements for Parking Lots found in Article 6. However, the perimeter landscaping requirements of Article 6 shall apply to such storage areas.
 - (b) Such storage areas may only be located behind the principal building and/or its accessory buildings, and shall not be placed within 100 feet of any property line that abuts a thoroughfare or local public street.
- 10) In the Vehicle Sales district only, the landscaping requirements of Article 6 shall be applied as follows:

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VEHICLE SALES DISTRICT

- (a) Vehicle display areas shall be exempt from the interior landscaping requirements for Parking Lots found in Article 6. However, a large maturing tree shall be planted within a 200 square foot pervious area that is permanently protected from parking and maneuvering areas with all vehicles on display being located within 40' of such pervious area.
- (b) Along the frontage, a vehicle display area is exempt from the large maturing tree 40' on center requirement found in Landscaping of Parking Lots in Article 6.
- 11) Uses in the VS District are exempt from the Article 6 *suggestion* to provide for bicycle parking.
- 12) The arrangement of principal buildings on a single lot shall establish building facades generally parallel to the frontage property lines along existing streets and proposed interior streets.
- 13) Every building lot shall have frontage upon a public street or urban open space except as follows: in specific locations where factors beyond developer control, such as a limited access highway, an existing development, or the location of an existing intersection, prohibit completing a street connection in the Highway Commercial District, a private drive may be substituted for the interior street which cannot be connected to the public network.
- 14) Adjoining businesses shall provide for interconnectivity by way of internal street(s) or, if permitted, private drives; internal street(s) shall remain open at all times while private drive connections shall, at a minimum, remain open for public passage during business hours.
- 15) Businesses in the VS district are prohibited from using amplified speaker/public address systems except within fully enclosed building(s).
- 16) Lighting in customer parking areas shall comply with Article 6, OFF-STREET PARKING (Lighting for Parking Lots).
- 17) Lighting in vehicle display parking areas and storage areas may comply with the standards of Article 6 (Lighting for Parking Lots) or with all of the alternative lighting standards below:
 - (a) Including the base/mounting fixture the maximum height for lighting (pole mounted and wall mounted) shall be 30 feet.
 - (b) To prevent glare from off-site locations, all lighting fixtures shall be full cut-off. The use of drop lens, vertical burn lamps, and other equipment with similar glare producing effects are prohibited. Lighting shields or hoods shall be employed to result in lighting projection of display areas only.
 - (c) Floodlights are not permitted for parking lot illumination. In all applications, lighting shall be directed downward. This prohibition does not apply to floodlights allowed elsewhere in this ordinance for external illumination of permitted signs.
 - (d) Along the front line of the display area, lighting shall not exceed an average of 30 foot-candles, measured at grade.
 - (e) Uniformity shall not exceed a 3:1 ratio.
 - (f) All lights, except those required for security as provided herein, must be extinguished at 9 PM on all days. For reasons of security, a maximum of 1.5 foot-candles at entrances, stairways and loading docks, and 1.0 foot-candle on the rest of the site is permitted.
 - (g) The spillover light level from lighting on the site onto adjacent property or property across a public road shall not exceed 0.1 foot-candle measured 10' into the adjacent property from any orientation of the measuring device.
 - (h) The average illumination, measured at grade, across the entire property, including the frontage, shall not exceed 30-foot candles. The site area for calculating the average illumination shall exclude the building(s).
 - (i) Lighting fixtures that produce glare visible from adjacent property(s) and public right of way(s) are prohibited.

3.2.13 TRANSIT-ORIENTED DEVELOPMENT – RESIDENTIAL (TOD-R)

Intent: The transit-oriented residential district is established to support higher density residential communities that include a rich mix of retail, restaurant, service, and small employment uses within a pedestrian village format. Land consuming uses, such as large lot housing and large retail outlets are excluded from this district. The TOD-R may be located on developable and redevelopable parcels generally found within the ½ mile catchment area of designated rapid transit station sites. Nothing in these regulations shall preclude application of the TOD-R beyond the ½ mile radius when site-specific development plans demonstrate efficient resident access to a rapid transit station. The district establishes a primarily residential village within a 10-minute walk of a ~~M.T.S.~~ designated rapid transit station that serves a residential population of sufficient size to constitute an origin and destination for purposes of rapid transit service.

Commented [ES21]: Spell out all acronyms upon first use

a) Permitted Uses

Uses permitted by right

- bed and breakfast inns
- boarding or rooming houses for up to six roomers
- dormitories
- family care home
- inns
- multi-family homes
- greenways
- single family homes
- transit stations

Uses permitted with a Special Use Permit

- any non-residential use permitted by right or with conditions where size of first floor area exceeds 15,000-SF_sq. ft., (9.47)
- any permitted non-residential use or collection of non-residential uses that exceeds the maximum permitted in the district by paragraph e) 5) of this section, (9.47)
- parking lot or structure as principal use (9.47)
- schools (9.47)
- solar energy facility free-standing, minor, non-residential, (9.54)
- solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
- solar energy facility, minor residential as follows: located on the façade elevation facing public street or common access; or located on the roof slope above the façade of the structure facing public street or common access, (9.54)
- wind energy facility, minor, accessory, (9.53)

Uses permitted with conditions

- banks, up to 6,000 [SF-sq. ft.](#) of gross floor area
- religious institutions up to 300 seats in the largest place of assembly, (9.8)
- civic, cultural, and neighborhood recreation facilities up to 15,000 [SF sq. ft.](#) of gross floor area, minimum FAR of .35
- conference centers, up to 15,000 [SF sq. ft.](#) of gross floor area, minimum FAR of .35
- day care centers up to 8,000 [SF-sq. ft.](#) of gross floor area (9.4)
- essential services 1 and 2, (9.14)
- government buildings up to 8,000 [SF sq. ft.](#) of gross floor area, minimum FAR of .35
- indoor motion pictures, limited to one (1) screen
- offices, general, medical, professional, minimum FAR of .35
- personal, professional, and technical services up to 8,000 [SF-sq. ft.](#) of gross area, minimum FAR of .35
- research and development services, minimum FAR of .35
- restaurants without drive-through windows, up to 8,000 [SF-sq. ft.](#) of gross floor area, minimum FAR of .35
- retail establishments, up to 8,000 [SF sq. ft.](#) of gross area, minimum FAR of .35
- squares, plazas, or other formal open spaces not exceeding ½ acre in area
- stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be permitted by agreement with town); outdoor storage expressly prohibited¹⁵.
- taverns and bars, up to 6,000 [SF-sq. ft.](#) of gross floor area, minimum FAR of .35
- transit shelters, (9.39)
- workshops and studios for the design and manufacture of art, craft and artisan products, up to 8,000 [SF-sq. ft.](#) of gross area, minimum FAR of .35

¹⁵ Items for outdoor sales are returned to building at end of each business day; goods not brought in at close of business day are considered outdoor storage.

b) Permitted Building and Lot Types

- apartment
- attached house
- civic
- detached house on lot of 5,000 ~~SF~~^{sq.}
ft. or less
- mixed use¹⁶
- storefront
- workplace

c) Permitted Accessory Uses

- accessory dwelling, (9.1)
- day care home (small), (9.11)
- home occupation, (9.19)
- parking lot as an accessory to any permitted principal use, on the same lot or on an abutting lot, according to the standards of Article 6
- solar facility, rooftop minor non-residential on a flat roof, a roof slope not facing a street and unnoticeable building integrated solar panels on roof slopes facing a street (9.54)
- solar energy facility, minor residential; located in the established rear or side yards or roof slopes, (9.54)
- accessory uses permitted in all districts, (8.11)

¹⁶ The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% of the habitable area of the building shall be in residential use, the remainder shall be in commercial use. However, when an existing residential building is redeveloped to a mixed-use, at least 40% of the habitable area shall be in residential use.

d) General Requirements

- 1) To integrate the larger scale of buildings in transit-oriented developments into the existing built fabric of the community, the edge conditions of paragraph f) 6), below shall be met.
- 2) Along existing streets, new buildings shall create a transition in spacing, mass, scale, and street frontage relationship from existing buildings to buildings in the Transit Oriented Residential district.
 - New buildings are expected to exceed the scale and volume of existing buildings, but shall demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - Nothing in this subsection shall be interpreted to conflict with the building design element provisions as found in N.C.G.S. 160D-702(b) ~~GS 160A-381(h)~~ for structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.
- 3) On new streets, allowable building and lot types will establish the development pattern.
- 4) Within a TOD-R zoning district, a minimum average density of 15 dwelling units per acre shall be achieved; residential density shall be calculated by dividing the total number of housing units planned by the number of acres designated for residential use, net of streets.
- 5) A master subdivision sketch plan shall be provided with any application for development approval. It shall comply with the standards of this district and with the most detailed development policies and/or plans adopted by the Town Board for the station's catchment area. The master plan shall include a topographic survey and shall show the location and hierarchy of streets and public open spaces, location of residential, commercial, and civic building lots, street sections and/or plans, approximate unit count, square footage on non-residential buildings and uses, proposed building heights, an outline of any additional regulatory intentions, phasing, and any other information, including building elevations, which may be required to evaluate the interior pedestrian environment and conditions at project edges. Phasing of development to provide for future horizontal and vertical intensification to meet the standards of this section is permitted. Notwithstanding the provisions of Section 6.320 of the Huntersville Subdivision Ordinance, approval of the master sketch plan will be administrative.
- 6) A single building on an existing lot shall comply with the standards of this district and with the most detailed development policies and/or plans adopted by the Town Board for the station's catchment area, but shall require zoning and building permits only.
- 7) See Section 8.16, Standards for Residential Lot Widths, Alleys, Garages and Parking in Residential Districts.

e) Development Provisions

- 1) Minimum Development Size: None
- 2) Maximum Development Size: None
- 3) Residential Density: Within a TOD-R zoning district, a minimum average density of 15 dwelling units per acre (net of streets) shall be achieved; residential density shall be calculated by dividing the total number of housing units planned by the acreage of all lots that are designated for residential use. When designing the site, higher densities (18 du/a and greater) should be concentrated within approximately ¼ mile walking distance of the station site while lower densities (6 du/a and greater) may be placed beyond the approximate ¼ mile walking distance. The maximum density permitted on any lot in a TOD-R is 40 units per acre (net of streets).
- 4) Special parking provisions for residential development in the TOD-R:

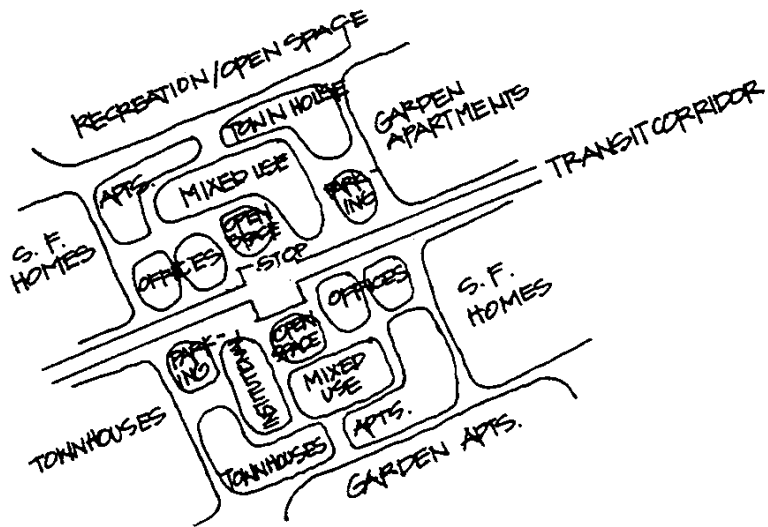
4)

	<u>Minimum</u>	<u>Maximum</u>
• Efficiency apartment	1 space/unit	2 spaces/unit
• One or two bedroom apartment/attached house	1 space/unit	2 spaces/unit
• Other dwelling units	1 space/unit	2 spaces/unit

- 5) Siting requirements for non-residential development: All non-residential development shall be oriented to provide direct pedestrian access from the transit station by way of the public street system, designated pedestrian paths, or any combination of the two. In addition, the locational standards below shall apply.
- Within a ¼ mile walking distance of the station site, a master subdivision sketch plan may include up to 10,000 square-feet-sq. ft. of retail/services/commercial/office development for each 250 dwelling units master planned in the ½ mile catchment area.
 - If placed in a TOD-R district, religious institutions without shared parking, schools, and neighborhood recreation facilities, up to the maximum size permitted in the district, should be located between the ¼ mile and ½ mile walk of the station site.
 - Without regard to station proximity, day care centers and religious institutions with shared parking provisions that meet the size provisions of the TOD-R are permitted.

f) Design Provisions

- 1) Neighborhood Form
- The illustration below shall guide the general arrangement and distribution of uses in the project.



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- The area of the project shall be divided into blocks, streets, lots, and open space.
- Similar land uses shall generally enfront across each street. Dissimilar categories shall generally abut at rear lot lines. Corner lots which front on streets of dissimilar use shall approximate the setback established on each fronting street.

2) Streets

- Public streets shall provide access to all tracts and lots.
- Streets and alleys shall, wherever practicable, terminate at other streets within the neighborhood and connect to existing and projected streets outside the development. Cul-de-sacs shall not exceed 250 feet in length, must be accessed from a street providing internal or external connectivity, shall be permanently terminated by a vehicular turnaround, and are permitted only where topography makes a street connection impracticable. In most instances, a “close” or “eyebrow” is preferred to a cul-de-sac. Vehicular turnarounds of various configurations are acceptable so long as emergency access is adequately provided.
- No block face may exceed 500 feet in length without a dedicated alley or pathway providing through access for pedestrians.
- Utilities shall run along alleys where alleys are provided.
- Streets shall be organized according to a hierarchy based on function, size, capacity, and design speed; streets and rights-of-way are therefore expected to differ in dimension. The proposed hierarchy of streets shall be indicated on the submitted master subdivision sketch plan. Each street type shall be separately detailed. Street types illustrated in Article 5 represent the array of elements that are combined to meet the purposes of neighborhood streets: building placement line, optional utility allocation, sidewalk, planting strip, curb and gutter, optional parallel parking, and travel lane(s). Alternative methods of assembling the required street elements will be considered to allow neighborhood street designs that are most appropriate to setting and use. Proposed routing for private vehicles and feeder buses entering and leaving the station area shall be shown.
- To prevent the buildup of vehicular speed, disperse traffic flow, and create a sense of visual enclosure, long uninterrupted segments of straight streets should be avoided. Methods: (1) a street can be interrupted by intersections designed to calm the speed and disperse the flow of traffic (Article 5) and terminate vistas with a significant feature (building, park, natural feature); (2) a street can be terminated with a public monument, specifically designed building facade, or a gateway to the ensuing space; (3) perceived street length can be reduced by a noticeable street curve where the outside edge of the curve is bounded by buildings or other vertical elements that hug the curve and deflect the view; (4) other traffic calming configurations are acceptable so long as emergency access is adequately provided.

3) Buildings and Lots

- Every building lot shall share a frontage line with a street, or urban open space; lots fronting directly onto a formal open space (i.e., without intervening street) shall be provided rear alley access.
- Consistent build-to lines shall be established along all streets and urban open space frontages; build-to lines determine the width and ratio of enclosure for each public street or space. A minimum percentage build-out at the build-to line shall be established on the plan along all streets and urban open space frontages.
- Building and lot types shall comply with Article 4. However, notwithstanding the height restrictions of Article 4, Building and Lot Types, new buildings in the Transit Oriented Residential -district are limited to thirteen (13) stories or one hundred eighty-two 182 feet in height, whichever is greater. New buildings in the Transit-Oriented Residential District within one (1) mile of the Town Center Zoning District are limited to four (4) stories or forty

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six (46) feet in height, whichever is greater. Minimum building height is twenty~~-six~~ (26) feet, measured at the eave line.

- Large-scale, single use facilities (conference spaces, theaters, athletic facilities, for example) shall occur behind or above smaller scale uses of pedestrian orientation. Such facilities may exceed maximum first floor area standards if so sited.

4) Open Space

Open Space is defined as any area which is not divided into private or civic building lots, streets, rights-of-way, parking, or easements that diminish the utility or aesthetic quality of the space. Design of urban open space shall comply with Article 7.

5) Parking Lot Landscaping

Parking lot landscaping shall comply with Article 6.

6) District Edge Conditions

Along any boundary of a TOD-R district that abuts a pre-existing subdivision of 20 or more single-family detached homes, one of the following edge conditions shall apply to abutting lot boundaries, however no buffer or wall shall be allowed to block extension of a street from existing development into a planned TOD-R development.

- a) A free-standing structure or the end unit of an attached structure on lots along the common boundary shall be limited to two stories or 26 feet in height, whichever is less, or
- b) A semi-opaque buffer shall be constructed along the common boundary, on the site of the developing use. The width of the buffer shall at a minimum equal $\frac{1}{2}$ the height of the abutting building in the TOD-R district, or
- c) A 6' masonry wall may be constructed by the developer along the common lot boundaries, in which case the width of the buffer may be reduced to the width of the wall.

3.2.14 TRANSIT-ORIENTED DEVELOPMENT – EMPLOYMENT (TOD-E)

Intent: The transit-oriented employment district is established to accommodate general office uses and office support services in a highly pedestrianized setting. General office, characterized by 40 to 70 employees per acre, is the predominant use. Uses that employ relatively few workers, such as warehousing and distribution, are excluded from this district. The TOD-E may be located on developable parcels within the ½ mile catchment area of rapid transit stations. The district establishes an employment node within a 10-minute walk of a [M-I-S](#)-designated transit [rapid](#) station that serves a workforce of sufficient size to constitute a destination for purposes of rapid transit service.

a) Permitted Uses

Uses Permitted by Right

- financial services
- greenways
- government offices
- inns
- offices
- professional, personal, and technical services
- transit stations

Uses Permitted with Conditions

- conference centers, up to 15,000 [SF-sq. ft.](#) of gross floor area
- day care center, (9.11)
- essential services 1 and 2, (9.14)
- multi-family homes in mixed use buildings
- squares, plazas, or other urban open spaces not exceeding ½ acre in area
- single family attached homes in mixed use buildings
- workshops and studios for the design and manufacture of art, craft, and artisan products, up to 8,000 [SF-sq. ft.](#) of gross area
- parking lot or structure as a principal use, (9.48)

Uses Permitted with a Special Use Permit

- light manufacturing, on not more than 5 acres, (9.48)
- accessory warehousing -exceeding 25% of the finished floor area of the principal use, (9.48)
- hospitals, (9.48)
- solar energy facility free-standing, minor, non-residential, (9.54)
- solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
- solar energy facility, minor residential as follows: located on the façade elevation facing public street or common access; or located on the roof slope above the façade of the structure facing public street or common access, (9.54)
- wind energy facility, minor, accessory, (9.53)

b) Permitted Building and Lot Types

- civic building
- highway commercial (for conference facilities only), minimum FAR of .35
- mixed use¹⁷
- shopfront
- workplace, minimum ~~F.A.R.~~ of .35

c) Permitted Accessory Uses

- home occupations, (9.19)
- parking lot as an accessory to any permitted principal use, on the same lot or on an abutting lot according to the standards of Article 6
- retail, restaurant, bars and taverns, personal services, clinics and similar workplace support uses up to 20 percent of first floor area of any building, or of a multi-building project taken as a whole
- solar energy facility free-standing, minor, non-residential, (9.54)
- solar energy facility, rooftop, minor non-residential that is noticeable on a roof slope facing a street, (9.54)
- solar energy facility, minor residential; located in the established rear or side yards or roof slopes, (9.54)
- warehousing not to exceed 25% of the finished floor area of the principal use
- accessory uses permitted in all districts, (8.11)

Commented [ES22]: Should be uniform with or without periods (FAR or F.A.R.).

¹⁷ The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% of the habitable area of the building shall be in residential use, the remainder shall be in commercial use. However, when an existing residential building is redeveloped to a mixed-use, at least 40% of the habitable area shall be in residential use.

d) General Requirements

- 1) Along existing streets, new buildings shall create a transition in spacing, mass, scale, and street frontage relationship from existing buildings to buildings in the Transit-Oriented Employment district.
 - New buildings are expected to exceed the scale and volume of existing buildings, but shall demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
- 2) On new streets, allowable building and lot types will establish the development pattern.
- 3) A master subdivision sketch plan in compliance with this district shall be provided with any application for development approval. It shall comply with the standards of this district and with the most detailed development policies and/or plans adopted by the Town Board for the station's catchment area. The master plan shall include a topographic survey and shall show the location and hierarchy of streets and public open spaces, location of residential, commercial, and civic building lots, street sections and/or plans, approximate square footage of office/commercial buildings and uses, residential unit count, proposed building heights, an outline of any additional regulatory intentions, phasing, and any other information, including building elevations, which may be required to evaluate the interior pedestrian environment and conditions at project edges. Phasing of development to provide for future horizontal and vertical intensification to meet the standards of this section is permitted. Notwithstanding the provisions of Section 6.320 of the Huntersville Subdivision Ordinance, approval of the master sketch plan will be administrative.
- 4) A single building on an existing lot shall comply with the standards of this district and with the most detailed development policies and/or plans adopted by the Town Board for the station's catchment area, but shall require zoning and building permits only.

e) Design Provisions

- 1) Every building shall share a frontage line with a street, or urban open space; lots fronting directly onto an urban open space (i.e., without intervening street) shall be provided rear alley access.
- 2) New construction favors general office uses, with accessory retail, personal services, restaurant, and similar uses located at street level and residential uses permitted on third and higher floors.
- 3) Notwithstanding the height restrictions of Article 4, Building and Lot Types, new buildings in the Transit Oriented Employment district are limited to seven stories or 80 feet in height, whichever is greater. Minimum building height is 26 feet, measured at the eave line.
- 4) Minimum permitted Floor Area Ratio (FAR) is .35; preferred FAR will range from .5 to 1.5.
- 5) Special parking provisions for residential development in the TOD-E:

	<u>Minimum</u>	<u>Maximum</u>
• Office/Commercial uses	1 space/1000 SF <u>sq. ft.</u>	1 space/500 <u>SF sq. ft.</u>
• Efficiency apartment	1 space/unit	2 spaces/unit
• One or two bedroom apartment	1 space/unit	2 spaces/unit

6) District Edge Conditions

Along any boundary of a TOD-E district that abuts a pre-existing subdivision of 20 or more single-family detached homes, one of the following edge conditions shall apply to abutting lot

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boundaries, however no buffer or wall shall be allowed to block extension of a street from existing development into a planned TOD-E development.

- A free-standing structure or the end unit of an attached structure on lots along the common boundary shall be limited to two stories or 26 feet in height, whichever is less, or
- A semi-opaque buffer shall be constructed along the common boundary, on the site of the developing use. The width of the buffer shall at a minimum equal $\frac{1}{2}$ the height of the abutting building in the TOD-E district, or
- A 6' masonry wall may be constructed by the developer along the common lot boundaries, in which case the width of the buffer may be reduced to the width of the wall.

3.3 OVERLAY DISTRICTS

3.3.1 MANUFACTURED HOME OVERLAY DISTRICT- (MH-O)

Intent: The Manufactured Home Overlay District is established to provide for existing and proposed neighborhoods which include or are proposed to include manufactured homes. The requirements herein are intended to ensure compatibility with existing housing stock by imposing supplemental appearance standards for manufactured housing. The Manufactured Home Overlay district may be applied to tracts zoned NR, GR, TR, or R. It supplements the range of residential types permitted in the underlying district while limiting some accessory uses. For existing neighborhoods, the MH Overlay may be established by map adoption; for proposed neighborhoods, the MH Overlay district requires zoning approval accompanied by a detailed development plan and supporting materials.

a) Permitted Uses

Uses permitted by right

- all uses permitted by right in the underlying district, according to the standards of the underlying district
- family care home

Uses permitted with conditions

- all uses permitted with conditions in the underlying district, according to the standards and conditions associated with the underlying district.
- Manufactured Homes, provided that:
 - (a) The home shall be set up in accordance with the standards set by the North Carolina Department of Insurance.
 - (b) A continuous, permanent masonry wall, having the appearance of a conventional load-bearing foundation wall, unpierced except for required ventilation and access, shall be installed under the perimeter of the manufactured home.
 - (c) The home will have all wheels, transporting lights, and towing apparatuses removed.
 - (d) The structure must be at least 14 feet in width along the majority of its length.
 - (e) The roof shall have at least a 3:12 pitch.
 - (f) Exterior wall and roofing materials and finishes shall be comparable in composition, appearance and durability to those commonly used in conventional residential construction. As examples, exterior walls would be expected to be covered in wood, stucco, brick, stone, other masonry materials, or similar conventional exterior finishes. Roofing material should consist of wood shingle, wood shake, synthetic composite shingle, ceramic tile, concrete tile, or similar conventional roofing materials.
 - (g) All entrances to a manufactured home shall be provided with permanent steps, porch or similar suitable entry.

b) Permitted Building and Lot Types

- all building and lot types permitted in the underlying zoning district
- manufactured home placed according to the standards for a detached house

c) Permitted Accessory Uses

- dwelling accessory to any principal dwelling which meets the NC Housing Code, (9.1)
- day care home (small), accessory to any principal dwelling which meets the NC Housing Code, (9.11)
- home occupation accessory to any principal dwelling which meets the NC Housing Code, (9.19)
- marinas accessory to residential uses (9.42)
- accessory uses permitted in all districts, (8.11)

d) General Requirements

- 1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
 - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - Nothing in this subsection shall be interpreted to conflict with the building design element provisions as found in N.C.G.S. 160D-702(b) ~~GS 160A-381(h)~~ for structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings
- 2) On new streets, allowable building and lot types will establish the development pattern.
- 3) All subdivision standards shall be met.
- 4) In nonconforming subdivisions or manufactured home parks, any manufactured home may be replaced with another manufactured home of at least comparable width (i.e. a single-wide home may be replaced with a home of minimum 12 feet width or with a larger home, while a double-wide home can be replaced only by another double-wide home); a replacement home shall have been manufactured no earlier than 1984 and, with the exception of width, ~~shall~~ meet all design and safety conditions of Section 3.3.1 a).
- 5) Existing manufactured home parks which are not subdivided into individual deeded lots may continue operation but may not be expanded except in conformance with this ordinance and the subdivision ordinance.
- 6) For proposed neighborhoods, homes- shall be a minimum of 14 feet wide ~~and manufactured no earlier than 1984~~.
- 7) For proposed neighborhoods, an application to classify property to the MH-O district shall require a master plan that shows the location and hierarchy of streets and public spaces, location of residential, non-residential, and civic building lots, street sections and/or plans, phasing, and any other information which may be required to evaluate the subdivision's adherence to the standards of this ordinance and the subdivision ordinance.
- 8) See Section 8.16, Standards for Residential Lot Widths, Alleys, Garages and Parking in Residential Districts.

Commented [ES23]: Per 160D-910(c), a local government may ~~not~~ adopt or enforce zoning regulations or other provisions that have the effect of excluding manufactured homes from the entire zoning jurisdiction or that exclude manufactured homes based on the age of the home.

e) MH-O Development Provisions

- 1) Minimum Development Size: 3 acres for new developments
- 2) Maximum Development Size: 25 acres for new developments
- 3) Maximum Permitted Densities are determined by the standards of the underlying district. Density in the RURAL AND TRANSITIONAL District correlates to amount of open space provided, as set forth in the district regulations. Density in the NR district is a function of building and lot type.

3.3.2 MOUNTAIN ISLAND LAKE WATERSHED OVERLAY DISTRICT- (MIL-O)

Intent: The intent of the Mountain Island Lake Watershed Overlay District is to provide for the protection of public water supplies as required by the N.C. Water Supply Watershed ~~Classification and~~ Protection Act (N.C.G.S. 143-214.5) and regulations promulgated there under. The Mountain Island Lake Watershed Overlay may be applied in any zoning district. The Mountain Island Lake Watershed Overlay District supplements the regulations of the underlying zoning district within the Mountain Island Lake Watershed Protection Area to ensure protection of public drinking water supplies. All regulations for the underlying district shall continue to remain in effect for properties classified under the Mountain Island Lake Watershed Overlay District.

.1 Applicability: The Mountain Island Lake Watershed Protection Area is that area within Mecklenburg County which contributes surface drainage into Mountain Island Lake and which is bounded as follows: beginning at the Mountain Island Lake Dam on the Catawba River and proceeding along the ridgeline in an easterly direction to Rozzelle's Ferry Road and proceeding thence in a southeasterly direction along Rozzelle's Ferry Road to the intersection of Mt. Holly-Huntersville Road, and thence proceeding along Mt. Holly-Huntersville Road in a northeasterly direction to the intersection of Hambright Road, and thence proceeding in an easterly direction along Hambright Road to N.C. 115, and thence proceeding in a northerly direction along N.C. 115 to the intersection of N.C. 73 and thence in a westerly-southwesterly direction along N.C. 73 to the Lake Norman Dam and thence proceeding in a southerly direction along the Catawba River to the beginning point.

.2 Exceptions to Applicability:

- a) Existing development, as defined in Section 12.2.3, is not subject to the requirements of the Mountain Island Lake Watershed Overlay District. Expansions to structures classified as existing development must meet the requirements of this section, however the built-upon area of the existing development is not required to be included in the impervious area calculations.
- b) An existing lot, as defined in Section 12.2.3, owned prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes subject only to the buffer requirements of Section 3.3.3-A, f) and g) or Section 3.3.3-B, f) and g), whichever are applicable.
- c) Existing public utilities may expand without being subject to the restrictions of this part provided that:
 - (i) Such expansion complies with all applicable laws of the State of North Carolina and the United States of America, and
 - (ii) Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

.3 Watershed Subareas Established:**a) Critical Areas:**

CA1 - Lower Gar Creek. From normal pool elevation of Mountain Island Lake extending up Gar Creek to Beatties Ford Road and to approximately the ridge line along the north side of Gar Creek and to Mt. Holly-Huntersville Road on the south side of Gar Creek, as shown specifically on Town of Huntersville Zoning Maps.

CA2 - Upper Gar Creek. From Beatties Ford Road upstream along Gar Creek to the limits of the Gar Creek drainage basin and to approximately the ridge line along either side of Gar Creek, as shown specifically on Town of Huntersville Zoning Maps.

CA3 - McDowell Creek. From normal pool elevation of Mountain Island Lake extending one mile upstream on McDowell Creek and to approximately the ridge line along either side of McDowell Creek, as shown specifically on Town of Huntersville Zoning Maps.

CA4 - Lake Front. Extending landward one-half mile from normal pool elevation along Mountain Island Lake and the Catawba River between Cowan's Ford Dam and Mountain Island Lake Dam, as shown specifically on Town of Huntersville Zoning Maps.

b) Protected Areas:

PA1 - The area extending from the outer limits of the critical areas to five hydrologic miles from the normal pool elevation and draining to Mountain Island Lake, as shown specifically on Town of Huntersville Zoning Maps.

PA2 - The area extending from the outer limit of the PA1 area where it intersects with N.C. 73 and running in a north-northeasterly direction along N.C. 73 to the intersection of I-77 and thence proceeding in a southerly direction along I-77 to the intersection of Gilead Road and thence in an easterly direction along Gilead Road to the intersection of N.C. 115 and thence in a southerly direction along N.C. 115 to the intersection of Hambright Road and thence in a westerly direction along Hambright Road to the intersection of Mt. Holly-Huntersville Road and thence in a northwesterly direction along the outer limits of the CA2 and PA1 areas to the beginning point, as shown specifically on Town of Huntersville Zoning Maps.

PA3 - The area extending from the outer limits of the PA2 area to the limits of the Mountain Island Lake Watershed, as shown specifically on Town of Huntersville Zoning Maps.

3.3.2-A Critical Areas- (CA-1, CA-2, CA-3, CA4)

Intent: The intent of these regulations is to require higher standards in the Critical Areas of the Mountain Island Lake Watershed because of the greater risk of water quality degradation from pollution. All uses permitted in the Critical Areas are subject to the standards of both the overlay district and the underlying zoning district. In every case, the more restrictive standard controls.

a) Permitted Uses

Uses permitted with conditions

- essential services 1 and 2, provided that there shall be no new industrial process or domestic discharges into any stream or lake in the Mountain Island Lake Watershed, but existing wastewater treatment plant(s) may expand so long as the total pollutant load per parameter is not increased beyond the effluent limits permitted as of October 1, 1993, the effective date of watershed protection regulations;
- agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. All agricultural activities conducted after January 1, 1993 shall maintain a minimum ten-foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale topographic maps or as determined by local government studies. Agricultural activities begun after October 1, 1993 shall comply with the buffer standards of Section 3.3.3 -A(f). Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission;
- silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (~~15A NCAC 11T.0201-.0209~~ NCAC 60C.0100 to .0209);
- residential uses permitted in the underlying district, subject to density and built-upon limits of the low-density development option; cluster development allowed in the underlying district is permitted;
- non-residential uses permitted in the underlying district, subject to the built-upon limits of the low-density development option; cluster development allowed in the underlying district is permitted.

b) Prohibited Uses

- all uses not permitted in the underlying zoning district
- residual applications
- landfills, sanitary
- landfills, off-site demolition
- new or expanded domestic and industrial discharges
- structural BMP's not associated with agriculture
- disposal or treatment of petroleum contaminated soils (land farming)

c) Permitted Building and Lot Types

- building and lot types permitted in the underlying zoning district

d) Permitted Accessory Uses

- accessory uses permitted in the underlying zoning district; -uses prohibited as principle uses are also prohibited as accessory uses

e) Built-Up Area (BUA) Development Standards

For individual buildings or for development projects within the Critical Areas, the following impervious area limitations are established on a building or project basis.

CA1	6% B.U. ¹
CA2	12% B.U. ¹
CA3	12% B.U. ¹
CA4	24% B.U. ¹

¹ Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but in no case less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant

Commented [ES24]:
Commented [JS25R24]: That was the date we required reservation. It can be dropped now.

f) Buffer Size

Undisturbed buffers, except as specifically provided in this section, are required in the Critical Areas along the shoreline of Mountain Island Lake, measured horizontally by a licensed land surveyor from the normal pool elevation (648' contour), and along all perennial streams, measured from the top of the bank on each side of the stream.

CA1	100 feet or 100 year flood plain boundary, whichever is greater
CA2	100 feet or 100 year flood plain boundary, whichever is greater
CA3	100 feet or 100 year flood plain boundary, whichever is greater
CA4 (lake shore)	100 feet

g) Buffer Protection

No permanent structures, impervious covers, septic tank systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:

- 1) The surveyed buffer boundary must be clearly marked on-site with orange "tree-protection" or "high-hazard" fence prior to any land disturbing activities. Tree protection is required by Section 7.4(3) of this Ordinance.
- 2) The surveyed buffer boundary must be permanently marked with an iron pin at the intersection of the watershed buffer and each property line following the completion of land disturbing activities and prior to occupancy. Properties greater than 200' in width shall be marked at a maximum of 100' intervals.
- 3) No trees larger than 2-inch caliper, measured at 6 inches above the existing grade, are to be removed except for dead or diseased trees. Undergrowth and trees less than 2-inch caliper, measured at 6 inches above the existing grade, may be removed to be replaced by an effective

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stabilizing and filtering ground cover based upon the most recent edition of the "[Watershed-Buffer Guidelines for Mecklenburg County, NC](#)" [Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines](#)" and as approved by the Mecklenburg County Water Quality Program.

- 4) Stream bank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the [Mecklenburg County Water Quality Program Charlotte-Mecklenburg Storm Water Services](#)
- 5) Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural BMP's and pervious materials.
- 6) During new development or the expansion of existing development, the Town, upon the advice of the [Mecklenburg County Water Quality Program Charlotte-Mecklenburg Storm Water Services](#), can require enhancement of the existing vegetation in the buffer if necessary so that the buffer can effectively perform its filtering and absorption functions. Buffer enhancement requirements shall be based on the most recent edition of the "[Watershed-Buffer Guidelines for Mecklenburg County, NC](#)" [Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines](#)".
- 7) Mitigation of disturbed buffers required. Should existing vegetation within the buffer be disturbed (except as allowed by this Ordinance), or should vegetation added to a buffer pursuant to paragraph 6) be disturbed, the property owner shall be required to enhance the buffer in accordance with the most recent edition of the "[Watershed-Buffer Guidelines for Mecklenburg County, NC](#)" [Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines](#)" so that the buffer can effectively perform its filtering and absorption functions.
- 8) Non-impervious recreational development and non-impervious pedestrian trails are allowed in the required buffer in compliance with paragraph 3), above. Pathway guidelines are available in the most recent edition of the "[Watershed-Buffer Guidelines for Mecklenburg County, NC](#)" [Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines](#)." If in a common area, such development and trails must be located a minimum of 30 feet from the normal pool elevation of Mountain Island Lake (648' contour), or a minimum of 30 feet from the top of the bank on each side of all perennial streams; except for waterfront access points approved by the Town, upon the advice of the [Mecklenburg County Water Quality Program Charlotte-Mecklenburg Storm Water Services](#).
- 9) Non-conforming structures and increasing built-upon area may be permitted if the following criteria are met:
 - a. The existing structure (to be expanded) was built prior to the enactment of the 1993 watershed ordinance.
 - b. The ~~Built-upon area (BUA)~~ of the existing structure must cover a minimum of 10% of the 100-foot buffer on the lot.
 - c. In Critical Area 1 (CA1), which has a 6% BUA cap, the maximum allowable increase in BUA in the buffers is 2%. In Critical Area 2 (CA2) and Critical Area 3 (CA3), which have a 12% BUA cap and Critical Area 4 (CA4), which has a 24% BUA cap, the maximum allowable increase in BUA in the buffer is 4%.
 - d. Existing BUA shall not be increased within the State minimum 50-foot buffer.
 - e. Best Management Practices (BMPs) (including rain gardens and plantings) must be installed to achieve the following removal efficiencies for all BUA on the lot (not just the BUA in the buffer):
 - i. 85% removal of Total Suspended Solids (TSS)
 - ii. 60% removal of Total Phosphorus (TP)
 - f. All BMPs shall be installed or planted in accordance with the Charlotte-Mecklenburg BMP Design Manual and in accordance with Huntersville's Water Quality Ordinance.

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- g. Maintenance Agreements and Maintenance Plans must be recorded for all BMPs installed and/or planted and the location of the BMP and corresponding notes must be recorded on the deed in compliance with Huntersville's Water Quality Ordinance.
- h. Mitigation measures, including all BMPs, must be installed, inspected and approved and the provisions described in item g (above) satisfied prior to the release of any certificates of occupancy for the structural expansion.
- i. All structural BMPs must be inspected and certified annually for compliance with design criteria by a qualified professional in accordance with the Huntersville Water Quality Ordinance. Inspection reports must be submitted to Mecklenburg County for approval.
- j. Any deficiencies detected to the BMP or any other mitigation measure must be in a timely manner of detection as determined by the Town of Huntersville staff at the sole expense of the property owner. Failure to do so will be in violation of the Huntersville Water Quality Ordinance and could result in the assessment of penalties.

h) Paired-Parcel Averaged-Density Development

Paired-parcel averaged density development involves the transfer of impervious development rights between two (2) parcels not within the boundaries of the same subdivision by way of designated undisturbed natural areas. A metes and bounds description of the space to be undisturbed and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deed and shall be irrevocable. The resultant impervious area/amount for the two lots combined shall not exceed the original allowable impervious amount for each individual lot if they were developed separately.

- 1) A density averaging certificate shall be considered one development request.
- 2) Overall impervious area/amount of the paired parcel averaged-density development, calculated by built-upon area, shall not exceed the impervious that would be allowed if the parcels were developed separately. The parcel pair shall be located in the same water supply watershed and preferably in the same drainage area of the watershed. Parcel pairs may be located in the Critical Area and in the Protected Area. However, if one of the parcels is located in the Critical Area and one is located in the Protected Area, the Critical Area parcel shall not be developed beyond those impervious amounts allowed in the critical area provisions of the Huntersville Zoning Ordinance. A property in a more restricted watershed area shall not acquire impervious rights from a property in a less restricted area of the watershed. The purpose of this provision is to preserve open space in the more sensitive areas of the watershed.
- 3) The paired parcels may include or be developed for residential or non-residential purposes.
- 4) Buffers shall at least meet the appropriate minimum Huntersville Zoning Ordinance water supply watershed protection requirements on both parcels in the parcel pair.
- 5) The portion of the parcel(s) which is not developed as part of the paired parcel, but that is being averaged in the land area being evaluated to meet the built-upon surface area, shall remain in an undisturbed vegetated or natural state. A metes and bounds description of the space to be undisturbed and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deed and shall be irrevocable. The resultant impervious area/amount for the two lots combined shall not exceed the original allowable impervious amount for each individual lot if they were developed separately. It shall be noted on the plat that the Zoning Administrator shall reserve the right to make periodic inspections to ensure compliance.
- 6) A Density Averaging Certificate shall be obtained from the Watershed Review Board (Board of Adjustment) to ensure that both parcels considered together meet the standards of the ordinance and that potential owners have record of how the watershed regulations were applied to the parcel pair. Only the owner(s) of both of the paired parcels may submit the application for the Density Averaging Certificate. A site plan for both of the parcels must be submitted and approved as part of the Density Averaging Certificate. If such a certificate is granted, no change in the development proposal authorized for either parcel shall be made unless the certificate is amended. Upon issuance of such certificate, one copy will be forwarded to the North Carolina Division of Water Quality (DWQ). Included with the Density Averaging Certificate will be a site plan, registered

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plats for both properties, a description of both properties, and documentation reflecting the development restrictions to the parcel pair that will remain undeveloped.

- 7) The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the paired parcel averaged-density development plan as a whole conforms to the intent and requirements of this Article and Section, and that the proposed agreement assures protection of the public interest.
- 8) The undisturbed land area shall be recorded in the deed for the parcel to which it applies. The Density Averaging Certificate shall be recorded in the deed for each of the parcels in the parcel pair. Both the designated undisturbed land area and the certificate shall be noted on the subdivision plat that applies to each of the parcels.
- 9) Stormwater runoff from paired parcel averaged density-averaged development which meets the low-density option development requirements shall be controlled by vegetative conveyances to the maximum extent practicable and shall be approved by Charlotte-Mecklenburg Storm Water Services.
- 10) Stormwater runoff from paired parcel averaged density development which meets the high-density option development requirements shall be controlled on the parcel(s) where the high-density development is occurring in accordance with the criteria specified in the Huntersville Water Quality Design Manual and the Huntersville Zoning Ordinance for high-density development.
- 11) No parcel for which a watershed variance has been granted, or would be required, may be included as part of a parcel pair.
- 12) Compliance with criteria 1-12 shall be evidence that the parcel pair is consistent with the orderly and planned distribution of development throughout the watershed

3.3.2-B Protected Areas ~~(PA-1, PA-2)~~

Intent: The intent of these regulations is to allow development with fewer restrictions in protected areas 1 and 2 than in the critical areas because the risk of water quality degradation from pollution is less in the protected areas than in the critical areas. All uses permitted in the Protected Areas are subject to the standards of both the overlay district and the underlying zoning district. In every case, the more restrictive standard controls. *Note:* Protected area 3 defines the remainder of watershed and is not subject to watershed regulation.

a) Permitted Uses

Uses permitted with conditions

- essential services 1 and 2, provided that there shall be no new industrial process or domestic discharges into any stream or lake in the Mountain Island Lake Watershed, but existing wastewater treatment plant(s) may expand so long as the total pollutant load per parameter is not increased beyond the effluent limits permitted as of October 1, 1993, the effective date of watershed protection regulations;
- agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. All agricultural activities conducted after January 1, 1993 shall maintain a minimum ten-foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale topographic maps or as determined by local government studies. Agricultural activities begun after October 1, 1993 shall comply with the buffer standards of Section 3.3.3-B(f). Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission;
- silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (~~02 NCAC 60C.0100 to .0209~~~~15A NCAC 1T.0201-.0209~~);
- storage of ~~h~~Hazardous ~~m~~Materials, subject to the filing of a spill/failure containment plan with Mecklenburg County Fire Marshall and the fire department(s) with jurisdiction in the Huntersville Mountain Island Lake Watershed Overlay District;
- residential uses permitted in the underlying district, subject to either the low density or the high-density option; cluster development allowed in the underlying district is permitted;
- non-residential uses permitted in the underlying district, subject to either the low density or the high-density option; cluster development allowed in the underlying district is permitted.

b) Prohibited Uses

- all uses not permitted in the underlying zoning district
- in PA 1, off-site demolition landfills
- in PA 1, sanitary landfills
- in PA 1, wastewater treatment facilities

c) Permitted Building and Lot Types

- building and lot types permitted in the underlying zoning district

d) Permitted Accessory Uses

- accessory uses permitted in the underlying zoning district; uses prohibited as principal uses are also prohibited as accessory uses

e) Built-Up Area (BUA) Development Standards

For individual buildings or for development projects within Protected Areas 1 and 2, the following impervious area limitations are established on a building or project basis.

PA1 and PA2, low density option	24% B.U. with curb and gutter streets ¹ 36% B.U. without curb and gutter streets ¹
PA1 and PA2, high density option, where permitted	70% B.U. with BMP ¹

¹ Residential subdivisions ~~approved after 2/17/03~~ shall reserve, at minimum, 1% of the lot area but not less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant

f) Buffer Size

Undisturbed buffers, except as specifically provided in this section, are required in the Protected Areas along all perennial streams, measured horizontally by a licensed land surveyor from the top of the bank on each side of the stream.

PA1, low density option	50 feet
PA2, low density option	30 feet; 50 feet for agricultural uses
PA1, high density option	100 feet
PA2, high density option	100 feet

g) Buffer Protection

No permanent structures, impervious covers, septic tank systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:

- 1) The surveyed buffer boundary must be clearly marked on-site with orange “tree-protection” or “high-hazard” fence prior to any land disturbing activities. Tree protection is required by Section 7.4(3) of this Ordinance.
- 2) The surveyed buffer boundary must be permanently marked with an iron pin at the intersection of the watershed buffer and each property line following the completion of land disturbing activities and prior to occupancy. Properties greater than 200’ in width shall be marked at a maximum of 100’ intervals.
- 3) No trees larger than 2-inch caliper, measured at 6 inches above the existing grade, are to be removed except for dead or diseased trees. Undergrowth and trees less than 2-inch caliper, measured at 6 inches above existing grade, may be removed to be replaced by an effective stabilizing and filtering ground cover based upon the most recent edition of the [“Watershed Buffer Guidelines for Mecklenburg County, NC”](#)[Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines](#)” and as approved by the Mecklenburg County Water Quality Program.

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- 4) Stream bank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the [Mecklenburg County Water Quality Program Charlotte-Mecklenburg Storm Water Services](#).
- 5) Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural BMP's and pervious materials.
- 6) During new development or the expansion of existing development, the Town, upon the advice of the [Mecklenburg County Water Quality Program Charlotte-Mecklenburg Storm Water Services](#), can require enhancement of the existing vegetation in the buffer if necessary so that the buffer can effectively perform its filtering and absorption functions. Buffer enhancement requirements shall be based on the most recent edition of the "[Watershed Buffer Guidelines for Mecklenburg County, NC Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines](#)".
- 7) Mitigation of disturbed buffers required. Should existing vegetation within the buffer be disturbed (except as allowed by this Ordinance) or should vegetation added to a buffer pursuant to paragraph 6) be disturbed, the property owner shall be required to enhance the buffer in accordance with the most recent edition of the "[Watershed Buffer Guidelines for Mecklenburg County, NC Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines](#)" so that the buffer can effectively perform its filtering and absorption functions.
- 8) Non-impervious recreational development and non-impervious pedestrian trails are allowed in the required buffer in compliance with paragraph 3), above. Pathway guidelines are available in the most recent edition of the "[Watershed Buffer Guidelines for Mecklenburg County, NC Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines](#)." If in a common area, such development and trails must be located a minimum of 30 feet from the top of the bank on each side of all perennial streams; except for waterfront access points approved by the Town, upon the advice of the Mecklenburg County Water Quality Program.
- 9) Non-conforming structures and increasing built-upon area may be permitted if the following criteria are met:
 - a. The existing structure (to be expanded) was built prior to the enactment of the 1993 watershed ordinance.
 - b. ~~The Built-upon area (BUA)~~ of the existing structure must cover a minimum of 10% of the 100-foot buffer on the lot.
 - c. In Critical Area 1 (CA1), which has a 6% BUA cap, the maximum allowable increase in BUA in the buffers is 2%. In Critical Area 2 (CA2) and Critical Area 3 (CA3), which have a 12% BUA cap and Critical Area 4 (CA4), which has a 24% BUA cap, the maximum allowable increase in BUA in the buffer is 4%.
 - d. Existing BUA shall not be increased within the State minimum 50-foot buffer.
 - e. Best Management Practices (BMPs) (including rain gardens and plantings) must be installed to achieve the following removal efficiencies for all BUA on the lot (not just the BUA in the buffer):
 - i. 85% removal of Total Suspended Solids (TSS)
 - ii. 60% removal of Total Phosphorus (TP)
 - f. All BMPs shall be installed or planted in accordance with the Charlotte-Mecklenburg BMP Design Manual and in accordance with Huntersville's Water Quality Ordinance.
 - g. Maintenance Agreements and Maintenance Plans must be recorded for all BMPs installed and/or planted and the location of the BMP and corresponding notes must be recorded on the deed in compliance with Huntersville's Water Quality Ordinance.
 - h. Mitigation measures, including all BMPs, must be installed, inspected and approved and the provisions described in item g (above) satisfied prior to the release of any certificates of occupancy for the structural expansion.

- i. All structural BMPs must be inspected and certified annually for compliance with design criteria by a licensed N.C. engineer in accordance with the Huntersville Water Quality Ordinance. Inspection reports must be submitted to Mecklenburg County for approval.
- j. Any deficiencies detected to the BMP or any other mitigation measure must be corrected within 30 days of detection at the sole expense of the property owner. Failure to do so will be in violation of the Huntersville Water Quality Ordinance and could result in the assessment of penalties.

h) High Density Option Requirements in Protected Areas of the MIL Watershed

- (1) The High-Density Option allows for greater development density provided engineered controls (structural BMPs) are used to manage storm water runoff. Structural BMPs are required under the High-Density Option. The ~~HIGH-DENSITY OPTION~~ High-Density Option is permitted in the PA1 and PA2 subareas. In addition to meeting basic zoning and subdivision standards of the Town of Huntersville, high density development shall meet the requirements of this section, the Land Development Standards Manual, and other published standards of the Town Engineering Department.
- (2) High-Density Permit Application.
 - (a) A High-Density Development Permit shall be required for new development exceeding the requirements of the low-density option.
 - (b) Application for a High-Density Development Permit shall be submitted as follows:
 - (a) Development plans subject to the Huntersville Subdivision Ordinance and the Sediment and Erosion Control Ordinance will submit the High-Density Development Permit to the Town Engineering Department and the Huntersville Planning Director, or designee, as part of the subdivision review application process.
 - (b) Development plans exempt from subdivision ordinance regulations will submit the High-Density Development Permit to the Town Engineer or their designee as part of the Sediment and Erosion Control requirements of the building permit application process.
 - (c) Applications for the High-Density Option shall be made on the proper form and shall include the following information:
 - A completed High-Density Development Permit Application signed by the owner of the property. The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization.
 - Required number of development plans and specifications of the storm water control structure.
 - Submittal of a sediment and erosion control plan to the appropriate agency.
 - Permit application fees.
- (3) Structural BMPs.
 - (a) All structural BMPs shall be designed, and the plans sealed, by a North Carolina registered professional with qualifications appropriate for the type of system required as provided for in the North Carolina General Statutes. ; these registered professionals are defined as professional engineers, landscape architects, to the extent that the General Statutes, Chapter 89A allow, and land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in General Statutes 89(C) 3(7).
 - (b) Structural BMPs shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Water Quality. Specific requirements

Commented [ES26]: This sentence was choppy and confusing the reader. Avoids statutory references that have to be updated in the future.

Commented [ES27]: Addresses landscape architects specifically, not engineers.

for these systems shall be in accordance with the design criteria and standards contained in the Land Development Standards Manual.

- (c) Qualifying areas of the structural BMP may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area.

~~(d)~~ The design of the structural BMP shall include the appropriate easements for ingress and egress necessary to perform inspections, maintenance, repairs and reconstruction.

~~(4)~~

- (4) Posting of Financial Security Required.

- (a) When Structural BMP's are required under the High-Density Option, the approval of the High-Density Development Permit will be subject to developer compliance with Section 8.400 of the Huntersville Subdivision Ordinance.

- (5) Additional Requirements.

- (a) An Occupancy Permit shall not be issued for any building within the permitted development until the Town Engineering Department has approved the storm water control structure.
- (b) Appeals of any order, requirement, decision or determination shall be made to and decided by the Zoning Board of Adjustment of the Town of Huntersville.

i) Paired-Parcel Averaged-Density Development

Paired-parcel averaged density development involves the transfer of impervious development rights between two (2) parcels not within the boundaries of the same subdivision by way of designated undisturbed natural areas. A metes and bounds description of the space to be undisturbed and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deed and shall be irrevocable. The resultant impervious area/amount for the two lots combined shall not exceed the original allowable impervious amount for each individual lot if they were developed separately.

- 1) A density averaging certificate shall be considered one development request.
- 2) Overall impervious area/amount of the paired parcel averaged-density development, calculated by built-upon area, shall not exceed the impervious that would be allowed if the parcels were developed separately. The parcel pair shall be located in the same water supply watershed and preferably in the same drainage area of the watershed. Parcel pairs may be located in the Critical Area and in the Protected Area. However, if one of the parcels is located in the Critical Area and one is located in the Protected Area, the Critical Area parcel shall not be developed beyond those impervious amounts allowed in the critical area provisions of the Huntersville Zoning Ordinance. A property in a more restricted watershed area shall not acquire impervious rights from a property in a less restricted area of the watershed. The purpose of this provision is to preserve open space in the more sensitive areas of the watershed.
- 3) The paired parcels may include or be developed for residential or non-residential purposes.
- 4) Buffers shall at least meet the appropriate minimum Huntersville Zoning Ordinance water supply watershed protection requirements on both parcels in the parcel pair.
- 5) The portion of the parcel(s) which is not developed as part of the paired parcel, but that is being averaged in the land area being evaluated to meet the built-upon surface area, shall remain in an undisturbed vegetated or natural state. A metes and bounds description of the space to be undisturbed and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deed and shall be irrevocable. The resultant impervious area/amount for the two lots combined shall not exceed the original allowable impervious amount for each individual lot if they were developed separately. It shall be noted on the plat that the Zoning Administrator shall reserve the right to make periodic inspections to ensure compliance.

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- 6) A Density Averaging Certificate shall be obtained from the Watershed Review Board (Board of Adjustment) to ensure that both parcels considered together meet the standards of the ordinance and that potential owners have record of how the watershed regulations were applied to the parcel pair. Only the owner(s) of both of the paired parcels may submit the application for the Density Averaging Certificate. A site plan for both of the parcels must be submitted and approved as part of the Density Averaging Certificate. If such a certificate is granted, no change in the development proposal authorized for either parcel shall be made unless the certificate is amended. Upon issuance of such certificate, one copy will be forwarded to the North Carolina Division of Water Quality (DWQ). Included with the Density Averaging Certificate will be a site plan, registered plats for both properties, a description of both properties, and documentation reflecting the development restrictions to the parcel pair that will remain undeveloped.
- 7) The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the paired parcel averaged-density development plan as a whole conforms to the intent and requirements of this Article and Section, and that the proposed agreement assures protection of the public interest.
- 8) The undisturbed land area shall be recorded in the deed for the parcel to which it applies. The Density Averaging Certificate shall be recorded in the deed for each of the parcels in the parcel pair. Both the designated undisturbed land area and the certificate shall be noted on the subdivision plat that applies to each of the parcels.
- 9) Stormwater runoff from paired parcel averaged density-averaged development which meets the low-density option development requirements shall be controlled by vegetative conveyances to the maximum extent practicable and shall be approved by the Town of Huntersville.
- 10) Stormwater runoff from paired parcel averaged density development which meets the high-density option development requirements shall be controlled on the parcel(s) where the high-density development is occurring in accordance with the criteria specified in the Huntersville Water Quality Design Manual and the Huntersville Zoning Ordinance for high-density development.
- 11) No parcel for which a watershed variance has been granted, or would be required, may be included as part of a parcel pair.
- 12) Compliance with criteria 1-12 shall be evidence that the parcel pair is consistent with the orderly and planned distribution of development throughout the watershed.

3.3.2-C -Appeals and Variances in MIL-O District

- .1 The Zoning Board of Adjustment is hereby designated the Watershed Review Board.
- .2 An appeal to reverse or modify the order, decision, determination, or interpretation of the Zoning Administrator (herein designated the Watershed Administrator), shall comply with the procedures and standards of Section 11.3 of these regulations.
- .3 A petition for variance to the standards of the Mountain Island Lake Watershed Overlay District shall comply with the procedures and standards of Section 11.3 of these regulations, with the following exceptions.
 - a) In addition to the notification requirements of Section 11.3, the Watershed Administrator shall also notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.
 - b) Major and Minor Variances are differentiated by definition.

Minor variances shall include petitions for the reduction of any numerical standard of the low-density option in the overlay district by a factor of 10% or less.

Major variances mean variance from the minimum statewide water supply watershed protection criteria that result in any one or more of the following:

Petitions for the reduction of any numerical standard of the low-density option in the overlay district by a factor of more than 10%; and

Petitions for variation in the design, maintenance, or operation requirements of a wet detention pond or other approved storm water system; and

Petitions for the reduction of any management requirement that applies to a development proposal intended to qualify under the high-density option.

- c) Major and Minor Variances are differentiated as to procedures and standards.

Minor variances shall comply with the procedures and standards of Section 11.3 of these regulations. An annual report of minor variances granted shall be submitted by the Watershed Administrator for each calendar year to the Division of Water Quality on or before January 1st of the following year and provide a description of each project receiving a variance and the reasons for granting the variance.

Major variances shall comply with the procedures and standards of Section 11.3 except that:

A decision by the Watershed Review Board to deny a major variance shall be final. Appeal shall be to a court of competent jurisdiction as provided in Section 11.3.

A decision by the Watershed Review Board to approve a major variance shall be advisory only. The Watershed Administrator shall within 30 days forward a record of the Board of Adjustment hearing, findings, and conclusions to the North Carolina Environmental Management Commission for final decision.

~~The Watershed Review Board may advise approval of a major variance petition upon satisfying the findings of Section 11.3.2f, or upon the finding that significant community economic or social benefit would be derived from the grant of the variance.~~

Commented [ES28]: Variance requirements are set by statute. See 160D-705(d). The statute doesn't afford the ability to grant or advise granting a variance based upon significant community economic or social benefit would be derived absent the 4 variance requirements. Also see model watershed ordinance, which also does not include that ability.

Commented [ES29]: Variance requirements are set by statute. See 160D-705(d)

3.3.3 LAKE NORMAN WATERSHED OVERLAY DISTRICT (LN-O)

Intent: The intent of the Lake Norman Watershed Overlay District is to provide for the protection of public water supplies as required by the N.C. Water Supply Watershed ~~Classification and~~ Protection Act (G.S. 143-214.5) and regulations promulgated there under. The Lake Norman Watershed Overlay may be applied in any zoning district. The Lake Norman Watershed Overlay District supplements the regulations of the underlying zoning district within the Lake Norman Watershed Protection Area to ensure protection of public drinking water supplies. All other uses and regulations for the underlying district shall continue to remain in effect for properties classified under the Lake Norman Watershed Overlay District.

.1 Applicability: The Lake Norman Watershed Protection Area is that area within the jurisdiction of the Town of Huntersville which contributes surface drainage into that portion of the Catawba River known as Lake Norman and its tributaries. The Lake Norman Watershed Protection area is specifically defined on the Huntersville Zoning Maps.

.2 Exceptions to Applicability:

- a) Existing development, as defined in Section 12.2.3, is not subject to the requirements of the Lake Norman Watershed Overlay District. Expansions to structures classified as existing development must meet the requirements of this section, however the built-upon area of the existing development is not required to be included in the impervious area calculations.
- b) An existing lot, as defined in Section 12.2.3, owned prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes subject only to the buffer requirements of Section 3.3.4-A, f) and g), whichever are applicable.
- c) Existing public utilities may expand without being subject to the restrictions of this part provided that:
 - (a) Such expansion complies with all applicable laws of the State of North Carolina and the United States of America; and
 - (b) Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

.3 Watershed Subareas Established:

- a) **Critical Area.** The Critical Area is defined as the land area which begins at the normal pool elevation of Lake Norman and extends one-half mile inland or to the ridgeline, whichever is closest, as shown more specifically on the Huntersville Zoning Maps.
- b) **Protected Area.** There is no Lake Norman Protected Area located within the jurisdiction of the Town of Huntersville.

3.3.3-A -Critical Area (CA)

Intent: The intent of these regulations is to require higher standards in the Critical Area of the Lake Norman Watershed because of the greater risk of water quality degradation from pollution. All uses permitted in the Critical Area for which erosion/sedimentation control plans are required under Town of Huntersville regulations are subject to the standards of both the overlay district and the underlying zoning district. In every case the more restrictive standard controls.

a) Permitted Uses

Uses permitted with conditions

- essential services 1 and 2, provided that there shall be no new industrial process or domestic discharges into any stream or lake in the Lake Norman Watershed, but existing wastewater treatment plant(s) may expand so long as the total pollutant load per parameter will not be increased beyond the effluent limits permitted as of October 1, 1993, the effective date of watershed protection regulations;
- agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. All agricultural activities conducted after January 1, 1993 shall maintain a minimum ten-foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale topographic maps or as determined by local government studies. Agricultural activities begun after October 1, 1993 shall comply with the buffer standards of Section 3.3.3-A(f). Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission;
- silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (~~02 NCAC 60C.0100 to .0209~~ ~~15A-NCAC 17.0201-.0209~~);
- residential uses permitted in the underlying district, subject to either the low or high density option; cluster development allowed in the underlying district is permitted;
- non-residential uses permitted in the underlying district, subject to either the low or high-density development option; cluster development allowed in the underlying district is permitted.

b) Prohibited Uses

- all uses not permitted in the underlying zoning district
- residual applications
- landfills, sanitary
- landfills, off-site demolition
- new or expanded domestic and industrial discharges
- disposal or treatment of petroleum contaminated soils (land farming)
- petroleum storage tanks as a principal use

c) Permitted Building and Lot Types

- building and lot types permitted in the underlying zoning district

d) Permitted Accessory Uses

- accessory uses permitted in the underlying zoning district; -uses prohibited as principal uses are also prohibited as accessory uses

e) Built-Up Area (BUA) Development Standards

For individual buildings or for development projects within the Lake Norman Critical Area, the following impervious area limitations are established on a building or project basis.

CA, low density option	24% B.U. ¹
CA, high density option	50% B.U. with Structural BMP ¹

¹ Residential subdivisions ~~approved after 2/17/03~~ shall reserve, at minimum, 1% of the lot area but not less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant

f) Buffer Size

Undisturbed buffers, except as specifically provided in this section, are required along the shoreline of Lake Norman measured horizontally by a licensed land surveyor from the normal pool elevation (760' contour) and along each side of all perennial streams measured from the top of the bank on each side on the stream. Minimum buffer widths are:

CA, low density option	50 feet
CA, high density option	100 feet

g) Buffer Protection

No permanent structures, impervious covers, septic tank systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:

- 1) The surveyed buffer boundary must be clearly marked on-site with orange "tree-protection" or "high-hazard" fence prior to any land disturbing activities. Tree protection is required by Section 7.4(3) of this Ordinance.
- 2) The surveyed buffer boundary must be permanently marked with an iron pin at the intersection of the watershed buffer and each property line following the completion of land disturbing activities and prior to occupancy. Properties greater than 200' in width shall be marked at a maximum of 100' intervals.
- 3) No trees larger than 2-inch caliper, measured at 6 inches above the existing grade, are to be removed except for dead or diseased trees. Undergrowth and trees less than 2-inch caliper, measured at 6 inches above the existing grade, may be removed to be replaced by an effective stabilization and filtering ground cover based upon the most recent edition of the "[Watershed Buffer Guidelines for Mecklenburg County, NC](#)" [Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines](#)" and as approved by ~~the Mecklenburg County Water Quality Program~~ [Charlotte-Mecklenburg Storm Water Services](#).

- 4) Stream bank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the [Mecklenburg County Water Quality Program Charlotte-Mecklenburg Storm Water Services](#).
- 5) Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural BMP's and pervious materials.
- 6) During new development or the expansion of existing development, the Town, upon the advice of the [Charlotte-Mecklenburg Storm Water Services Mecklenburg County Water Quality Program](#), can require enhancement of the existing vegetation in the buffer if necessary so that the buffer can effectively perform its filtering and absorption functions. Buffer enhancement requirements shall be based on the most recent edition of the "[Watershed Buffer Guidelines for Mecklenburg County, NC Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines](#)".
- 7) Mitigation of disturbed buffers required. Should existing vegetation within the buffer be disturbed (except as allowed by this Ordinance) or should vegetation added to a buffer pursuant to paragraph 6) be disturbed, the property owner shall be required to enhance the buffer in accordance with the most recent edition of the "[Watershed Buffer Guidelines for Mecklenburg County, NC Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines](#)" so that the buffer can effectively perform its filtering and absorption functions.
- 8) Non-impervious recreational development and non-impervious pedestrian trails are allowed in the required buffer in compliance with paragraph 3), above. Pathway guidelines are available in the most recent edition of the "[Watershed Buffer Guidelines for Mecklenburg County, NC Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines](#)." If in a common area, such development and trails must be located a minimum of 30 feet from the normal pool elevation of Lake Norman (760' contour), or a minimum of 30 feet from the top of the bank on each side of all perennial streams; except for waterfront access points approved by the Town, upon the advice of the [Mecklenburg County Water Quality Program Charlotte-Mecklenburg Storm Water Services](#).

(h) ~~High-Density~~ Option Requirements in the Critical Area of the LN Watershed

- 1) The ~~High-Density~~ Option allows for greater development density provided engineered controls (structural BMPs) are used to manage storm water runoff. Structural BMPs are required under the ~~High-Density~~ Option. The ~~High-Density~~ Option ~~HIGH-DENSITY-OPTION~~ is permitted in the CA subarea. In addition to meeting basic zoning and subdivision standards of the Town of Huntersville, ~~high-density~~ development shall meet the requirements of this section, the Land Development Standards Manual, other published standards of the Town Engineering Department.
- 2) High Density Permit Application.
 - 1) A ~~High-Density~~ Development Permit shall be required for new development exceeding the requirements of the low-density option.
 - 2) Application for a ~~High-Density~~ Development Permit shall be submitted as follows:
 - i. Development plans subject to the Huntersville Subdivision Ordinance and the Sediment and Erosion Control Ordinance will submit the ~~High-Density~~ Development Permit to the Town Engineering Department and the Huntersville Planning Director, or designee, as part of the subdivision review application process.
 - ii. Development plans exempt from subdivision ordinance regulations will submit the ~~High-Density~~ Development Permit to the Town Engineer or their designee as part of the Sediment and Erosion Control requirements of the building permit application process.

iii. Applications for the High-Density Option shall be made on the proper form and shall include the following information:

- A completed High-Density Development Permit Application signed by the owner of the property. The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization.
- Required number of development plans and specifications of the storm water control structure.
- Submittal of a sediment and erosion control plan to the appropriate agency.
- Permit application fees.

3) Structural BMPs.

- (a) All structural BMPs shall be designed, and the plans sealed, by a North Carolina registered professional with qualifications appropriate for the type of system required as provided for in the North Carolina General Statutes, § 89A-3(7); these registered professionals are defined as professional engineers, landscape architects, to the extent that the General Statutes, Chapter 89A allow, and land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in General Statutes 89(C)-3(7).
- (b) Structural BMPs shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Water Quality. Specific requirements for these systems shall be in accordance with the design criteria and standards contained in the Land Development Standards Manual.
- (c) Qualifying areas of the structural BMP may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area.
- (d) The design of the structural BMP shall include the appropriate easements for ingress and egress necessary to perform inspections, maintenance, repairs and reconstruction.

4) Posting of Financial Security Required.

- (a) When Structural BMPs are required under the High-Density Option, the approval of the High-Density Development Permit will be subject to developer compliance with Section 8.400 of the Huntersville Subdivision Ordinance.

5) Additional Requirements.

- (a) An Occupancy Permit shall not be issued for any building within the permitted development until the Town Engineering Department has approved the storm water control structure.
- (b) Appeals of any order, requirement, decision or determination shall be made to and decided by the Zoning Board of Adjustment of the Town of Huntersville.

i) Paired-Parcel Averaged-Density Development

Paired-parcel averaged density development involves the transfer of impervious development rights between two (2) parcels not within the boundaries of the same subdivision by way of designated undisturbed natural areas. A metes and bounds description of the space to be undisturbed and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deed and shall be

irrevocable. The resultant impervious area/amount for the two lots combined shall not exceed the original allowable impervious amount for each individual lot if they were developed separately.

~~13)~~1) A density averaging certificate shall be considered one development request.

~~14)~~2) Overall impervious area/amount of the paired parcel averaged-density development, calculated by built-upon area, shall not exceed the impervious that would be allowed if the parcels were developed separately. The parcel pair shall be located in the same water supply watershed and preferably in the same drainage area of the watershed. Parcel pairs may be located in the Critical Area and in the Protected Area. However, if one of the parcels is located in the Critical Area and one is located in the Protected Area, the Critical Area parcel shall not be developed beyond those impervious amounts allowed in the critical area provisions of the Huntersville Zoning Ordinance. A property in a more restricted watershed area shall not acquire impervious rights from a property in a less restricted area of the watershed. The purpose of this provision is to preserve open space in the more sensitive areas of the watershed.

~~15)~~3) The paired parcels may include or be developed for residential or non-residential purposes.

~~16)~~4) Buffers shall at least meet the appropriate minimum Huntersville Zoning Ordinance water supply watershed protection requirements on both parcels in the parcel pair.

~~17)~~5) The portion of the parcel(s) which is not developed as part of the paired parcel, but that is being averaged in the land area being evaluated to meet the built-upon surface area, shall remain in an undisturbed vegetated or natural state. A metes and bounds description of the space to be undisturbed and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deed and shall be irrevocable. The resultant impervious area/amount for the two lots combined shall not exceed the original allowable impervious amount for each individual lot if they were developed separately. It shall be noted on the plat that the Zoning Administrator shall reserve the right to make periodic inspections to ensure compliance.

~~18)~~6) A Density Averaging Certificate shall be obtained from the Watershed Review Board (Board of Adjustment) to ensure that both parcels considered together meet the standards of the ordinance and that potential owners have record of how the watershed regulations were applied to the parcel pair. Only the owner(s) of both of the paired parcels may submit the application for the Density Averaging Certificate. A site plan for both of the parcels must be submitted and approved as part of the Density Averaging Certificate. If such a certificate is granted, no change in the development proposal authorized for either parcel shall be made unless the certificate is amended. Upon issuance of such certificate, one copy will be forwarded to the North Carolina Division of Water Quality (DWQ). Included with the Density Averaging Certificate will be a site plan, registered plats for both properties, a description of both properties, and documentation reflecting the development restrictions to the parcel pair that will remain undeveloped.

~~19)~~7) The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the paired parcel averaged-density development plan as a whole conforms to the intent and requirements of this Article and Section, and that the proposed agreement assures protection of the public interest.

~~20)~~8) The undisturbed land area shall be recorded in the deed for the parcel to which it applies. The Density Averaging Certificate shall be recorded in the deed for each of the parcels in the parcel pair. Both the designated undisturbed land area and the certificate shall be noted on the subdivision plat that applies to each of the parcels.

~~21)~~9) Stormwater runoff from paired parcel averaged density-averaged development which meets the low-density option development requirements shall be controlled by vegetative conveyances to the maximum extent practicable and shall be approved by Charlotte-Mecklenburg Storm Water Services.

~~22)~~10) Stormwater runoff from paired parcel averaged density development which meets the high-density option development requirements shall be controlled on the parcel(s) where the high-density development is occurring in accordance with the criteria specified in the Huntersville Water Quality Design Manual and the Huntersville Zoning Ordinance for high-density development.

~~23)~~11) No parcel for which a watershed variance has been granted, or would be required, may be included as part of a parcel pair.

12) Compliance with criteria 1-12 shall be evidence that the parcel pair is consistent with the orderly and planned distribution of development throughout the watershed.

3.3.3-B Appeals and Variances in LN-O District

- .1 The Zoning Board of Adjustment is hereby designated the Watershed Review Board.
- .2 An appeal to reverse or modify the order, decision, determination, or interpretation of the Zoning Administrator (herein designated the Watershed Administrator), shall comply with the procedures and standards of Section 11.3 of these regulations.
- .3 A petition for variance to the standards of the Lake Norman Watershed Overlay District shall comply with the procedures and standards of Section 11.3 of these regulations, with the following exceptions.
 - a) In addition to the notification requirements of Section 11.3, the Watershed Administrator shall also notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.
 - b) Major and Minor Variances are differentiated by definition.

Minor variances shall include petitions for the reduction of any numerical standard of the low-density option in the overlay district by a factor of 10% or less.

Major variances mean variance from the minimum statewide water supply watershed protection criteria that result in any one or more of the following:

Petitions for the reduction of any numerical standard of the low-density option in the overlay district by a factor of more than 10%; and

Petitions for variation in the design, maintenance or operation requirements of a wet detention pond or other approved storm water system; and

Petitions for the reduction of any management requirement that applies to a development proposal intended to qualify under the high-density option.

- c) Major and Minor Variances are differentiated as to procedures and standards.

Minor variances shall comply with the procedures and standards of Section 11.3 of these regulations. An annual report of minor variances granted shall be submitted by the Watershed Administrator for each calendar year to the Division of Water Quality on or before January 1st of the following year and provide a description of each project receiving a variance and the reasons for granting the variance.

Major variances shall comply with the procedures and standards of Section 11.3 except that:

A decision by the Watershed Review Board to deny a major variance shall be final. Appeal shall be to a court of competent jurisdiction as provided in Section 11.3.

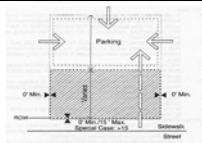
A decision by the Watershed Review Board to approve a major variance shall be advisory only. The Watershed Administrator shall within 30 days forward a record of the Board of Adjustment hearing, findings, and conclusions to the North Carolina Environmental Management Commission for final decision.

~~The Watershed Review Board may advise approval of a major variance petition upon satisfying the findings of Section 11.3.2f, or upon the finding that significant community economic or social benefit would be derived from the grant of the variance.~~

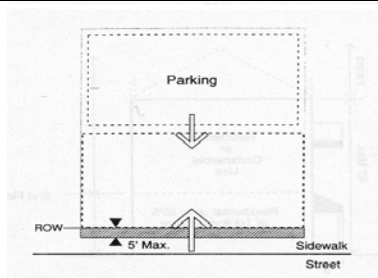
ARTICLE 4: BUILDING AND LOT TYPES

Lot Type / Urban Workplace

Building Placement/Parking/Vehicle Access



Encroachment/Pedestrian Access to Building



1. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build to line will range from 0' to 15' behind street right-of-way (ROW). Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a larger setback.
2. Building facades shall be generally parallel to frontage property lines. The façade shall be determined by the massing of the building.
3. Parking shall be located primarily to the rear of the building; sideyard parking shall occupy no more than 35% of the primary frontage line and shall not be placed in any sideyard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on sideyard parking may be modified.
4. Points of permitted access to the parking indicated by arrows.
5. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (min. 3' in height) shall be installed along any street frontage adjacent to parking areas.
6. Parking areas on adjacent lots shall be connected wherever practical.
7. Trash containers shall be located in a rear parking area (see Parking Regulations) and shall be screened from the right-of-way.
8. Mechanical and utility equipment at ground level shall be placed in the side or rear yard and shall be screened from view by opaque screening from grade level along any public street or adjacent property (Article 7.6.2). Buildings that front on more than one public street may have mechanical and utility equipment located within a street facing yard, provided it is visually screened using compatible building materials and design as the principle structure. This is applicable only where no other reasonable option exists as determined by the Administrator. Examples of features limiting the location of mechanical and utility equipment may include, but not limited to, the physical layout of existing building, the presence of easements, elevation changes, etc.
9. Building facades at street frontage lines shall be pedestrian oriented and of pedestrian scale.

1. Balconies, bay windows, arcades, porches at an upper level and their supports at ground level, together with awnings above head height (min. 7'-6") are permitted within the sidewalk as shown by the hatched area. —Encroaching arcades should cover entire sidewalk.
2. Primary pedestrian access into the building shall be from the street frontage line (indicated by larger arrow). Secondary access may be from parking areas (indicated by smaller arrow).

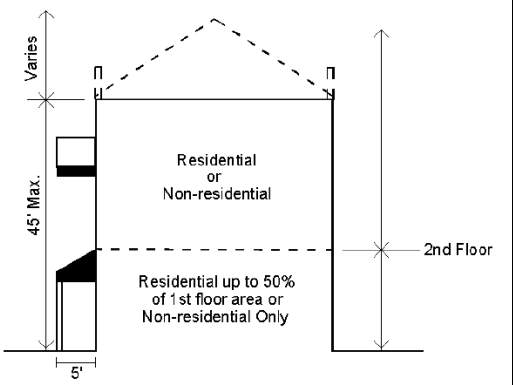
Special Conditions:

1. Buildings in all locations should relate the principal façade to the sidewalk and public space of the street.
2. ~~Corners:~~ Setback at street corners will generally replicate frontage conditions. Side setbacks on a minor street may be less than the front dimension.
3. Within the limits described, front and side setbacks will vary depending upon site conditions. Setbacks should be used in a manner which encourages pedestrian activity. For example, squares or spatially defined plazas within building setback areas can act as focal points for pedestrians.

Description:

The workplace building may be a large structure (15,000+ square feet) and may have a single use/tenant. Office, industrial, and commercial tenants are typical. Southern mill villages often provide examples of how these buildings can reasonably coexist with other businesses and homes. Locke Mill Plaza, in Concord, provides a good example with its placement at the end of prestigious Union Street. These buildings are critical to the town as employment centers and commercial service locations. The buildings will provide space for industry, large offices, as well as hotels, conference facilities, and large retail uses such as a full-service grocery

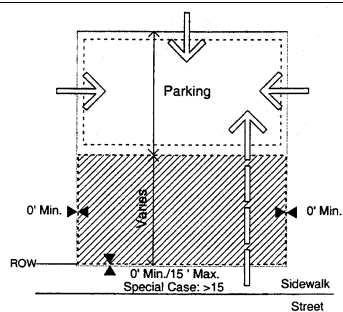
store. Where possible, structures shall be designed to terminate vistas or serve as key focal points in the neighborhood.

Building Type / Urban Workplace	
Permitted Height and Uses	Architectural Standards
 1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof. 2. The height of parapet walls may vary depending upon the need to screen mechanical equipment. 3. Building height to the ridge may vary depending on the roof pitch. 4. Permitted uses are indicated above, and are further controlled by zoning district standards.	Principles A. To perpetuate the unique building character of the town and its environs, and to re-establish its local identity, development shall generally employ building types that are compatible to the historic architectural vocabulary of the area in their massing and external treatment. B. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face. Decorative metal panels, such as Aluminum Composite Material (ACM) panels, may be used as an accent or trim material and as cladding for building accent elements such as canopies and their supporting structure. However, dDecorative metal panel accents however, may not exceed 30% of any façade visible from the street. C. The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment. D. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration. E. Trailers (mobile units) may not be used as permanent workplace buildings. Configurations A. Two wall materials may be combined horizontally on one facade. The “heavier” material should be below and can cover the first floor only (i.e. brick below wood siding). B. Street level windows shall be untinted. Tinted glass with a minimum visual transmittance factor of 35 is permitted. Mirrored or reflective glass is not permitted in <u>any</u> location. C. Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons. Techniques A. Windows should be set to the inside of the building face wall. B. All rooftop equipment shall be enclosed in a building material that matches the structure or is visually compatible with the structure.

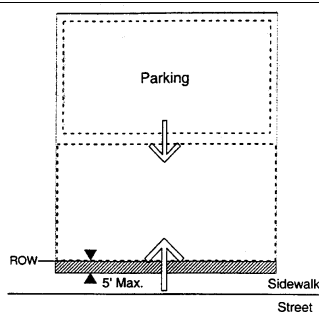


Lot Type / Shopfront Building

Building Placement/Parking/Vehicular Access



Encroachment/Pedestrian Access to Building



1. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build to line will range from 0' to 15' behind street ROW. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a larger setback.
2. Building facades shall be generally parallel to frontage property lines.
3. Parking shall be located to the rear of the building; sideyard parking shall occupy no more than 25 percent of the primary frontage line and shall not be placed in an established sideyard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on sideyard parking may be modified.
4. Points of permitted access to the parking indicated by arrows.
5. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (min. 3' in height) shall be installed along any street frontage adjacent to parking areas.
6. Parking areas on adjacent lots shall be connected wherever practicable.
7. Trash containers shall be located in a rear parking area (see Parking Regulations).
8. Mechanical and utility equipment at ground level shall be placed in the side or rear yard and shall be screened from view by opaque screening from grade level along any public street or adjacent property (Article 7.6.2). Buildings that front on more than one public street may have mechanical and utility equipment located within a street facing yard, provided it is visually screened using compatible building materials and design as the principle structure. This is applicable only where no other reasonable option exists as determined by the Administrator. Examples of features limiting the location of mechanical and utility equipment may include, but not limited to, the physical layout of existing building, the presence of easements, elevation changes, etc.

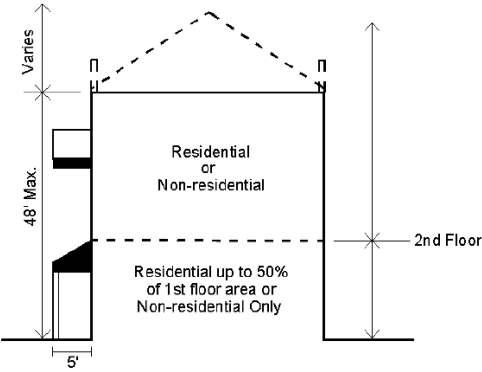
1. Balconies, bay windows, arcades, porches at an upper level and their supports at ground level, together with awnings above head height are permitted within the sidewalk as shown by the hatched area. Encroaching arcades should cover entire sidewalk.
2. Primary pedestrian access into the building shall be from the street frontage line (indicated by larger arrow). Secondary access may be from parking areas (indicated by smaller arrow).

Special Conditions:

1. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street.
2. Drive-through customer services, if permitted in the district, must be located at the rear of the building or on a side which does not abut a street.
3. ~~Corners~~—Setbacks at street corners will generally replicate frontage conditions. However, side setbacks on a minor street may be less than the front dimension.
3. Within the limits described, front and side setbacks will vary depending upon site conditions. Setbacks should be used in a manner which encourages pedestrian activity. Squares or spatially defined plazas within building setback areas can act as focal points for pedestrians.

Description:

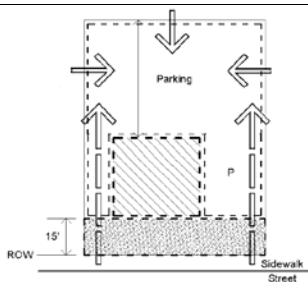
The shopfront building is a small-scale structure which can accommodate a variety of uses. The structure is typically a maximum of 15,000 square feet. A group of shopfront buildings can be combined to form a mixed-use neighborhood center. Individual shopfront buildings can be used to provide some commercial service, such as a convenience food store, in close proximity to homes. Traditional commercial buildings in the old town provide good examples. Hotels, inns, and conference centers may be placed in shopfront or mixed-use buildings. Where possible, structures shall be designed to terminate vistas or serve as key focal points in the neighborhood.

Building Type / Shopfront Building	
Permitted Height and Uses	Architectural Standards
 The diagram illustrates a cross-section of a Shopfront Building. The total height is labeled 'Varies' with a vertical arrow. A dashed line indicates the roofline. The building is divided into two main sections: 'Residential or Non-residential' for the upper portion and 'Residential up to 50% of 1st floor area or Non-residential Only' for the lower portion. A horizontal dashed line marks the '2nd Floor' level. A vertical dimension line on the left indicates a maximum height of '48' Max.' for the lower section. A horizontal dimension line at the base indicates a width of '5'.	Principles: A. To perpetuate the unique building character of the town and its environs, and to re-establish its local identity, development shall generally employ building types that are sympathetic to the historic architectural vocabulary of the area in their massing and external materials. B. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face. C. The front elevations facing the street, and the overall massing shall communicate emphasis on the human scale and the pedestrian environment. D. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration. E. Trailers (mobile units) may not be used as permanent shopfront buildings. Configurations: A. Two wall materials may be combined horizontally on one facade. The "heavier" material should be below and can cover the first floor only (i.e. brick below wood siding). B. Street level windows should be untinted. Tinted glass with a minimum visual transmittance factor of 35 is permitted. Mirrored or reflective glass is not permitted in any location. C. Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons. Techniques: A. Windows should be set to the inside of the building face wall. B. All rooftop equipment shall be enclosed in a building material that matches the structure or is visually compatible with the structure.



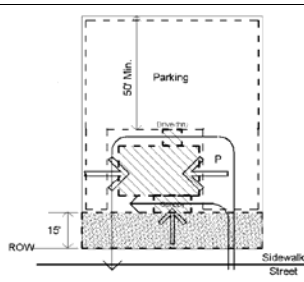
Lot Type / Highway Commercial

Building Placement/Parking/Vehicle Access



- Buildings shall be placed on the lot within zone represented by the hatched area. In most cases, the build to line will be 15' behind street ROW. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a larger setback.
- Setbacks may vary according to setting within limits indicated.
- Building facades shall be generally parallel to frontage property lines.
- Parking shall be located to the rear and/or side of the building. Except in the VS District, sideyard parking may occupy no more than 45% of the principle frontage line. In the VS District, sideyard parking may occupy 50% of the principal frontage line. Parking shall not be placed in any sideyard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on sideyard parking may be modified.
- Points of permitted access to the parking indicated by arrows.
- Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (min. 3' in height) shall be installed along any street frontage adjacent to parking areas.
- Parking areas on adjacent lots shall be connected wherever practicable.
- Trash containers shall be located in a rear parking area (see Parking Regulations).
- Mechanical and utility equipment at ground level shall be placed in the side or rear yard and shall be screened from view by opaque screening from grade level along any public street or adjacent property (Article 7.6.2). Buildings that front on more than one public street may have mechanical and utility equipment located within a street facing yard, provided it is visually screened using compatible building materials and design as the principle structure. This is applicable only where no other reasonable option exists as determined by the Administrator. Examples of features limiting the location of mechanical and utility equipment may include, but not limited to, the physical layout of existing building, the presence of easements, elevation changes, etc.

Vehicular Circulation/Pedestrian Access



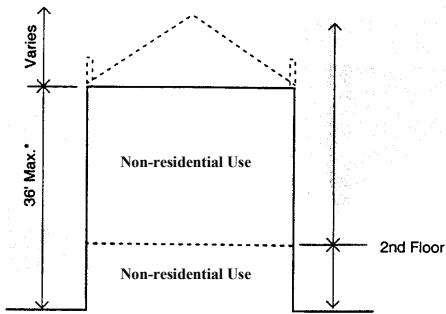
- Main pedestrian access to the building may be from the side (indicated by the larger arrows). Secondary access must be from the street frontage (indicated by the smaller arrow).
- Drive-throughs shall be located to the rear of the building.
- Entrance canopies (for motels, etc.) shall face the street.
- Typical vehicular circulation movement is indicated by thin line arrows.

Special Conditions:

- Buildings in all locations should relate a principal facade to the sidewalk and public space of the street.
- ~~Corners:~~ Setback at street corners will generally replicate frontage conditions.

Description:

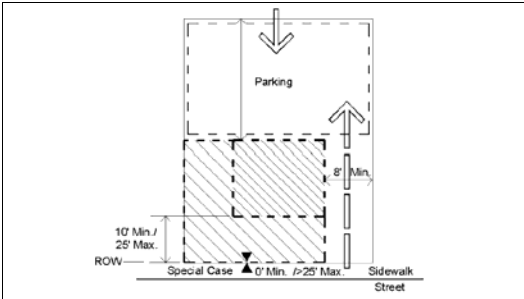
- This building type generally comprises fast food retail, drive through banks, motels and other highway dependent uses. These regulations are designed to bring these building types into a framework of town streets. This building type shall be limited to the Highway Commercial, Campus Business, and Special Purpose Districts. Where possible, structures shall be designed to terminate vistas or serve as key focal points in the neighborhood.

Building Type / Highway Commercial	
Permitted Height and Uses	Architectural Standards
 1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof. 2. The height of parapet walls may vary depending upon the need to screen mechanical equipment. 3. Building height to the ridge may vary depending on the roof pitch. 4. Permitted uses are indicated above, and are further controlled by zoning district standards. 5. Hotels in the Highway Commercial (HC) zoning district may exceed the maximum building height (shown above), not to exceed six (6) stories, subject to the provisions of Article 9.45.	Principles: A. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face. Decorative metal panels such as Aluminum Composite Material (ACM) panels may be used as an accent or trim material and as cladding for building accent elements such as canopies and their supporting structure. However, dDecorative metal panel accents however, may not exceed 30% of any façade. B. All walls not visible from a public right-of-way may be constructed of cinder block, bricks, wood or vinyl siding, or approved metal paneling but shall be painted to match the overall color scheme of the rest of the building. C. Trailers (mobile units) may not be used as permanent highway commercial buildings. Configurations: A. Two wall materials may be combined horizontally on one façade. The “heavier” material should be below (i.e. brick below wood siding). B. Street level windows should be untinted. Tinted glass with a minimum visual transmittance factor of 35 is permitted. Mirrored or reflective glass is not permitted in any location. Techniques: A. All rooftop equipment shall be enclosed in a building material that matches the structure or is visually compatible with the structure.

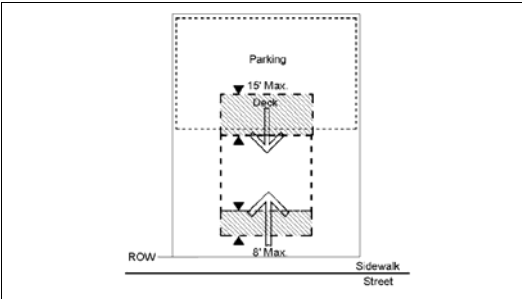


Lot Type / Apartment Building

Building Placement/Parking/Vehicle Access



Encroachment/Pedestrian Access



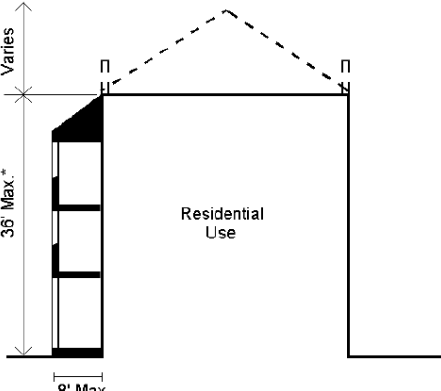
1. Buildings shall be placed on the lot within the zone represented within the hatched area.
2. In most cases, the build to line will be 15' behind street ROW. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a larger setback. In urban conditions, apartments may be set up to the property line at the sidewalk, including corner conditions.
3. Building facades shall be generally parallel to front property lines. All buildings shall front onto a public street. All ground floor residential units with exterior access shall front a public street, unless specifically exempted by one of the provisions of Section 8.1.
4. Parking shall be located to the rear of the building.
5. Points of permitted access to the parking indicated by arrows.
6. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (min. 3' in height) shall be installed along any street frontage adjacent to parking areas.
7. Trash containers shall be located in the rear parking area (see Parking Regulations).
8. Mechanical and utility equipment at ground level shall be placed in the side or rear yard and shall be screened from view by opaque screening from grade level along any public street or adjacent property (Article 7.6.2). Buildings that front on more than one public street may have mechanical and utility equipment located within a street facing yard, provided it is visually screened using compatible building materials and design as the principle structure. This is applicable only where no other reasonable option exists as determined by the Administrator. Examples of features limiting the location of mechanical and utility equipment may include, but not limited to, the physical layout of existing building, the presence of easements, elevation changes, etc.

1. For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into setback area up to 8'.
2. Attached decks are permitted to encroach into the rear setback up to 15 feet.
3. For buildings set up to the sidewalk, upper level balconies, bay windows and their supports at ground level may encroach a maximum of 5'0" over the sidewalk.
4. Main pedestrian access to the building and to individual units is from the street (indicated by larger arrow), unless specifically exempted by one of the provisions of Section 8.1. Secondary access may be from parking areas (indicated by smaller arrow).

Description:

The apartment building is a residential building accommodating several households. In traditional towns, this building type coexists with a variety of other building types. A successful contemporary design permits its integration with other residential types through the coordination of site and building design (see Architectural Regulations). Apartment complexes should be one or more separated buildings similar in their scale on the public street to large detached housing. Where possible, structures shall be designed to terminate vistas or serve as key focal points in the neighborhood.

- Special Conditions:
1. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street.
 2. Corners: Setback at street corners will generally replicate frontage conditions. However, side setbacks on a minor street may be less than the front dimension.
 3. Within the limits described, front and side setbacks will vary depending upon site conditions. Setbacks should be used in a manner which encourages pedestrian activity. Squares or spatially defined plazas within building setback areas can act as focal points for pedestrians.

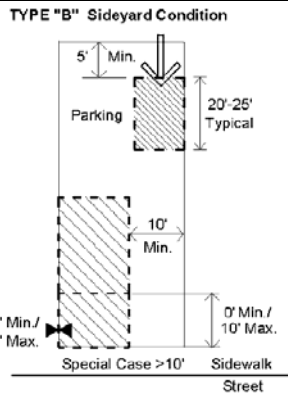
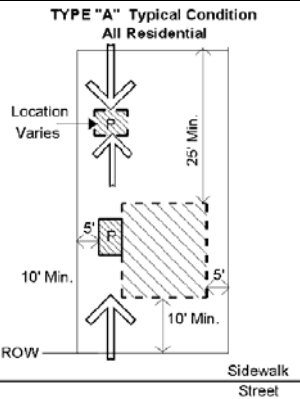
Building Type / Apartment Building	
Permitted Height and Uses	Architectural Standards
 1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, or, if alternate frontage conditions from the constructed portion of a greenway along or within the project boundary, are provided, as permitted under Section 8.1.4, height may be measured from the highest finished grade of the side of the building opposite the greenway alternative frontage, up to the eaves. If building height is measured from the highest finished grade of the side of the building opposite the greenway alternative frontage, no more than one (1) additional story on the greenway side of the building may result from this arrangement. 2. The height of parapet walls may vary depending upon the need to screen mechanical equipment. 3. Building height to the ridge may vary depending on the roof pitch. 4. Permitted uses are indicated above.	Principles: A. To perpetuate the unique building character of the town and its environs, and to re-establish its local identity, development shall generally employ building types that are sympathetic to the historic architectural vocabulary of the area in their massing and external materials. B. The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment. C. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration. D. Building silhouettes should be generally consistent. The scale and pitch of roof lines should thus be similar across groups of buildings. E. Porches should form a predominant motif of house designs; and be located on the front or to the side of the dwelling. When attached to the front, they should extend over at least 15% of the front facade. All porches should be constructed of materials in keeping with those of the main building. F. Front loaded garages, if provided, shall meet the standards of Section 8.16. G. At a minimum, the Americans with Disabilities Act standards for accessibility shall be met. Configurations: A. Main roofs on residential buildings shall either be flat or symmetrical gables or hips with a pitch of between 4:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building. No monopitch shall be less than 4:12. All accessory buildings shall have roof pitches that conform to those of the main building. B. Balconies should generally be simply supported by posts and beams. The support of cantilevered balconies should be assisted by visible brackets. C. Two wall materials may be combined horizontally on one facade. The "heavier" material should be below. D. Exterior chimneys should be finished in brick or stucco. Techniques: A. Overhanging eaves may expose rafters. B. Flush eaves should be finished by profiled molding or gutters.



Lot Types / Detached House

Building Placement/Parking/Vehicle Access

Building Placement/Parking/Vehicle Access



1. Buildings shall be placed on the lot within zone represented by the hatched area except in R & TR zone, where min. front setbacks ~~are 25' and is 20' respectively.~~
Along new streets, the build-to line shall be a minimum of 10' behind street ROW.
Along existing streets, front build-to lines of new buildings shall be equal to the average setbacks of existing buildings on the same side of the street within 300'. Where the average setback of existing buildings within 300' exceeds 50' the setback of any new building may vary up to 20' from the setback of an adjacent building, existing or proposed, in order to negotiate a gradual transition to a different building setback. Only in the most exceptional circumstances having to do with extreme topography or very special design composition may these rules of residential building placement be varied.
2. Garages may be detached (entered from front or rear), or attached to the main dwelling, with or without habitable rooms above. Front loaded garages, if provided, shall meet the standards of Section 8.16.
3. A detached garage may be located only in the rear yard.
4. Points of permitted front or rear access to parking indicated by arrows. On corner lots, sideyard access is also permitted.
5. Main pedestrian access to the building is from the street. Secondary access may be from parking areas.
6. For buildings set back from the sidewalk, balconies, stoops, stairs, open porches, bay windows, and, and awnings are permitted to encroach into the front setback area up to 8'.
7. Sideyard setback is 12' in the R zone & 6' in the TR zone.

1. Generally, buildings shall be placed on the lot within zone represented by the hatched area. The build-to line will range from 0' to 10' behind street ROW. Special site conditions such as extreme topography may require a larger setback. Sideyard houses are not permitted on in-fill sites abutting existing all-yard houses.
2. A detached garage may be located only in the rear yard. Attached garages are not permitted on sideyard houses.
3. Points of permitted rear access to parking indicated by arrow.
4. Main pedestrian access to the building is from the street. Secondary access may be from parking areas.
5. For buildings set up to the sidewalk, balconies and upper level bay windows may encroach over the sidewalk up to 5'.
6. For buildings set back from the sidewalk, balconies, stoops, stairs, open porches, bay windows, and, and awnings are permitted to encroach into the front setback area up to 8'.
7. Commercial Use in a Detached House (NR district) shall comply with the following:
 - a. Parking shall be located in the side or rear yards only. If provided in the side yards, the parking area shall not exceed 25% of the frontage line and shall not be in the yards adjacent to a street.
 - b. Parking areas on adjacent mixed use lot shall be connected whenever practical.
 - c. Trash containers shall be located in the rear yard. If adjacent to existing single-family residential uses, trash containers shall be limited to residential rollout containers only (no dumpsters).
 - d. Mechanical equipment at ground level shall be placed on the parking lot side of the building away from buildings on adjacent sites and shall be screened from view by an opaque screen.
8. Mechanical equipment shall not encroach into any required setback.

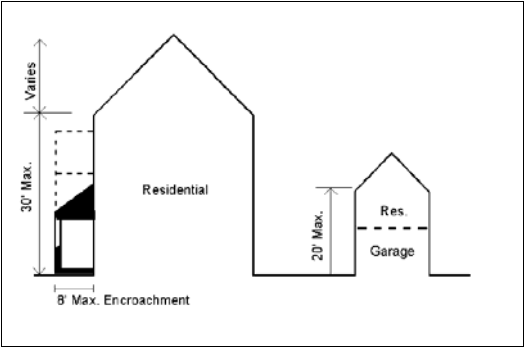
Commented [JS1]: To match with Article 3, Rural zone front setback 3.2.1(d)(2)(e).

Description:
The detached house may coexist with other, similarly scaled buildings along town streets. When other building types are integrated with the detached house, the scale of the detached house type and lot shall control. Civic buildings, however, may exceed the scale of the detached house. Where possible, structures shall be designed to terminate vistas or serve as key focal points in the neighborhood.

Special Conditions:
1. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street.
2. ~~Corners~~—Setback at street corners will generally replicate frontage conditions. However, side setbacks on a minor street may be less than the front dimension.
3. Within the limits described, these regulations apply to all houses built on public streets. For detached homes on large lots accessed by a private drive in Rural Neighborhoods, building placement and site planning will be dictated by landscape features and landscape preservation.

Building Type / Detached House

Permitted Height/Uses/Encroachments

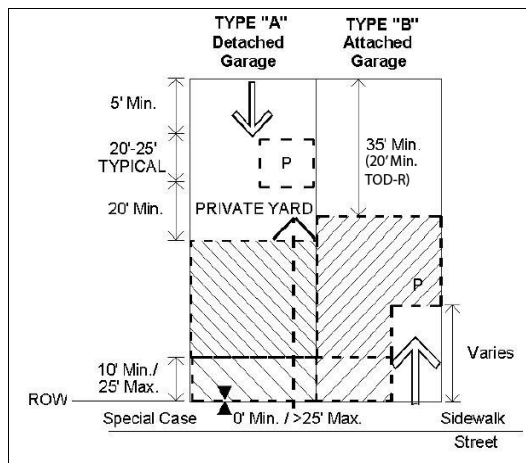


1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves.
2. Building height of main dwelling to ridge may vary depending on the roof pitch.
3. Permitted uses are indicated above.
4. Maximum footprint for a building housing a detached accessory dwelling is 650 square feet or 50% of first floor area of principal residence, whichever is greater.
5. Balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into setback area up to 8'.
6. Decks, balconies, and porches are permitted to encroach into the rear yard setback as provided in Section 8.8.9.



Lot Type / Attached House

Building Placement/Parking/Vehicle Access

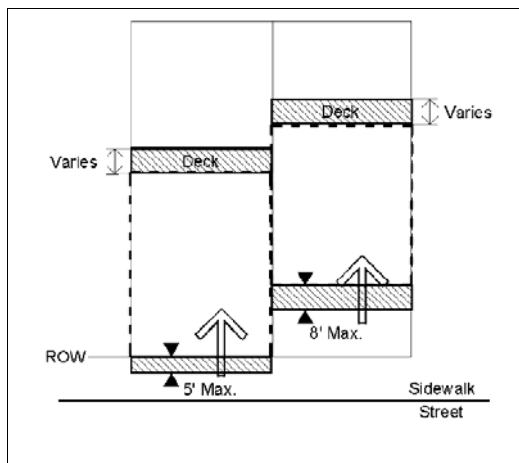


1. Buildings shall be placed on the lot within zone represented by the hatched area.
2. Along new streets, the build-to line will range from 10' to 25' behind street ROW. Special site conditions such as topography or lot widths permit a larger setback. Along existing streets, front build-to lines shall typically be equal to the average setbacks for buildings on the same side of the street within 300 feet. However, in more urban conditions, dwellings may be set up to the property line at the sidewalk.
3. Building facades shall be generally parallel to front property lines. All buildings shall front onto a public street.
4. Front loaded garages, if provided, shall meet the standards of Section 8.16.
5. Points of permitted access to parking indicated by arrows.

Description:

The attached house is a rowhouse, a townhouse, or a duplex. Traditional southern homes in Savannah and Charleston provide the historic model. Dilworth Crescent in Charlotte provides a good contemporary example. Generally, building plans will have narrow frontages with the plan depth being greater than its width. Where possible, structures shall be designed to terminate vistas or serve as key focal points in the neighborhood.

Encroachment/Pedestrian Access



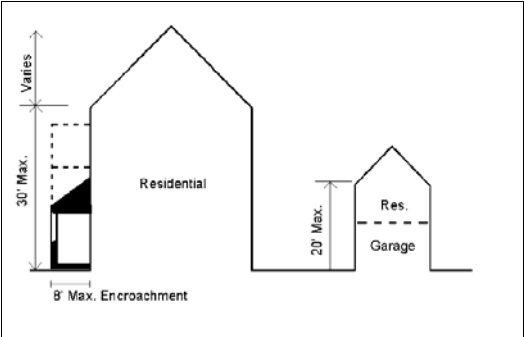
1. For buildings set up to the sidewalk, balconies and upper level bay windows are permitted to encroach over the sidewalk area up to 5'.
2. For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into the front setback area up to 8'.
3. Main pedestrian access to the building is from the street (indicated by larger arrow). Secondary access may be from parking areas (indicated by smaller arrow).
4. Decks must be constructed only in an established rear yard and are permitted to encroach into the rear setback up to 15'.
5. Mechanical equipment shall not encroach into any required setback.

Special Conditions:

1. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street.
2. ~~Corners~~—Setback at street corners will generally replicate frontage conditions. However, side setbacks on a minor street may be less than the front dimension.
3. Front and side setbacks will vary depending upon site conditions. Setbacks should be used in a manner which encourages pedestrian activity.

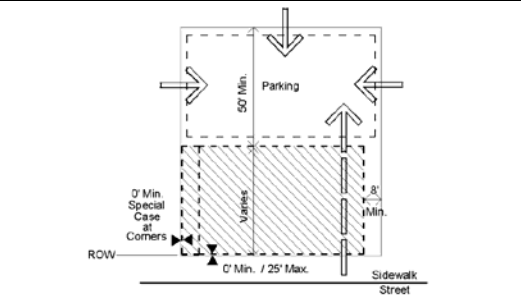
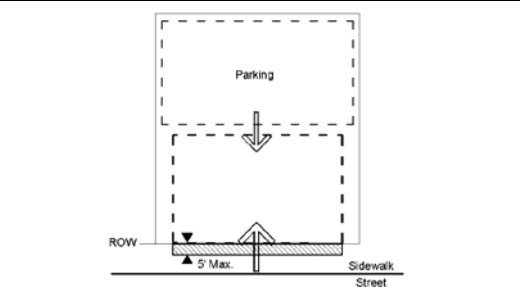
Building Type / Attached House

Permitted Height and Uses

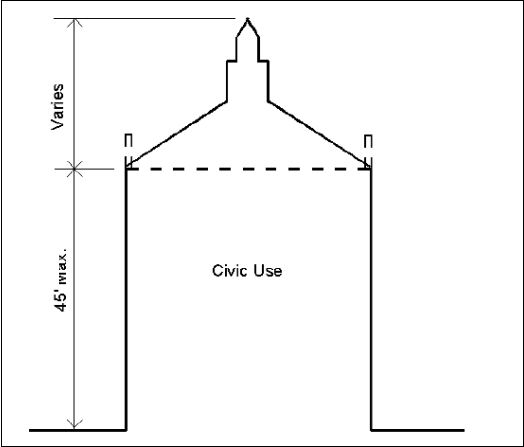


1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves.
2. Building height to ridge will vary depending upon the roof pitch.
3. Permitted uses are indicated above.
4. Maximum footprint for a building housing a detached accessory dwelling is 650 square feet.



Lot Type / Civic Building	
Building Placement/Parking/Vehicle Access	Encroachment/Pedestrian Access
	
1. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build-to line will range from 0' to 25' behind street ROW. Special site conditions such as topography, lot width, or provision of a green or plaza will permit a larger building setback. 2. Parking shall be located to the rear of the building; sideyard parking shall occupy no more than 25% of the primary frontage line and shall not be placed in any sideyard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on sideyard parking may be modified. 3. A green zone or defined plaza should be provided to relate the building to the street. 4. Generally, building and street facades must extend parallel to frontage property lines. 5. Points of permitted access to the parking indicated by arrows. 6. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (min. 3' in height) shall be installed along any street frontage adjacent to parking areas. 7. Parking areas on adjacent lots should be connected. 8. Trash containers shall be located in the parking area (see Parking Regulations). 9. Mechanical and utility equipment at ground level shall be placed in the side or rear yard and shall be screened from view by opaque screening from grade level along any public street or adjacent property (Article 7.6.2). Buildings that front on more than one public street may have mechanical and utility equipment located within a street facing yard, provided it is visually screened using compatible building materials and design as the principle structure. This is applicable only where no other reasonable option exists as determined by the Administrator. Examples of features limiting the location of mechanical and utility equipment may include, but not limited to, the physical layout of existing building, the presence of easements, elevation changes, etc.	1. For buildings set up to the sidewalk, upper level balconies, bay windows and their supports may encroach a maximum of 5'0" over the sidewalk. 2. For buildings set back from the sidewalk, balconies, stoops stairs, open porches, bay windows, and awnings are permitted to encroach into front setback area up to 8'. 3. Main pedestrian access to the building is from the street (indicated by larger arrow). Secondary access may be from parking areas (indicated by smaller arrow).

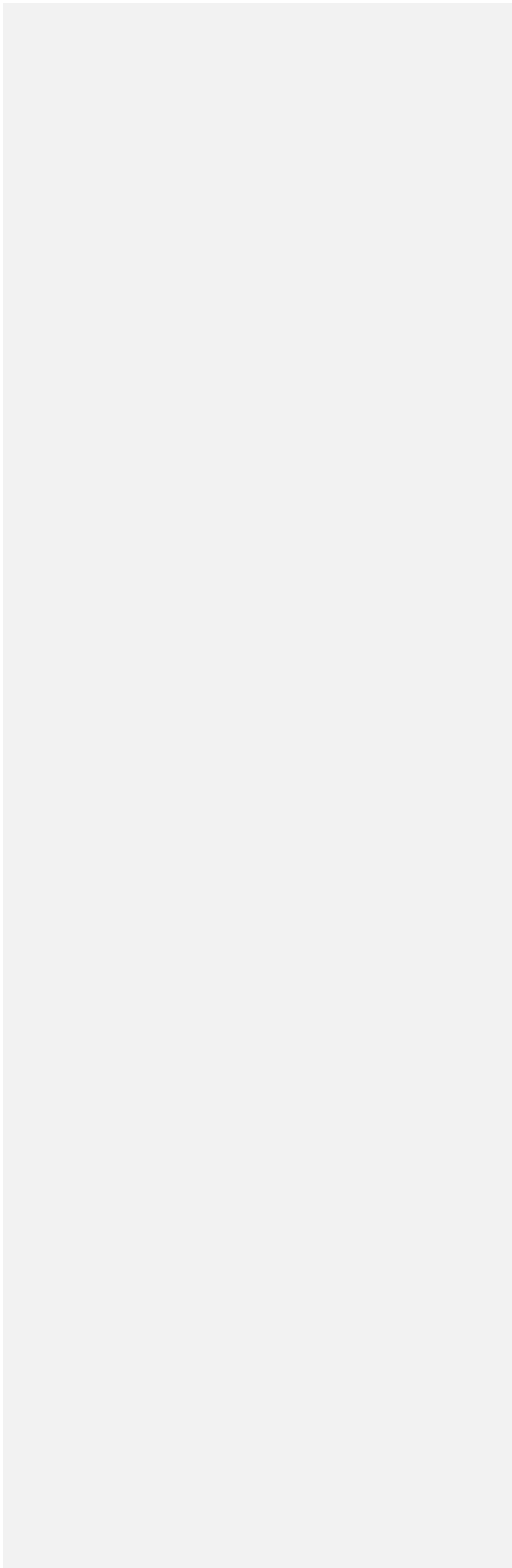
Description:
A civic building is a building used for purposes that are public in nature (e.g. schools, libraries, government buildings, and churches). These buildings must be designed to take their appropriate places within neighborhoods as integral parts of the community. It is expected that the scale and architectural sophistication of these buildings will match their civic importance. Where possible, civic structures shall be designed to terminate vistas or serve as key focal points in the neighborhood. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street. Civic buildings shall not be set back on the lot behind a standard parking lot; however, a plaza may be used for occasional parking.

Building Type / Civic Building	
Permitted Height and Uses	Architectural Standards
 1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof. 2. The height of parapet walls may vary depending upon the need to screen mechanical equipment. 3. Maximum height of buildings shall be 4 stories. Building must comply with compatibility of surrounding development as found in applicable zoning district. 4. Permitted uses are indicated above and are further regulated by zoning district standards.	<u>Principles:</u> A. To perpetuate the unique building character of the town and its environs, and to re-establish its local identity, development shall generally employ building types that are sympathetic to the historic architectural vocabulary of the area in their massing and external materials. B. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face. Decorative metal panels such as Aluminum Composite Material (ACM) panels may be used as an accent or trim material and as cladding for building accent elements such as canopies and their supporting structure. However, dDecorative metal panel accents however, may not exceed 30% of any façade visible from the street. C. The front elevations facing the street, and the overall massing shall communicate a emphasis on the human scale and the pedestrian environment. D. Each building should be designed to form part of a larger composition of the area in which it is situated. E. Trailers (mobile units) shall not be used as permanent civic buildings. F. Schools, churches, and government buildings shall be built so that they terminate a street vista whenever possible; and shall be of sufficient design quality to create visual anchors for the community. <u>Configurations:</u> A. Street level windows should be untinted. Tinted glass with a minimum visual transmittance factor of 35 is permitted. Mirrored or reflective glass is not permitted in any location. Clear textured glass is allowed in restrooms with windows. Stained glass or decorative art glass is permitted. B. Flat roof lines are allowed. C. The orders, if provided, should have proportions and moldings according to The American Vignola. <u>Techniques:</u> A. Windows should be set to the inside of the building face wall. B. All rooftop equipment shall be enclosed in building material that shall be enclosed in building material that matches the structure or is visually compatible with the structure. C. Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons.



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ARTICLE 5: STREETS



5.1 Summary

Streets are an integral component of community design and represent the largest percentage of public open space in town. In Huntersville, public streets are designed with the land uses adjacent to the street to safely accommodate mobility, access, and travel for all users. All streets should connect to help create a comprehensive network of public areas to allow movement of automobiles, transit vehicles, bicyclists, and pedestrians. All elements of community design must be incorporated with the design of the street network to promote motorized speeds that are appropriate to their context.

The processes described in this Article in conjunction with the Town's Engineering Standards and Procedures Manual shall be used for the design of all public streets in the Town's jurisdiction, which includes both the Town corporate limits and the Extraterritorial Zoning Jurisdiction (ETJ).

Streets shall:

1. Incorporate appropriate accommodations for all modes of transportation including, vehicles, pedestrians, bicyclists, and transit users, and may include user amenities such as shelters, benches, and bike racks.
2. Interconnect within a development and with adjoining development. Cul-de-sac streets may be allowed only where topographical and/or adjacent development offer no practical alternatives for connections or through traffic. Street stubs shall be provided within developments adjacent to vacant land or land suitable for redevelopment, wherever possible, to provide for future connections. The Land Development Map, Huntersville Community Plan and any applicable Small Area Plans should be reviewed to locate potential connections in new neighborhoods.
3. Be bordered by sidewalks on both sides, with the exception of ditch-type local streets, alleys, and the undeveloped edge of parkways (see Article 7.11). Sidewalks on one side of the road may be permitted in the Rural zone as an incentive to protect water quality.
4. Be lined with street trees on both sides, with the exception of ditch-type local streets, alleys, and the undeveloped edge of parkways (see Article 7.11).
5. Be public. Private streets are not permitted within any new development. Alleys will be classified as public or private depending on function. Private drives are permitted [only as specifically provided for in these regulations only as described in the Rural and Transitional zone](#).
6. Generally, all buildings will front on public streets.

Commented [JS1]: To reflect private drives allowed in Rural, Transitional, HC and CB under limited circumstances.

5.2 Blocks, Intersections, and Traffic Calming**a. Blocks**

Street blocks defined by public streets are the foundation of traditional neighborhoods. Block dimensions are as follows:

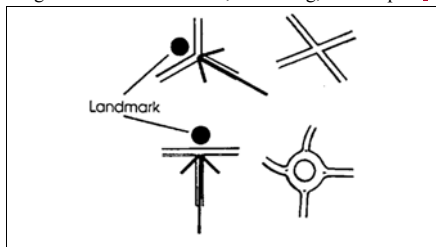
New Development Type	Linear feet as measured between cross streets
Urban Conditions	250 to 500 feet
Major Residential Subdivisions	Not to exceed 800 feet
Large Lot Subdivisions/Industrial Areas	Not to exceed 1500 feet

The block pattern should continue to establish the development pattern at the project edge. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where longer blocks will result in an arrangement of street connections, lots and public space more consistent with this Article and Article 7 of these regulations, the Town Board may authorize greater block lengths at the time of subdivision sketch plan review and approval.

b. Intersections

Segments of straight streets should be interrupted by intersections designed to:

1. Disperse traffic flow and reduce speeds, thereby eliminating the creation of de facto collector streets with high speed, high volume traffic; and
2. Terminate vistas with a significant natural feature, a building, a small park, or other public space.



c. Traffic Calming Other traffic calming measures such as mini traffic-circles, neck-downs, chicanes, mid-block diverters, intersection diverters, curb bulbs, serial hill crests, and related devices will be considered on a case-by-case basis, based on safety and appropriateness in the proposed location.

5.3 Acceptance of Streets for Town Maintenance

Streets shall be accepted in accordance with the Street Acceptance Policy adopted by the Board of Commissioners and as explained in Section I.J of the Engineering Standards and Procedures Manual.

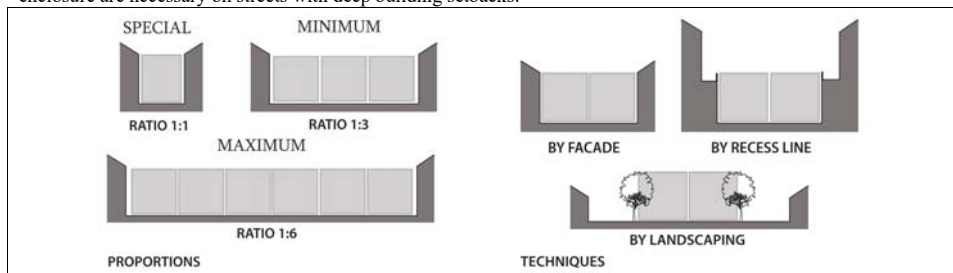
5.4 Defining the Public Space of the Street

As the most prevalent public spaces in Huntersville, streets should be spatially defined by buildings. Proper alignment and delineation of the public street space occurs when the facades of adjacent buildings are aligned much like the walls forming a room. Buildings that make up the street edges are aligned in a disciplined manner. The defined space observes a certain ratio of height to width.

Building articulation must take place primarily in the vertical plane of the façade. Appendages such as porches, balconies, and bay windows are encouraged to promote the transition between the public street and the private dwelling.

For good definition, the ratio of one increment of height to six of width is the absolute maximum, with one to three being a good effective minimum. As a general rule, the tighter the ratio, the stronger the sense of place. Very tight relationships of one to one can create special pedestrian places.

In the absence of spatial definition by facades, disciplined tree planting is an alternative. Trees aligned for spatial enclosure are necessary on streets with deep building setbacks.



5.5 Street Design Specifications

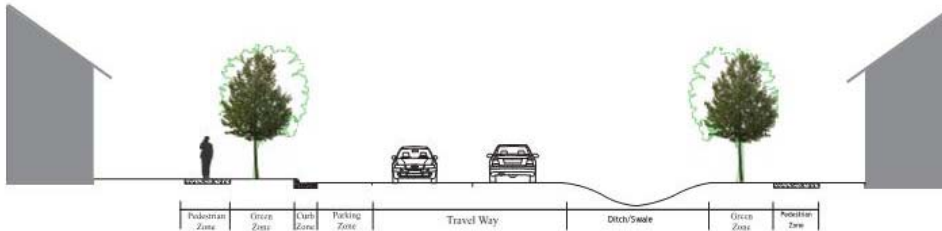
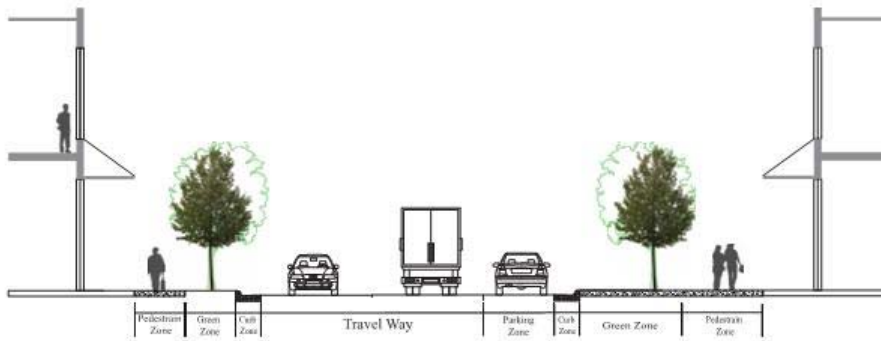
Design should permit comfortable use of the street by motorists, pedestrians, bicyclists, and transit users. Pavement widths, posted speeds, and the number of travel lanes shall be appropriate for a multi-modal transportation network for which it will serve. The specific design of any given street must consider the context of the building-types which have frontage and the relationship of the street to the overall Town street network.

Decision Making Process

Street design is to be tailored to the context of the area in which the street is located and shall balance the needs of those living, working, and traveling on that street. All new streets and improvements to existing streets within the Town's jurisdiction (excluding projects where multi-modal transportation is not allowed) will use the collaborative decision-making process described below:

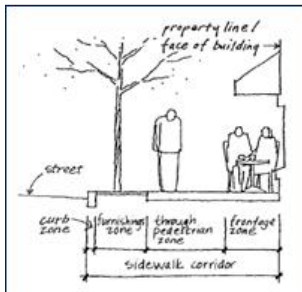
- Step 1: Define Land Use Context.** What is the intensity and type of land use at present? What building type(s), massing and exterior features are common between the existing developments? Is there a Small Area Plan for the district? What does it involve and advise? Are there other adopted plans that are applicable?
- Step 2: Define the Transportation Context.** Identify the transportation network that will influence the street design. What is the nature of the surrounding street network? Does the street cater to the multi-modal design philosophy? What are the incorporated street elements (lanes, sidewalks, bicycle lanes, traffic-calming devices, landscaping)? Are transportation improvements expected for the area?
- Step 3: Establish Goals and Objectives.** Consider the issues and opportunities of the context (land use and transportation) and their impact on the design of the street network in order to develop goal sets for all users.
- Step 4: Prioritize Goals.** What components are acceptable and what should be modified? Do the stakeholders and larger community prefer the street network and neighborhood to change or remain the same? How would the stakeholders and larger community prefer the street network and neighborhood to change?
- Step 5: Develop Alternatives.** Research and test the most suitable street type and its elements using this Article. Identify the site-specific constraints (right-of-way, existing features, environmental features, topography, etc.).
- Step 6: Recommend Alternatives.** Apply the appropriate street cross-section in the Town of Huntersville Engineering and Standards and Procedure Manual. Reconfigure the cross-section according to the context-based analysis in Steps 1 and 2 to meet goals established in Step 4 and accommodate the site-specific constraints listed in Step 5.

Elements of Street Design: Below are cross-sections to be used for ILLUSTRATIVE PURPOSES to explain each design element discussed in this section.

Residential - Type Street Elements**Retail/Mixed-Use -Type Street Elements**

NOTE: On street parking typically provided on both side of street.

- a. Pedestrian Zone is the area intended for pedestrian travel. The walkway section of the pedestrian zone shall be free of all obstacles (temporary and permanent) and should be of sufficient width to allow pedestrians to walk safely and comfortably for current and future pedestrian activity. At a minimum, 5 feet "free and clear" (per ADA standards) shall be provided.



- b. A sidewalk is required on both sides of public streets excluding residential-type streets in the Rural district, and the undeveloped side of residential-type streets adjacent to open space. Sidewalks are not required for alleys. On residential streets, the minimum sidewalk width shall be 5 feet. In commercial and mixed-use areas, the minimum sidewalk width is 7 feet free and clear of obstacles. When the Green Zone includes

hardscaped materials (tree grates and cutouts), the minimum sidewalk width is 10 feet with 5 feet “free and clear” (per ADA standards).

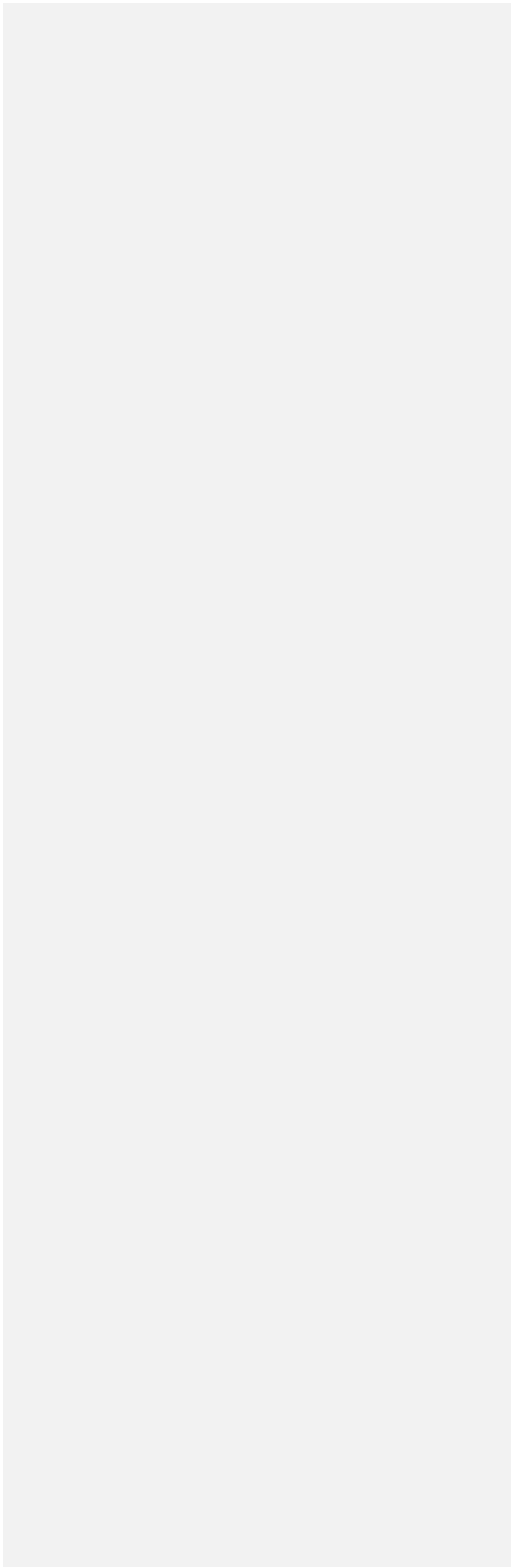
- c. Sidewalk widths along thoroughfares (or higher-order streets) are established on a case-by-case basis but shall not be less than 6 feet.
 - d. Tree-grates may be utilized for street trees; however, the grate-area may only count toward 1 foot of the “free and clear” (per ADA standards) sidewalk area. All other material placed at the base of street trees, other than concrete or asphalt, shall not count toward the minimum sidewalk width.
1. Street trees are required on both sides of all public streets except along the undeveloped side of residential-type streets adjacent to open space. Street Trees shall be located within a Green Zone, which is the space between the sidewalk and the back of curb or back of swale where no curb and gutter is present. Typically, Green Zones are a planting strip or hardscaped amenity zone, which serves as a buffer between pedestrians and vehicles. The Green Zone may include street trees and landscaping and often includes street furnishings and utilities. To encourage tree health, Green Zones shall be provided as follows:
 - a. Curb and gutter section – 7 feet in width (minimum);
 - b. Ditch section – 6 feet minimum outside the swale;
 - c. Industrial Streets – 10 feet in width;
 - ~~d.~~ d. Alleys – not required.
 2. Generally, street trees shall be planted at a spacing not to exceed 40 feet on center, and shall be a large-maturing type (see Town of Huntersville Approved Tree and Shrub List). Where overhead utility lines preclude the use of large-maturing street trees, small-maturing street trees may be substituted, planted 30 feet on center. Street tree spacing may be “field-adjusted” for driveways or utilities, but should generally maintain uniform spacing. Street trees should not be planted within 40 feet of the radius return of an intersection.
 3. Parking Zone is an area to accommodate on-street parking adjacent to uses where on-street parking provides convenience. Parking widths and layout may vary. Refer to the Town’s Engineering Standards and Procedures Manual for specifics on parking space widths and lengths. This area may also include transit stops and provisions for transit pullouts.

On-street parking is recommended where building type and use will generate regular parking need. Occasional on-street parking can be accommodated without additional pavement width. For streets which serve workplace and storefront buildings, on-street parking lane(s) are required and shall be marked as such. An on-street parking lane on at least one side of the street is required on streets serving apartments, attached houses, and detached houses with lots 60’ or less in width. This parking should be on the side of the street that the use is located (if applicable). In some conditions, parking should be adjacent to urban open space. Standard curb and gutter is required where there is marked parking.

Generally, on-street parking should be parallel, and 7 to 8 feet in width; Angled parking or reverse-angle parking is only permitted as an intentional design element where appropriate.

4. Medians. Medians that are greater than 10 feet in width should be planted. Refer to the Engineering Standards and Procedures Manual for additional planting requirements. Pedestrian refuges may be located in the medians.
5. Traffic Control Plans depicting all regulatory, warning and street name signage as well as pavement markings shall be prepared in accordance with the guidance of the Manual on Uniform Traffic Control Devices and the Engineering Standards and Procedures Manual for all public streets. The developer is responsible for the initial installation of the signs and/or markings and the maintenance thereof until the public accepts the street for maintenance. Conflicts between street signs and tree plantings shall be avoided.

These elements may be varied only in accordance with the design principles detailed above and as approved by the Planning Director in consultation with the Town’s Engineer.



ARTICLE 6: OFF-STREET PARKING

Off-Street Parking Design

Design Standards

Off-street parking areas should be designed to minimize breaks in the pedestrian environment along the public street and create safe and comfortable passage for pedestrians. The following standards shall therefore be met.

- A. Parking lots shall be placed behind buildings; side of the building parking will be permitted only as indicated by Building Type and shall be measured along the build-to line. Off-street parking is not permitted in front of the primary building facade, except where specified in an adopted street section, detailed as a public plaza, or associated with a golf clubhouse and located a minimum of 800 feet from designated thoroughfare(s).
- B. Uninterrupted areas of parking lot shall be limited in size. Large parking lots shall be broken by buildings and/or landscape features.
- C. Parking lots are to be treated as enclosed rooms for cars, with enclosure provided by tree planting and/or building walls(s). For small lots (thirty-six spaces or less), landscaping shall be required at the perimeter; for large lots (more than thirty-six spaces), landscaping shall be at the perimeter and placed to break the lot into parking modules of no more than thirty-six spaces. See diagram on following page.
- D. Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the building. On small lots, this may be achieved by providing a sidewalk at the perimeter of the lot. On larger lots, corridors within the parking area should channel pedestrians from the car to the perimeter of the lot or to the building. These corridors may be delineated by a paving material which differs from that of vehicular areas and planted to provide shade. Small posts or bollards may be included.
- E. To maintain pedestrian comfort and calm the speed of entering traffic, driveways to parking areas should be no wider than 24 feet. Driveways connecting to state roads shall meet the requirements of the NC Department of Transportation.
- F. To the extent practicable, adjoining parking lots serving non-residential buildings shall be interconnected.
- G. All commercial driveway and parking areas shall be paved with asphalt, concrete, or brick pavers except for areas used for overflow, special events, peak parking, and Riding Academies and Commercial Stables. Any non-paved surface used for overflow, special events, and peak parking that cannot be maintained with healthy, living turf grass or similar ground cover shall be paved with asphalt, concrete, pervious pavement or brick pavers.

Amount Required

While it is expected that on-street parking will contribute substantially to every day parking needs, sufficient off-street parking must also be provided to serve the particular needs of the building(s). The following minimum requirements apply:

Residential

- 1 bedroom dwelling unit: 1 space
- Dwelling units with more than one bedroom: 1.5 spaces
- Congregate housing: no minimum parking required

Commercial, Industrial, Office

- 1 space per 500 sq. ft.

Warehouse

- .25 spaces per 1000 Sq. Ft.

Civic

- No minimum

Hotels, motels

- 1 space per room plus 1 space per 500 sq. ft. of ancillary use

Exceptions:

- A. ~~A.~~—In the Town Center (TC) District, existing buildings which were legally constructed without the provision of on-site parking, and infill housing on existing lots of record may meet requirements with on-street parking and will be construed conforming as to parking. Such buildings are eligible for change of use permits, for building upfits, and for expansion.
- B. ~~B.~~—Residential buildings may meet or contribute to meeting parking requirements with on-street parking if individual driveways are minimized and the fronting street is specifically designed to meet the parking needs of the residential buildings.
- C. ~~C.~~—Where vehicular access is provided between adjoining non-residential sites and the peak operating hours of adjoining uses do not overlap, the uses may share up to 50 percent of required parking spaces. Shared use of parking shall be guaranteed by a contract or other legally binding agreement.

Landscaping of Parking Lots

Perimeter landscaping of parking shall meet all standards below:

- A. Screening shall be provided by installing along the perimeter of the parking lot a continuous row of evergreen shrubs max. separation 4' on center but in no case less than what is necessary to achieve a complete visual screening depending on the variety of shrubs planted (minimum height 2' at installation, expected height at maturity at least 6' except adjacent to street right-of-way where the expected height at maturity is at least 4') and/or a masonry wall 3' to 6' in height. This screen may be penetrated for access between parking lots.
- B. As an alternative screening requirement for parking lot edge(s) which abut street rights-of-way, a 3' masonry wall to provide casual seating may be installed in place of the continuous row of shrubs described in A., above.
- C. In addition to screening, large maturing canopy trees shall line the parking lot; they shall be planted at a maximum of 40 ft. on center. Tree planting strips at perimeter of lots shall be a minimum of 10 feet in width. Only where pre-existing overhead utility lines prevent use of large maturing trees may small maturing trees maximum 30 ft. on center be substituted.
- D. Existing vegetation which meets, in whole or in part, the purposes of perimeter landscaping above, may be applied toward requirements.

Interior landscaping of parking lots shall consist of large maturing canopy trees placed such that each section of parking (up to 35 spaces per section) is enclosed by trees (or building wall), with a maximum spacing of 40 ft. on center. Tree planting areas within parking lots shall be at least eight feet wide, a minimum of 200 square feet in area, edged with a curb at least six inches in height, and designed to minimize damage to trees by parking or moving vehicles. Only where pre-existing overhead utility lines prevent use of large maturing trees may small maturing trees maximum 30 ft. on center be substituted.

Dumpsters shall be set on a concrete bed and shall be hidden by an opaque fence or wall of sufficient height to screen the bin and any appurtenances, but not less than 6' in height. Wooden shadow box fences are recommended. Trash containers such as dumpsters shall not be located abutting residential property.

Wherever used, fences and walls should be constructed to match the architectural detail of the main building(s).

Lots with less than 5 parking spaces are not

~~D. D)~~—In order to preserve the natural, environmental, and historic character of publicly owned nature preserves and wildlife refuges, parking access driveways and parking areas for such uses may be paved with gravel, crushed stone, or pea gravel provided the area of the parking lot and driveway for the use does not exceed 20,000 square feet.

Bicycle Parking

All non-residential buildings should include an area for parking bicycles. This area may be a designated parking space within the parking lot near the building or an area outside the parking lot adjacent to the building. The bike parking area must include a bike rack with locking area.

Overflow Parking

Off-street areas used for special event parking (to accommodate occasional overflow volumes) may be constructed of any dust-free, compacted, pervious ground cover; the owner of the property shall be responsible for the maintenance of such parking in a clean and dust-free condition. Grass and mulch are examples of pervious ground cover; gravel and pavement are examples of impervious surfaces.

subject to the parking area landscaping provisions of this section.

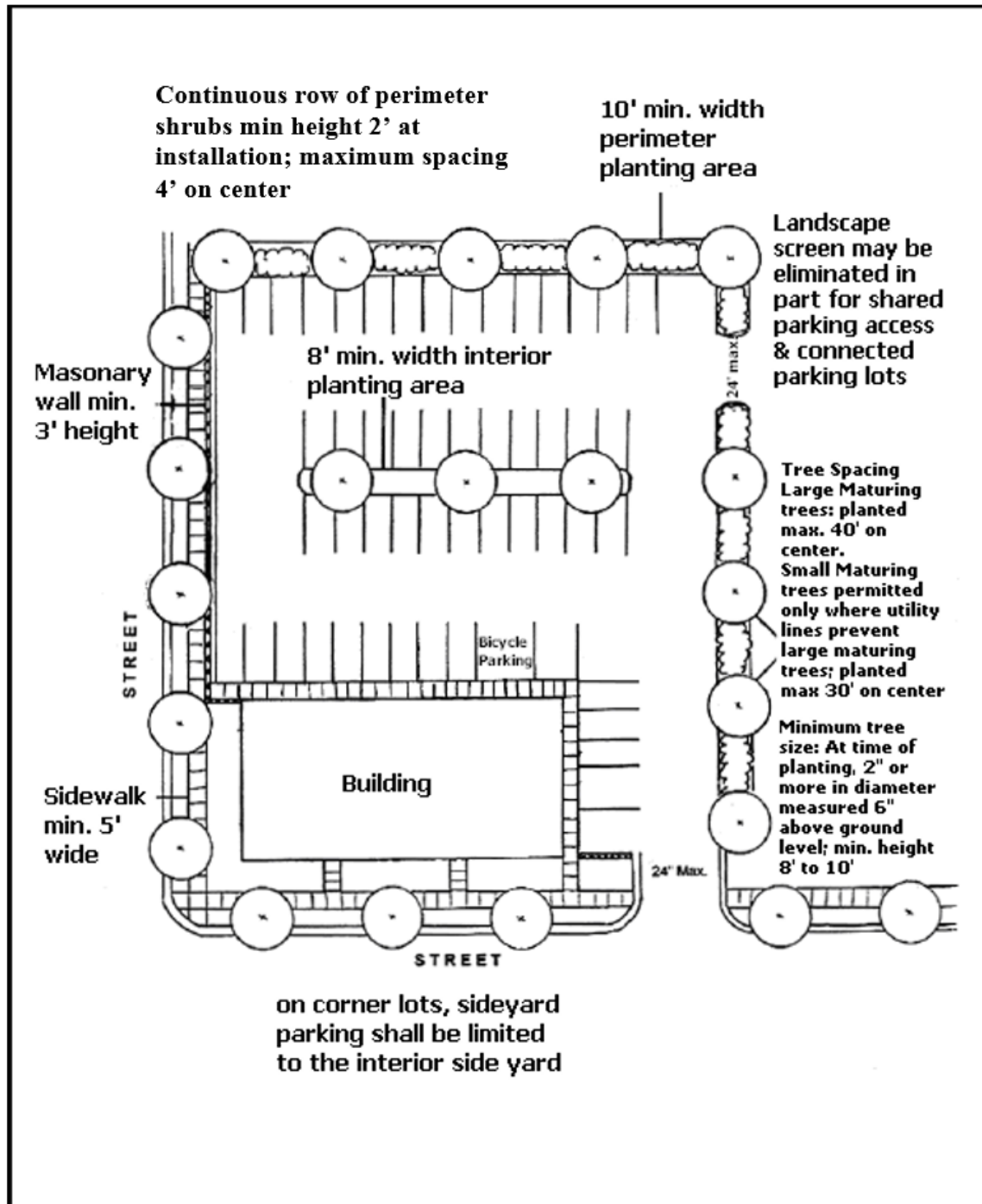
All mechanical equipment shall be screened from view with an opaque screen

Lighting for Parking Lots

Lighting of parking lots shall be on standards ranging from 8' to 30' in height and shall meet the standards of Article 8.26

Off-Street Parking Design

Typical Conditions/Corner Lot



ARTICLE 7:

PART A: *LANDSCAPING*

PART B: *OPEN SPACE*

ARTICLE 7, PART A: LANDSCAPING**7.0 Purpose and Intent**

These regulations are established to protect and enhance the natural landscape of Huntersville and to ensure the appropriate use of plant material in new construction. It is the intent of these regulations to preserve natural tree cover and to include new tree planting with development in order to:

- reinforce community identity;
- reduce visual blight, noise, and glare;
- increase building and property values;
- prevent soil erosion;
- reduce storm water runoff;
- increase groundwater recharge; and
- create shade and reduce solar overheating.

7.1 Applicability

- .1 This Article shall apply to any activity, which requires the issuance of a Land Disturbing permit, except as follows:
 - (a) This Article shall not apply to any portion of property included within the limits of a valid Land Disturbing Permit issued prior to February 17, 2003 (the effective date of this Part), provided that all time constraints relating to the permit issued shall be observed. In no event shall any vested project be extended for a greater time period than 24 months from the date of enactment of this ordinance.
 - (b) All plant and/or tree nurseries and botanical gardens shall be exempt from the terms and provisions of this ordinance in relation to those trees which are being grown for relocation and continued growth in the ordinary course of business or for some public purpose.
 - (c) Land clearing or clearing and grubbing activities for agricultural purposes shall be exempt from the provisions of this ordinance and requires a valid permit issued by Mecklenburg County.
 - (d) Timber harvesting (selective cutting or clear-cutting) for pulpwood or saw timber shall be exempt within all zoning districts and requires a bona-fide farm permit issued by Mecklenburg County or have a Forest Management Plan written by the NC Forest Service or Registered Forester.
 - (e) Subdivisions approved prior to February 17, 2003 which are vested under the provisions of section 2.2 of this ordinance are subject to the landscaping requirements in effect at the time of vesting.

7.2 General Regulations

- .1 All trees and shrubs plantings required by this ordinance shall be selected from the approved Huntersville Tree and Shrub List. Other species and cultivars not on the list may be approved by the Planning Director on a case by case basis, but must be locally adapted to the area and meet the specifications for the measurement, quality, and installation of trees and shrubs in accordance with the American Standards for Nursery Stock, published by the American Horticulture Industry Association. Native species and related cultivars are encouraged.
- .2 Installation of trees and shrubs shall comply with the Land Development Standards Manual.
- .3 Landscaping, including berms where permitted, shall not obstruct the view of motorists using any street, private driveway, parking aisles or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety upon any such street, driveway, parking aisle, or street intersection. Required NCDOT sight distance triangles and sight triangles in Section

8.9 shall apply to street trees. Any sight obstruction determined by the town shall be corrected immediately.

- ~~3~~
- 4 Commercial parcels shall be landscaped while vacant to stabilize the site and maintain an attractive appearance. Landscaping shall consist of, at a minimum, turf grass or other vegetative ground cover to stabilize the soil. Shrubs, trees, or any other vegetative cover may be planted that will and create an attractive appearance.
- 5 All required plantings shall be installed in a manner that ensures the availability of sufficient soil and water for healthy growth and that is not intrusive to aboveground and underground utilities.
- 6 Small maturing trees are required to be substituted for large maturing trees whenever located within 25 feet of an overhead utility line.
- 7 Monoculture and over planting shall be avoided except that a single species of tree may be planted in formal parks or in conjunction with a streetscape plan.
- 8 The ~~Z~~oning ~~A~~administrator may approve revisions to a landscaping plan approved by the Town Board or Board of Adjustment in order to accommodate seasonal planting problems or a lack of plant availability as long as:
- (a) There is no reduction in the quantity of plant material.
 - (b) There is no significant change in the size or location of plant materials.
 - (c) The new plants are of the same general category and have the same general design characteristics as the materials being replaced.
- 9 Existing trees and shrubs shall count towards meeting the buffer yard and screening requirements of sections 7.5 and 7.6 of this Article as long as such are: 1) free from disease or growth problems, 2) clearly shown on the site plan, 3) approved by the zoning administrator prior to development as meeting the intent of the landscaping requirements, 4) are not considered nuisance or noxious plants, and 5) are adequately protected during grading and development of the site.
- 10 In addition to the Tree Save Area required in this Article, every reasonable effort shall be made to protect and retain existing trees and shrubs not actually lying in planned roadways, drainageways, building foundation sites and construction activity areas. Except when necessary to provide access to a site or to ensure the safety and security of people and property, any existing healthy trees that are eight inches or greater in caliper, located within a public right-of-way or undeveloped required yard shall be retained unless approved for removal by staff during site plan review.
- 11 Berms are not permitted anywhere within the town's jurisdiction except in conformity with this Article.
- 12 All trees shall be a minimum of 2 inches in caliper and 8 feet in height at the time of planting, unless otherwise specified.
- 13 All shrubs shall be a minimum of 3 feet in height at the time of planting with an expected minimum height of at least 6 feet at maturity, unless otherwise specified.

7.3 Maintenance of Required Landscaping

- .1 The owner, occupant, tenant, and respective agent of each, if any, shall be jointly and severally responsible for the perpetual maintenance and protection of buffer yards, trees, berms, and landscaping planting required by this ordinance.
- .2 Staff is hereby authorized to order diseased, infested, dying, dead or damaged landscaping required herein to be replaced.
- .3 Buffer yards that, over a period of time, lose their screening ability shall be replanted to meet the requirements of this ordinance.
- .4 Replacement of trees and landscaping is permitted and shall be in accordance with the applicable provisions of this ordinance.
- .5 Maintenance includes actions necessary to keep landscaping materials healthy, neat, and orderly in appearance and free of litter and debris. Mulch and ground cover shall be organic. Tire mulch and impervious materials shall not be used in landscape areas.
- .6 Pruning of trees shall be done according to the *National Arborists' Association Standards* in a manner that preserves the character of the tree. Pruning shall not occur in order to give visibility to a structure, use, or sign.
- .7 Once streets have been accepted by the town or the state, street trees shall be maintained and cared for by the property owner adjacent to the tree except in subdivisions where the property owners' association provides maintenance and care. Prior to street acceptance, the developer shall be responsible for ensuring maintenance and care. Maintenance shall include replacement and trimming as necessary. A maintenance responsibility statement shall be provided on the Final Plat and documented within the homeowners' association articles of incorporation or the restrictive covenants/deed restrictions for the development.
- .8 Whenever shrubs are required for screening and buffer yards, they shall be maintained such that they retain their foliage to within 6 inches of the ground on a year-round basis. Further, such shrubs shall not be pruned to be less than the required mature height.

7.4 Tree Preservation, Protection, and Removal

- .1 Purpose.

Wooded sites provide distinct aesthetic, economic, and environmental significance and value as a natural resource of the Town. Existing vegetation plays a critical role in maintaining aesthetics, water quality, minimizing erosion and downstream flooding, and increasing quality of life.

- .2 Tree Preservation.

- (a) Applicability.

Significant forest stands, specimen trees, and heritage trees, as defined in this ordinance, shall be preserved. Forested areas and vegetated areas and areas whose physical site conditions render them unsuitable for development shall be set aside as conservation areas or as open space.

Wooded sites shall be developed with careful consideration of the natural characteristics of the

site. When portions of forested stands must be developed, careful consideration shall be given to preserving wooded perimeters or the most desirable natural features in order to retain the aesthetic or visual character of the site. Isolated pockets of existing trees, specimen trees and heritage trees shall be protected as a valuable asset of the property.

(b) Site Analysis/Existing Features Plan

For the purposes of identification and preservation, a site analysis by a North Carolina Landscape Architect, Engineer, or other professional approved by staff is required for all development. The site analysis shall be submitted to planning staff prior to sketch plan review and prior to any clearing. The developer and/or the design firm shall review plans with staff to determine the best areas for potential tree save. Refer to Section 6.0 of the Subdivision Ordinance for all site analysis requirements.

(c) Method for Calculating Existing Tree Save and Proposed Tree Save Areas

Existing tree save area shall be considered the area in which the drip line of the existing tree or trees is located on the property plus an additional 5 feet around the perimeter, prior to development. Proposed tree save area shall be considered the area in which the drip line of the remaining tree or trees is located on the property plus an additional 5 feet around the perimeter after development. If root disturbance or construction activities occur within the drip line of any trees designated as tree save, only the area actually being protected will be included in the proposed Tree Save Area.

Additional credits shall be given to preserve Heritage Trees at a rate of 2 times the actual tree save area and Specimen Trees at a rate of 1½ times the actual tree save area. Staff may adjust applicable land development standards to protect and preserve Heritage or Specimen Trees.

(d) Tree Selection Criteria

The development manager, working with staff will determine the trees of greatest priority to designate as tree save areas. The following characteristics shall be considered when selecting trees to be protected and saved:

- (1) Tree vigor. Healthy trees shall be preserved. A tree of low vigor is susceptible to damage by environmental changes that occur during site development. Healthy trees are less susceptible to insects and disease. Indications of poor vigor include dead tips of branches, small annual twig growth, stunted leaf size, sparse foliage, and pale foliage color. Hollow or rotten trees; cracked, split, or leaning trees; or trees with broken tips also have less chance of survival.
- (2) Tree age. Old, picturesque trees may be more aesthetically valuable than smaller, younger trees, but they may require more extensive protection.
- (3) Tree species. Preserve those species that are most suitable for site conditions and landscape design. Tree species that are short lived or brittle or are susceptible to attack by insects and disease are poor choices for preservation.
- (4) Tree aesthetics. Choose trees that are aesthetically pleasing, shapely, large, or colorful. Avoid trees that are leaning or in danger of falling. Occasionally, an odd shaped tree or one of unusual form may add interest to the landscape if strategically located; however, be certain that the tree is healthy.

(5) Wildlife benefits. Choose trees that are preferred by wildlife for food, cover, or nesting. A mixture of evergreens and hardwoods may be beneficial. Evergreen trees are important for cover during the winter months, whereas hardwoods are more valuable for food.

(6) Environmental benefits. Choose trees that help to reduce runoff and erosion, disconnect impervious areas, serve as stormwater filters, and/or buffer onsite perennial streams.

(e) Tree Save Delineation

All tree save areas must be specified on the recorded plat, individual recorded deeds, and all property association documents for land held in common.

(f) Tree Preservation Requirements

Tree preservation areas (tree save) shall be determined once a site analysis plan has been completed demonstrating the amount of existing tree canopy on a site and identifying specific locations of all heritage and specimen trees. The percentages listed below are based on existing trees as established above under Method for Calculating Existing and Proposed Tree Save Area (7.4.2 C). The following is the minimum tree preservation required per district:

Zoning District	Minimum Tree Preservation Required			
	Existing canopy ≥ 10% of total site area	Existing canopy < 10% of total site area	Heritage Trees	Specimen Trees
R	50% of existing trees ^{2, 3, 4}	10% of total site area (existing and planted) ^{1, 2, 3, 4}	100% ²	50% ^{2, 4}
TR	35% of existing trees ^{2, 3}	10% of total site area (existing and planted) ^{1, 2, 3}	100% ²	35% ²
GR and NR Districts	10% of total site area (existing and planted) ^{2, 3}	10% of total site area (existing and planted) ^{1, 2, 3}	100% ²	10% ²
TC, CI, TND, NC, TOD, HC, SP, CB, VS Districts	0%	0%	100% ²	30% ²

¹ If the tree save requirement does not meet 10% of the total site area, then additional trees must be planted. Each large maturing tree planted shall be given a canopy equivalent of 2,000 sq. ft. and each small maturing tree planted a canopy equivalent of 500 sq. ft. to reach the total of 10% of the total site area. Trees planted in buffer yards shall count towards meeting the required planting rate. However, street trees and newly planted residential lot trees shall not. Trees planted shall be a minimum of 2 inches in caliper and shall be 75% large maturing and 25% evergreen

² Where circumstances prevent locating the required tree plantings or preservation standards on site and approval by the Planning Board is granted, the developer may mitigate protected tree canopy removal by planting new trees on the site whose canopy equals that of the canopy to be removed (new tree canopy credits are described above). If site conditions are not conducive for healthy tree replacement planting on site, the developer may contribute to a Tree Fund/Bank set up by the town for the planting and maintenance of such trees elsewhere in the community. A combination of

planting and contribution in lieu of planting is acceptable. The amount of contribution is based on the total cost of the required mitigation trees plus that of their installation.

For Specimen Tree Mitigation, the developer may mitigate the removal of specimen trees by planting new trees on the site whose total caliper (DBH) equals 100% of the total caliper of trees (DBH) to be removed above the ordinance requirement. If site conditions are not conducive for healthy tree planting on site, the developer may contribute to a Tree Fund/Bank as described above. Newly planted street trees, parking lot trees, and buffer trees do not count toward the mitigation calculation.

- ³ When calculating the tree save area, 150% of the canopy area of each specimen tree and 200% of the canopy area of each heritage tree shall count towards the required tree save area. For example:

Saved Number of Trees	Canopy Area of Saved Trees	Calculated Tree Save Area
4 Specimen trees	3900 sq. ft.	5850 sq. ft.
2 Heritage trees	2000 sq. ft.	4000 sq. ft.

- 4 In the Rural district (R) minimum tree save required for non-residential uses are reduced to require preservation of >30% of existing canopy and specimen trees.

(g) Residential Development along Thoroughfares

All residential development fronting a major or minor thoroughfare shall provide a 20-foot landscape easement located within common area between the future right-of-way and any proposed lots or public streets. The easement shall be placed on a map of record and a note on the record plat shall state

“The homeowners association shall be responsible for the continued preservation and maintenance of this area.”

All existing vegetation shall remain unless it is determined by the Planning Board that the vegetation is not worthy of preservation and an alternative plan is acceptable. These areas must meet or exceed the opaque screening standards as established in this Article through the use of existing vegetation and supplemental plantings.

Along thoroughfares, berms may be installed in a landscape easement adjacent to residential development only in areas devoid of existing vegetation or vegetation not worthy of preservation and only with the approval of the Planning Board. Installation of berms shall not exempt development from the opaque planting requirement as listed above. If included in the landscape design, berms shall:

- (1) Have a minimum height of 2 feet, a minimum crown width of 8 feet, and a side slope with a width to height ratio of no greater than 3 to 1 (3:1) if 4 feet or less in height. Berms shall not exceed 6 feet in height and, if greater than 4 feet in height, shall have a minimum crown width of 8 feet, and a side slope with a width to height ratio of no greater than 4 to 1 (4:1). Exceptions may be made to the maximum or minimum height of berms by the zoning administrator where, in his opinion, topographical changes dictate such exception.
- (2) Be designed and constructed with an undulating appearance which mimics as much as is practicable a natural topographical feature of the site.

- (3) Be substantially planted and covered with live vegetation. No berm shall consist entirely of turf grass, ground cover, mulch, or similar material. If a berm is greater than 2 feet in height all trees shall be arranged so that they are planted within 2 vertical feet of the natural grade, unless irrigation is provided.
- (4) Be fully installed, planted and stabilized prior to certification of zoning compliance.
- (5) Be designed to prevent standing water or to impede the flow of stormwater from adjacent properties.
- (6) Free of structures, including fences, unless approved by the Town as part of the landscaping requirements for a development site.
- (7) Not be used as part of any outdoor living space by adjacent property owners within the development.

.3 Tree Protection

(a) Applicability

A Tree and Root Preservation Plan delineating areas of tree save shall be incorporated as part of the Landscaping, Grading, and Erosion Control Plans. The following measures shall be followed to protect existing trees on a developing site.

- (1) Prior to demolition, clearing, construction, grading, and installation of erosion control measures, tree protective barriers must be installed around all tree save areas by the developer and approved by the Town.
- (2) The tree protection barrier shall be located along the perimeter of the tree save area (drip line plus 5 feet). Tree protection barrier for a forest canopy stand area is to be located along the perimeter of the tree save area around the forest edge. Tree protection barriers shall consist of orange safety fencing or a combination of orange safety fencing with silt fencing at a minimum of 4 feet in height on metal or wood posts.
- (3) All tree protection areas must be designated as such with prominent "tree save area signs" posted in addition to the required protective fencing. Signs requesting subcontractor cooperation and compliance with tree protection standards are recommended for site entrances.
- (4) No soil disturbance or compaction, stock piling of soil or other construction material, vehicular traffic, or storage of equipment and materials are allowed within the tree save area.
- (5) No ropes, signs, wires, unprotected electrical installation or other device or material shall be secured or fastened around or through a tree or shrub in a tree save area.
- (6) All appropriate protective measures shall be maintained throughout the land disturbing and construction process, and shall not be removed until final landscaping is installed.

(b) Encroachment

If encroachment into a required Tree Save/Preservation Area occurs which causes irreparable damage to trees, the Tree Preservation and/or Replacement Plan shall be revised to compensate for the loss. Encroachments shall be subject to the penalties listed in Article 7.9. Encroachments, damage, and removal of vegetation in a tree save/preservation area shall result in replanting in accordance with Article 7.4.5.

.4 Tree Removal

A Land Disturbing Permit is required. Land disturbing activities shall not commence until such activities have been authorized by issuance of a valid Land Disturbing Permit as specified under the provisions of the Land Development Standards Manual and Erosion and Sedimentation Control Manual.

.5 Mitigation

If a required tree save/preservation area or required undisturbed buffer yard is disturbed for any reason, it shall be restored at a rate of 5 trees per 1,000 square feet. Trees to be planted shall have a minimum caliper of 2 inches, shall be 8-10 feet in height at installation, and shall be at least 75% large maturing hardwood varieties. Where a disturbed area also functioned to buffer adjacent properties or public street(s), at least 50% of the trees shall be evergreen varieties. Trees shall be distributed throughout the disturbed area in such a way as to effectively replace the vegetation disturbed. Where under story vegetation is removed or disturbed it shall be replaced at a rate of 20 shrubs per 1,000 square feet. Shrubs shall be evergreen and 3 feet in height when installed and are expected to reach a minimum height of 6 feet at maturity. When a tree is destroyed due to an act of God, it shall be replaced with the same species or comparable species, 2 inch in caliper in size. A planting plan is required for staff review and approval prior to planting.

7.5 Buffer Yards

.1 Purpose.

The general purpose of buffer yards is to establish regulations protecting and preserving the appearance, character, and value of property within the town. The objectives are to exclude visual contact, create spatial separation and to minimize any adverse impacts on adjacent properties. Where topographical changes, the size and shape of existing lots of record, or other spatial conditions exist which would make adherence to the basic requirement either impossible or ineffective in meeting the purpose of the buffer yard, alternate buffer yard plans will be considered or may be required. These provisions shall not apply to developments in the Town Center (TC), Transit Oriented Development – Residential (TOD-R), and Transit Oriented Development – Employment (TOD-E) zoning districts.

.2 Applicability

All applicable development plans shall comply with the provisions of this section. A change of use, expansion of existing heated square footage of a building, or and expansion of parking and loading areas will require compliance with these provisions as prescribed per Article 11.5.6, Non-conforming landscaping and screening

.3 Function

A buffer yard shall function as an opaque or semi-opaque barrier between the viewer and the use or structure to be buffered. Therefore, the exact location and arrangement of materials in the buffer yard

will be determined based upon an analysis of site topography and sight lines from public spaces or private properties, which are to be protected. The density of the buffer yard is determined by the intensity of the use and the zoning district. Buffer yard plantings shall meet or exceed the following standards:

Description	Condition where Buffer required	Width	Trees ¹	Shrubs ¹
I-77 Buffer	Any property abutting I-77 right-of-way	50 feet, greater if required by the district	5 trees per 1000 sq/ft of buffer area; 75% large maturing; 50% evergreen	8 shrubs per 1000 sq/ft 75% evergreen
CI, CB and SP	Any property zoned CI, CB, or SP ²	80 feet abutting street right-of-way and property lines ²	4 trees per 1000 sq/ft of buffer area; 75% large maturing; 50% evergreen; 25% small maturing	5 shrubs per 1000 sq/ft 75% evergreen
Non-residential uses not otherwise listed	Any developing non-residential use abutting a lesser intense use and/or district when not internal to a planned development ^{3,5}	30 feet ⁶	4 trees per 1000 sq/ft of buffer area; 50% large maturing; 25% small maturing; 50% evergreen	7 shrubs per 1000 sq/ft 100% evergreen
Civic Uses • schools • religious institutions • gov'n't bldgs. • libraries	Any civic use abutting a property zoned residential or current use is residential ^{3,5}	30 feet ⁶	4 trees per 1000 sq/ft of buffer area; 50% large maturing ; 25% small maturing; 50% evergreen	7 shrubs per 1000 sq/ft 100% evergreen
Residential	Any major residential subdivision abutting a property zoned residential or developed residential, not internal to a planned community ⁴	20 feet	3 trees per 1000 sq/ft of buffer area; 25% large maturing; 25% small maturing; 25% evergreen	10 shrubs per 1000 sq/ft 100% evergreen

¹Minimum tree size is 2" caliper, with minimum height 8' to 10' at time of planting. Shrubs planted shall have a minimum height of 3' at installation, expected height of 6' at maturity.

²The CB, CI, and SP buffer is not required if the subject property is abutting a property zoned CB, CI, or SP. Further, a full eighty (80) foot buffer may be reduced along street frontages where building scale, frontage relationship, and location of accessory uses ensure design compatibility off-site.

³Where non-residential uses are a part of a mixed-use development, buffer yards are not required between lesser intense uses.

⁴Where connectivity between subdivisions is appropriate for high quality neighborhood design, the Town Board may reduce or waive the required buffer yard.

⁵Except where non-residential uses in the HC and VS district abut residential uses, buffer yard width may be reduced to 10' if evergreen shrubs are used that will reach a minimum height of 8' at maturity. Shrubs shall be planted to create a complete visual buffer.

⁶The hierarchy of uses from lower intensity to higher intensity for purposes of determining buffer yards shall be as follows: Residential; Civic; Commercial/Office; Industrial.

.4 Additional Buffer Yard Standards.

- (a) Buffers are not required for internal property boundaries of a planned community with mixed uses, but will be required to be placed at the perimeter of the project.
- (b) Perimeter parking lot landscaping shall count towards the buffer requirements.
- (c) Berms shall be permitted as part of a successful buffer program providing that they:
 - (1) Are not permitted along public streets as a means of meeting the buffering requirement of this section.
 - (2) Have a minimum height of 2 feet, a minimum crown width of 8 feet, and a side slope with a width to height ratio of no greater than 3 to 1 (3:1) if 4 feet or less in height. Berms shall not exceed 6 feet in height and, if greater than 4 feet in height, shall have a minimum crown width of 8 feet, and a side slope with a width to height ratio of no greater than 4 to 1 (4:1). Exceptions may be made to the maximum or minimum height of berms by the zoning administrator where, in his opinion, topographical changes dictate such exception.
 - (3) Are designed and constructed with an undulating appearance which mimics as much as is practicable a natural topographical feature of the site.
 - (4) Are substantially planted and covered with live vegetation. No berm shall consist entirely of turf grass, ground cover, mulch or similar material. If a berm is greater than 2 feet in height all trees shall be arranged so that they are planted within 2 vertical feet of the natural grade, unless irrigation is provided.
 - (5) Are fully installed, planted, and stabilized prior to certification of zoning compliance.
 - (6) Are designed to prevent standing water or to impede the flow of stormwater from adjacent properties.
 - (7) Are free of structures, including fences, unless approved by the town as part of the landscaping requirements for a development site.
 - (8) Are held and maintained by a legally constituted homeowners association if located in a residential development and shall not be used as part of any outdoor living space by adjacent property owners within the development.
 - (9) Are not used for the display of vehicles or other merchandise, except that, when approved by the town, the berm and any other required landscaping area may be used as a display site for landscaping materials and plants for sale by an adjacent use.
 - (10) Berms are not permitted where installation will destroy or damage required tree save areas.

.5 Spacing of plantings.

Clustering and/or random spacing of plants and trees is encouraged to produce a natural appearance in the landscape to the extent that the plantings meet the screening intent of this section.

.6 Grading and Development within the Buffer Yard Area

No grading, clearing, or land disturbing activities shall occur within the required buffer yard area. Areas completely devoid of existing trees may be graded with slopes no greater than 3:1 as long as the future grades do not change the functionality of the required buffer yard (example: grading of a buffer yard to where the planted vegetation is below the property to be buffered). No fill or grading shall occur in any tree save area. Grading shall not create a new drainage pattern that is harmful to existing vegetation.

.7 Alternate Buffer Yard Plan

In the event of unusual topography or elevation of a development site, soil or other sub-surface condition on the site, or the presence of existing vegetation, the Zoning Administrator may alter the buffer yard requirements as long as the existing features of the development site comply with the spirit and intent of this Article. Such an alteration may occur only at the request of the property owner, who shall submit a plan to the Plan Reviewer showing existing site features that would buffer the proposed use and any additional buffer yard materials the property owner will plant or construct to buffer the proposed use. The Plan Reviewer shall not alter the requirements of the buffer yard unless the developer demonstrates that existing features and any additional buffer yard materials will buffer the proposed use as effectively as the required buffer yard. In deciding whether to approve such a plan, the Plan Reviewer shall consult with the Zoning Inspector. -Plans must be reviewed and approved prior to issuance of any certificate of occupancy.

.8 All buffer yards shall remain undisturbed except for the following:

- (a) Utility easements may cross a buffer yard, but may not be planted laterally in a buffer yard. To the extent possible, the path cleared shall be replaced with plant materials which are consistent with those that existed prior to the easement.
- (b) Driveways and street crossings may cross a buffer yard but may not be installed laterally in a buffer yard.
- (c) Sidewalks and other pedestrian or bicycle paths may cross a buffer yard or be placed within it if such avoid disturbing existing vegetation
- (d) Landscaping installation, maintenance, and replacement shall be exempt.

.9 In situations where the required buffer yard width is partially or completely contained within an existing easement (e.g. power or natural gas transmission, etc.) the planting requirements of this Ordinance shall be met outside of the easement area. This area shall be identified as a buffer yard on all site, grading, erosion control, and landscape plans.

7.6 Screening**.1 Purpose**

The purpose of a screen is to provide a visual barrier between an unsightly or out of scale development feature and the view from public streets and abutting properties. It is required as specified below:

- (a) dumpster or trash handling areas: opaque screen
- (b) mechanical and utility equipment at ground level or rooftop equipment: opaque screen or as otherwise provided in Article 4.
- (c) service entrances or utility facilities for building operation: semi-opaque screen
- (d) loading docks or spaces: semi-opaque screen
- (e) above ground backflow preventer: semi-opaque
- (f) all other uses for which screening is specifically required under these regulations (see Article 9, Conditions for Certain Uses).

.2 Opaque Screens**(a) Intent**

An **opaque screen** is intended to exclude all visual contact with the screened structure or use.

(b) Composition

An opaque screen may be composed of:

- a wall
- wood fence
- planted vegetation
- existing vegetation
- a combination of these elements which will meet the purpose of the requirement

(c) Width

The width of the screen is that which is necessary to accommodate the screening materials.

(d) Location

To provide maximum sight line obstruction, a screen shall be placed immediately adjacent to the structure or use to be screened except as otherwise approved by staff.

(e) Performance

Performance of the screen shall meet or exceed the following standards:

- (1) To produce an opaque screen, intermittent planting of deciduous and evergreen trees shall obtain a height at maturity of no less than 35 feet and have no unobstructed openings between tree canopies upon maturity.
- (2) At installation, shrub plantings shall have a minimum height of 3 feet with an expected height at maturity at least 12 feet, and no unobstructed openings wider than four feet.

- (3) At least 50 percent of the required trees and at least 75 percent of the required shrubs shall be evergreen species.
- (4) A structural screening material such as a wall or wood fence must be augmented with vegetation. Exceptions may include the screening of dumpsters in rear yard parking lots. Man-made berms are not permitted along public streets as a means of meeting the screening requirement of this section. Natural changes in topography will, however, be taken into account when evaluating sight lines.

.3 Semi-Opaque Screens

(a) Intent

A **semi-opaque screen** is intended to obscure visual contact with the screened structure or use. It can be used as a device to reduce the perceived scale and massing of a structure and to enhance its compatibility with the existing built and natural environment.

(b) Composition

An semi-opaque screen may be composed of:

- a wall
- wood fence
- planted vegetation
- existing vegetation
- a combination of these elements which will meet the purpose of the requirement

(c) Width

The width of the screen is that which is necessary to accommodate the screening materials.

(d) Location

To provide maximum sight line obstruction, a screen shall be placed immediately adjacent to the structure or use to be screened except as otherwise approved by staff.

(e) Performance

Performance of the screen shall meet or exceed the following standards:

- (1) To produce a semi-opaque screen, intermittent planting of deciduous and evergreen trees shall obtain a height at maturity of no less than 35 feet and have no unobstructed openings wider than 10 feet between tree canopies upon maturity.
- (2) At installation, shrub plantings shall have a minimum height of 3 feet, expected height of at least 6 feet at maturity, and no unobstructed openings wider than four feet.
- (3) At least 75 percent of the required shrubs shall be evergreen species.
- (4) When the builder or developer chooses a structural screening material such as a wall or wood fence, it shall be augmented with shrubs planted 6 feet on center. Man-made berms are not permitted along public streets, as a means of meeting the screening requirements of this

section. Natural changes in topography will, however, be taken into account when evaluating sight lines.

7.7 Street Trees and Internal Landscaping

.1 Purpose

The purpose of this section is to regulate the protection, installation, and long-term management of trees and shrubs within the Town. The regulation of street trees along public and private streets within the Town ensures a pedestrian friendly environment along with providing distinct aesthetic, economic and environmental significance, and value as a future natural resource to the Town.

.2 Spacing and Location of Street Trees

Street trees are required to be within a minimum 7 foot planting strip located between the existing street and proposed sidewalk. Planting shall be provided as follows:

- (a) Large maturing canopy trees shall be planted at a spacing not to exceed 40 feet on center except that spacing may be altered slightly to accommodate driveways.
- (b) Small maturing “canopy –like” trees shall be planted 30 feet on center where existing overhead utility lines prohibit the use of large maturing canopy trees.
- (c) For property located on a major or minor thoroughfare, excluding the Town Center (TC) zoning district, an additional row of street trees are required to be located behind the proposed sidewalk in a 10-foot landscape easement to be recorded on a plat of record prior to issuance of a building permits. The interior row of trees shall be staggered from the trees provided within the right-of-way.
- (d) All street trees must be listed as an approved street tree on *The Town of Huntersville Tree and Shrub List*.

.3 Supplemental Landscaping Provisions for Residential Lot Trees

(a) New Trees

In order to maintain or replenish the urban tree canopy in areas of new residential subdivision, except when located in the TOD-R zoning district, each lot shall provide canopy trees in accordance with the following schedule:

<u>Lot Size</u>	<u>Required Number of Canopy Trees</u>
Less than 10, 000 sq./ft.	1 Front yard, 1 Rear Yard
10,000 –15,000 sq./ft.	1 Front yard, 2 Rear Yard
15,001 – 20,000 sq./ft.	2 Front yard, 2 Rear Yard
More than 20,000 sq./ft.	3 Front yard, 3 Rear Yard

(b) Existing Trees

The use of existing trees to satisfy this requirement is encouraged. Supplemental plantings may be required in the addition to native material. Existing canopy trees over 6" in caliper may be counted towards fulfilling this requirement. Required street trees may not be counted towards the fulfillment of this requirement.

(c) Location and Spacing

All trees required within this section shall be planted within the private lot and must be spaced at a width sufficient to accommodate mature growth. All trees shall be listed as an approved tree on *The Town of Huntersville Tree and Shrub List*.

.4 Internal Landscaping Requirements for off-street parking in **Commercial Development**

Please refer to Article 6 for internal landscaping requirements for parking lots in commercial developments.

7.8 Installation Guarantees and Maintenance Sureties

.1 Installation Guarantee Required.

A final Certificate of Occupancy may be issued prior to the installation of trees and shrubs, excluding yard trees, during the non-planting season if a Cash Bond, Surety Bond or Letter of Credit is issued for 120% of the cost of materials and installation. Planting shall be completed during the next planting season.

The planting season shall run from October 15 to March 15, except for extreme weather conditions as determined by staff. A final Certificate of Occupancy shall not be given during the planting season unless all of the landscaping is completely installed according to this Article. A temporary Certificate of Occupancy may be issued during the non-planting season in order to allow planting to occur during the next planting season.

.2 ~~Maintenance Surety Warranty~~ Required.

Developers shall enter into a ~~maintenance surety Warranty~~ agreement with the Town of Huntersville guaranteeing the viability of street trees and trees and shrubs planted in buffer yards for a period of 1 year following planting. The amount of the ~~surety warranty~~ shall be equal to 50% of the value of the new trees or landscape material and their installation. The ~~maintenance surety warranty~~ shall be provided when all of the required trees and shrubs have been planted.

7.9 Compliance and Penalties

The developer/owner shall be held responsible for compliance with the provisions of this Article and shall cooperate with the town in its efforts to administer and enforce these requirements.

Any act constituting a violation of this Article that results in the destruction, removal, or damage of trees, shrubs, and any vegetation, shall subject the landowner and the violator to a civil penalty in the amount of \$2.00 for every square foot of area of damaged or destroyed vegetation, not to exceed \$30,000, payable to the Town of Huntersville. In addition, any tree, shrub, or required vegetation that has been removed or destroyed shall be replaced in accordance with an approved re-vegetation plan.

Section 11.2, *Enforcement*, shall also apply except for the amount of the penalty and time period of Section 11.2(3)(g). A warning citation or notice shall be issued and destruction and removal shall cease immediately. If the offender fails to pay the civil penalties within ten (10) days after having been cited, the Town may recover the penalties in a civil action in the nature of debt.

ARTICLE 7, PART B: OPEN SPACE**7.10 Open Space – Purpose, Intent and Definitions**

Regulations are intended to provide quality open space within a subdivision, multi-building site or commercial development.

There are five types of open space Urban, Agricultural, Common, Natural, and Recreational. Encouragement is given to apply creative design and allow flexibility to aid application of open space typologies. When determining placement of open space within a subdivision evaluation should occur when siting services and infrastructure by reducing road length, utility runs, and pavement. The creation of compact neighborhoods accessible to open space amenities aid strong community identity.

.1 Open Space Typologies Defined

- (a) Urban Open Space: planned and improved open space, accessible and usable. For small lot subdivisions urban open space shall be provided to persons living within ¼ mile measured along rights-of-way. In large lot subdivisions, urban open space application is required at ½ mile.
- (b) Agricultural Open Space: preserve agricultural lands and rural character that would likely be lost through conventional development approaches.
- (c) Common Open Space: Any portion of a land that is not part of a private lot or tract of land such as, but not limited to, area devoted to water quality/quantity measures, entryway features including the landscape material, signage and, if applicable berm and any other open space area that is not defined by one of the four other open space types.
- (d) Natural Open Space: preserve forested lands, natural features, and rural character that would likely be lost through conventional development approaches.
- (e) Recreational Open Space: to provide for active and passive recreation, included but not limited to, implementation of associated long range Town/County plans.

Reference Article 12: Definitions for subdivision, large lot.

- .2 All zoning districts, except Rural, require Urban Open Space to be incorporated into the design. All open space areas outside of landscape and BMP (stormwater) easements and lots that are not specified as Urban Open Space shall meet one or a combination of the remaining four open space typologies, Agricultural, Common, Natural and Recreational. Article 3 and Article 7.11 shall be referenced for further information.
- .3 Rural Zoning shall incorporate a combination of Agricultural, Common, Natural, or Recreational open space typologies. Article 3.2.1 and Article 7.11 shall be further referenced.
- .4 Below is a table outlining what types of open space options are available to meet zoning district standards.

		Zoning Districts	R	TR	GR	NR, NC, TC, HC, CI, CB, SP, TND-U, TND-R, VS, TOD-R, and TOD-E.	Ordinance Reference
Open Space Type							
<i>Common</i>			◆	◆	◆	◆	7.10.1.c.
<i>Agricultural</i>			◆	◆			7.10.1.b.
<i>Natural</i>			◆	◆			7.10.1.d.
<i>Recreational</i>			◆	◆			7.10.1.e.
<i>Urban -</i>	<i>Types</i>						7.11.1.f
	<i>Community Garden</i>			◆		◆	
	<i>Forecourt</i>			◆		◆	
	<i>Green</i>			◆		◆	
	<i>Greenbelt</i>			◆		◆	
	<i>Greenway</i>			◆		◆	
	<i>Park</i>			◆		◆	
	<i>Parkway</i>			◆		◆	
	<i>Pedestrian Passage</i>			◆		◆	
	<i>Plaza</i>			◆		◆	
	<i>Promenade</i>			◆		◆	
	<i>Square</i>			◆		◆	
	<i>Woonerf</i>			◆		◆	

7.11 Urban, Agricultural, Common, Natural and Recreational Open Space

.1 Urban Open Space:

- (a) Urban Open Space is defined as all areas not divided into private or civic building lots, streets, right-of-way, parking or easements.
- (b) Urban Open Space shall be planned and improved, accessible and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and may contain one or more of the following improvements: landscaping, walls, fences, walks, statues, fountains, ball fields, and/or playground equipment. Walls and fences shall be made of brick, stone, wrought iron, or wood and shall not exceed 3.5 ft. in height. (Exceptions: fences used in conjunction with ball fields.) Urban Open Space shall conform to one of the Urban Open Space types described in this section, or to a minor variation of same.
- (c) In major subdivisions and multi-building developments in all zoning districts except Rural, urban open space shall be integrated into the design of the site. Such open space, whether on-site or off-site, shall be located within ¼ mile of each building lot as measured along the rights-of-way of streets providing access between the two. In large-lot subdivisions such urban open space shall be integrated into the design of the site so that, whether located on-site

or off-site, such open space is located within ½ mile of all building lots, as measured along the rights-of-way of streets providing access between the two.

- (d) Urban Open Space features should provide focal points for the neighborhood. A central square or green, for example, may comprise a majority of the open space. There should be a hierarchy of open space within new neighborhoods to serve the needs of all residents.
- (e) No more than twenty-five (25) percent of each above ground water quality/quantity treatment system (BMP) within an urban open space area can be used. Any above ground BMPs located within an Urban Open Space must add to the overall quality of the open space, rather than detract from area devoted to BMP. To exceed the twenty-five (25) percent limitation a design may be submitted to the Planning Board for review and approval. Such BMP design shall incorporate a combination of the following design elements; but not limited to, pathways, boardwalks, ponds with fountains, and landscape material. Underground BMPs are not limited.
- (f) Urban Open Space types include Community Garden, Forecourt, Green, ~~Greenbelt~~, Greenway, Park, Parkway, Pedestrian Passage, Plaza, Promenade, Square, and Woonerf, and are characterized as described below or to a minor variation of same.

Community Gardens should be centrally located and accessible to residents for participation. Maintenance of the site shall be continued year round, as the intent is for the garden to be all-season. Should the garden become abandoned then the garden area will be required to be seeded with grass and used as a recreational area. Community Gardens shall be a minimum of 500 sq. ft.



Forecourts are open space areas which act as buffers between residential buildings and non-residential buildings or streets. Forecourts are entirely bounded by streets. It is recommended that forecourts be planted parallel to all street ROW's with one tree species. Such plantings shall be a minimum of 10 ft. on center and a maximum of 30 ft. on center.

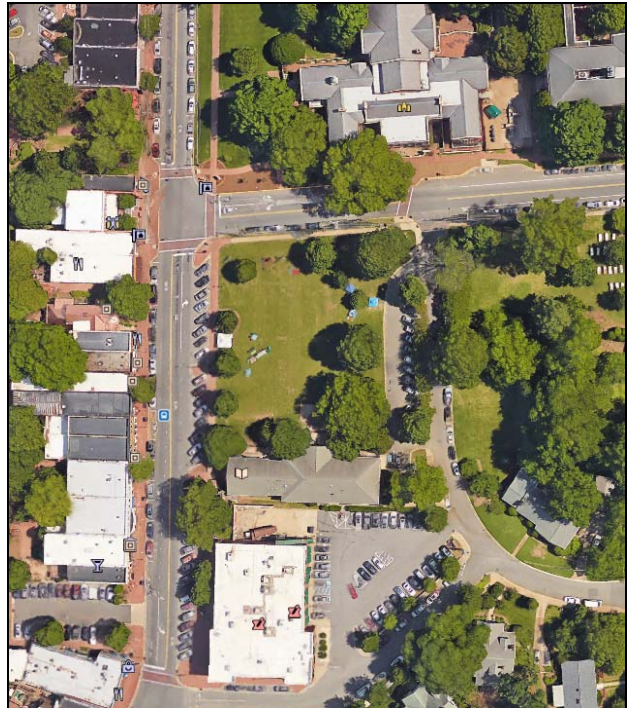


Greenbelts run along the perimeter of a neighborhood or town and serve to buffer from surrounding non-compatible uses such as a highway corridor, industrial district, or from agricultural areas or adjacent towns.

Greenbelts are left natural, but may include walking trails or passive recreation.



A **Green** is typically landscaped with trees at the edge and an open expanse of grass in the center that is externally surrounded directly or indirectly by buildings.



Green continued.



Greenways are generally linear in nature and may bisect or border developments. They are designed to incorporate natural settings such as creeks and significant stands of trees with neighborhoods. Recreational uses shall be provided, at a minimum, trails for walking, jogging and/or bicycling. A greenway may be bound by a public street, but not required. Greenways dedicated to Town/County as identified on the adopted greenway plan will be counted toward tree save area, if relevant. Upon completion of the publicly dedicated greenway any trees removed due to construction are not required to be replaced.



Parks may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum of 25% of their perimeter, and are encouraged to be enclosed by streets on all sides. Mini Parks, such as, but not limited to dog parks, playgrounds, pocket parks and splash pads can be incorporated throughout a development to meet the ordinance requirements.

Where mini parks are not used, the minimum size shall be 1 acre and maximum size 3 acres. Maximum park size may exceed 3 acres, if through design, the park creates a central open space, which services an entire neighborhood or group of neighborhoods; or incorporates physical features, which are an asset to the community (i.e. lake, high ground, significant stand of trees).



Parkways are open spaces designed to incorporate natural settings such as creeks and significant stands of trees within a neighborhood. Parkway may be entirely bounded by streets or pedestrian ROW's within developed areas. Parkway differ from parks and squares in that their detailing is natural (i.e. informally planted). Parkway are used for walking, jogging or bicycling. In addition, small scale recreational features such as playground area or soccer field are appropriate in parkways.



Parkways continued.



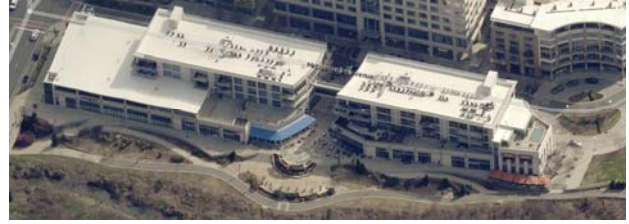
A **Plaza** is an open area adjacent to a civic, commercial, or residential building/s. Plazas function as gathering places. Limited parking is also permitted. Plazas are always paved in brick or another type of paver or crushed stone. Plazas shall be level, stepped, or gently sloping (less than 5% grade). The following sizes are recommended but may be smaller or larger depending on the building or facility design. At no time shall a plaza's horizontal length or width be greater than 3 times the height of surrounding buildings. Plazas may be left unplanted. If planted, trees should form the geometric frame of the plaza space or for the structure the plaza services. Spacing shall be a minimum of 10 ft. on center and a maximum of 30 ft. on center. Minimum size is 2,000 sq. ft. and maximum size is 30,000 sq. ft.



Pedestrian passageways are relatively narrow public spaces located in dense areas between buildings, allowing pedestrian access to the public front. These passageways can be successful locations for store entries, window displays, café seating or public meeting space. The passageway shall incorporate fixtures such as, but not limited to fountains, benches, landscape materials, sculptures, and other decorative elements.



Pedestrian passageways continued.



A **Promenade** is a large, linear-designed area, usually adjacent to buildings lined with trees and shrubbery, which can be used as a public walk. Typically parking surrounds a promenade.



Squares are areas for passive recreational use. Squares shall be bounded by streets on a minimum of three sides or 75% of their perimeter. Minimum size: 500 sq. ft.; Maximum size: 1 acre. Squares may be entirely paved in crushed gravel, brick paver, or similar material, or partially paved with other areas of soft landscape. Squares are encouraged to be planted parallel to all street ROW's with one tree species planted a minimum of 10 ft. on center and at a maximum of 30 ft. on center. Geometrical tree planting layouts for internal plantings are encouraged. A close can function as a square.



A **Woonerf** is an access way where the primary use is by pedestrian and bicycles with secondary use by vehicles. By removing curbs and any indication of a car travel line, while at the same time adding landscaping and street furniture, the public realm for pedestrians is expanded into what was the street. Parking areas shall be dispersed,



- .2 Agricultural Open Space: shall include areas set aside for agricultural purposes such as livestock, growing fruits, vegetables, grains, forestry, etc. The goals of the agricultural open space are as follows:
- (a) To conserve areas of the town with productive soils for continued agricultural use by preserving large blocks of land large enough to allow for efficient operations.
 - (b) To minimize site disturbance and erosion through retention of existing vegetation and avoiding development in sensitive farmland areas.
 - (c) To protect scenic views and elements of the town's rural character, and to minimize perceived density by minimizing views of new development from existing roads.
 - (d) To preserve and maintain historic and archaeological sites and structures that serve as significant visible reminders of the town's social and architectural history.

Reference Article 3 and Article 7.12 - 7.14 for further information

- .3 Common Open Space: shall include all other areas that are not suitable within the other open space categories. These areas can include, but are not limited to the following:
- (a) Entryway monumentation to include the landscaped area, berm (if applicable)
 - (b) Water quality/quantity feature, known as Best Management Practices (BMPS): The required maintenance easement shall be included as common open space. BMPS include, but are not limited to, sandfilters, detention ponds, dry ponds, rain gardens, swales, and level spreaders.

Reference Article 3 and Article 7.12 - 7.14 for further information

- .4 Natural Open Space: shall include areas where natural features, such as topography, rock outcroppings, hills and valleys are not altered. Only minimal thinning of vegetation shall be permitted to promote overall health of the natural area in accordance with the tree protection regulations of Article 7. The goals of natural open space are as follows:
- (a) To conserve areas of the town with productive soils for forestry use by preserving large blocks of land large enough to allow for efficient operations.
 - (b) To encourage the maintenance and enhancement of habitat for various forms of wildlife and to create new woodlands through natural succession and reforestation where appropriate.
 - (c) To minimize site disturbance and erosion through retention of existing vegetation and avoiding development in sensitive areas.
 - (d) To conserve open land, including those areas containing unique and sensitive features such as natural areas and wildlife habitats, streams and creeks, wetlands and floodways.
 - (e) To protect scenic views and elements of the town's rural character, and to minimize perceived density by minimizing views of new development from existing roads.

Reference Article 3 and Article 7.12 - 7.14 for further information

- .5 Recreational Open Space: shall include areas where natural features may be altered to provide for recreational activities without impacting the impervious quality of the soil except as provided herein. These activities may include ballfields, equestrian trails, hiking trails, picnicking, primitive camping, golf courses, green spaces (manicured or not), etc. Structures related to the recreation space may count towards open space provided they do not create an impervious area over 100 sq. ft. The goals of recreational open space are as follows:
- (a) To preserve and maintain historic and archaeological site and structures that serve as significant visible reminders of the town's social and architectural history.
 - (b) To provide for active and passive recreational needs of town residents, including implementation of associated town long range plans.

Reference Article 3 and Article 7.12 - 7.14 for further information

7.12 Location of Natural, Recreational and Agricultural Open Space

- .1 The location of open space conserved through compact residential development shall be consistent with the policies contained in these provisions and other long-range documents adopted by the Town of Huntersville. All lands within areas required to be maintained as open space shall be protected by a permanent conservation easement, prohibiting further development, and setting other standards safeguarding the site's special resources from negative changes.
- .2 Lands to be preserved as open space should include wetlands; floodways; soils unsuitable for septic systems as identified by onsite analysis or by using the USDA Soil Conservation Survey; mature woodlands; significant wildlife habitat; prime agricultural farmland; historic, archeological and cultural features listed (or eligible to be listed) on national, state or local registers or inventories; significant views into and out from the site; and aquifers and their recharge areas.
- .3 General Locational Standards: Subdivisions shall be designed around the total required open space. The design process should therefore commence with the delineation of all potential open space, after which potential house sites are located. Following that, access road alignments are identified, with lot lines being drawn in as the final step.
- .4 Open space shall be placed in undivided preserves, which may adjoin housing areas that have been designed more compactly to create larger areas that may be enjoyed equally by all residents of the development.
- .5 Undivided open space shall be directly accessible to the largest practicable number of lots within the development. To achieve this, the majority of houselots should abut undivided open space in order to provide direct views and access. Safe and convenient pedestrian access to the open space from all lots not adjoining the open space shall be provided (except in the case of farmland, or other resource areas vulnerable to trampling damage or human disturbance). Where the undivided open space is designated as separate, non-contiguous parcels, no parcel should have a length-to-width ratio in excess of 4:1, except such areas that are specifically designed as village greens, ballfields, upland buffers to wetlands, waterbodies or watercourses, or designed as trail links.
- .6 Interconnected Open Space Network: As these policies are implemented, the protected open space in each new subdivision will eventually adjoin each other, ultimately forming an inter-connected network of open across the town and adjoining communities. To avoid the issue of the "taking of land without compensation", the only elements of this network that would necessarily be open to the public are those lands that have been required to be dedicated for public use.

7.13 Open Space Evaluation Criteria

- .1 In evaluating the layout of lots and open space, the following criteria will be considered by the town as indicating design appropriate to the site's natural, historic, and cultural features, and meeting the purposes of this ordinance. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and conservation areas. Reference Subdivision Ordinance 6.300. Accordingly, the town shall evaluate proposals to determine whether the proposed subdivision plan:
 - (a) Protects and preserves all floodways, and wetlands.
 - (b) Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses. For example, locating house lots and driveways within wooded areas is generally recommended, with two exceptions. The first involves significant wildlife habitat or mature woodlands which raise an

equal or greater preservation concern, as described in “e” and “h” below. The second involves predominantly agricultural areas, where remnant tree groups provide the only natural areas for wildlife habitat.

- (c) If development must be located on open fields or pastures because of greater constraints in all other parts of the site, dwellings should be sited on the least prime agricultural soils, or in locations at the far edge of a field, as seen from existing public roads. Other considerations include whether the development will be visually buffered from existing public roads, such as by a planting screen consisting of a variety of indigenous native trees, shrubs and wildflowers (specifications for which should be based upon a close examination of the distribution and frequency of those species found in a typical nearby roadside verge or hedgerow).
- (d) Maintains or creates an upland buffer of natural native species vegetation adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.
- (e) Designs around existing hedgerows and ~~tree~~line~~tree~~ lines between fields or meadows. Minimizes impacts on large woodlands (greater than five acres), especially those containing many mature trees or a significant wildlife habitat, or those not degraded by invasive vines. However, woodlands in poor condition with limited management potential can provide suitable locations for residential development. When any woodland is developed, great care shall be taken to design all disturbed areas (for buildings, roads, yards, septic disposal fields, etc.) in locations where there are no large trees or obvious wildlife areas, to the fullest extent that is practicable.
- (f) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public roadways. For example, in open agrarian landscapes, a deep “no-build, no plant” buffer is recommended along the public roadway where those views or vistas are prominent or locally significant. In wooded areas where the sense of enclosure is a feature that should be maintained, a deep “no-build, no-cut” buffer should be respected, to preserve existing vegetation.
- (g) Avoids siting new construction on prominent ridges by taking advantage of lower topographic features.
- (h) Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the US Environmental Protection Agency and/or by the North Carolina Department of Environment, Health and Natural Resources.
- (i) Designs around and preserves sites of historic, archaeological or cultural value, and their environs, insofar as needed to safeguard the character of the feature, including spring houses, barn foundations, cellar holes, earthworks, burial grounds, etc.
- (j) Protects rural roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting onto existing public roads. Establishes buffer zones along the scenic corridor of rural roads with historic buildings, hedgerows, etc.
- (k) Landscapes common areas such as cul-de-sac islands, and both sides of new streets with native species shade trees and flowering shrubs -providing high wildlife conservation value listed on the approved tree and shrub list.
- (l) Provides active recreational areas in suitable locations offering convenient access by residents, and adequately screened from nearby houselots.
- (m) Includes a pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between properties and activities or special features within the neighborhood open space system. All roadside footpaths should connect with off-road trails, which in turn

should link with potential open space on adjoining undeveloped parcels (or with existing open space on adjoining developed parcels, where applicable).

- (n) Provides open space that is reasonably contiguous. For example, fragmentation of open space should be minimized so that these resource areas are not divided into numerous small parcels located in various parts of the development. To the greatest extent practicable, this land shall be designed as a single block with logical, straightforward boundaries. Long thin strips of conservation land shall be avoided, unless the conservation feature is linear or unless such configuration is necessary to connect with other streams or trails. The open space shall generally abut existing or potential open space land on adjacent parcels, and shall be designed as part of larger contiguous and integrated greenway systems.

7.14 Ownership of Open Space

- .1 Open space may be owned or administered by one or a combination of the following methods: fee simple ownership by a unit of government or private non-profit land conservancy; owned by a homeowners association; or by individual private ownership such as a farmer, developer or other private entity that maintains the open space (i.e. farming, equestrian facility, etc.).

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8.0 Applicability

No structure shall be erected nor use established in conflict with:

- the district regulations of Article 3,
- the building and lot regulations of Article 4,
- the street regulations of Article 5,
- the off-street parking regulations of Article 6,
- the landscape and open space regulations of Article 7,
- the general provisions of Article 8, or
- the sign regulations of Article 10.

8.1 Street Frontage Required

Any lot on which a building (or buildings) is to be erected or use is to be established shall about a public street with the following exceptions:

1. Any lot for which a residential use has been legally established prior to the effective date of this ordinance in accordance with provisions permitting establishment of use on a lot served by a private and exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement. A lot of one (1) acre or more in area created **through a division of land not subject to the subdivision ordinance** shall be eligible for issuance of a permit to establish a single-family detached house, provided the lot is served by a private and exclusive recorded easement or fee-simple projection of the building lot at least 15 feet in width connecting said lot to a public street. A driveway accessible by emergency equipment must be located on said easement or lot projection. Lots created under these provisions shall be known as “easement-access lots” and “flag lots”, respectively.
2. Any lot for which a non-residential use has been legally established prior to the effective date of this ordinance in accordance with provisions permitting establishment of use on a lot served by a private, exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be construed in the same manner as a lot abutting a street provided that it is served with a driveway built to appropriate standards located on the permanent, recorded easement.
3. Up to six residential lots may be served by a privately maintained easement with a minimum 30-foot right-of-way if designed according to the specifications of the Rural and Transitional Farmhouse Cluster development or the specifications of the Rural and Transitional Conservation Subdivision.
4. A development plan may be considered for approval in the TC, NC, NR, R, TR, HC, CB, CI, VS, both TND and TOD districts where residential and/or non-residential lots and/or structures front upon a private courtyard, carriageway, mid-block private alleyway with courtyard, or pedestrian way, or urban open space as defined in Article 7, Part B, where adequate access by emergency vehicles is maintained by way of a street or alley and where the off-street placement of uses does not diminish the orientation of building fronts to the public street.
5. A development plan may be considered for approval in the Campus Institutional and Corporate Business Districts to permit interior lot access by private drives so long as business and emergency access is furnished to all interior building sites, and proposed buildings at the perimeter of the campus and corporate development front upon public street(s) or are buffered in accordance with this ordinance. It is intended that subdivisions be primarily served by public streets and use of private drives is minimal. Private drives may be appropriate where property configuration or environmental constraints make their use a practical alternative. Private drives shall be constructed in accordance with Retail/Mixed-Use Local Street standards as found in the Engineering Standards and Procedures Manual and sidewalks shall be provided on at least one side of the private drive. See the Campus and Corporate Business Districts.

Commented [JS1]: Deleted “site specific” so as not to confuse with “site specific vesting plan” in article 2.

Commented [JS2]: See above

6. To access a lot or lots in the Highway Commercial District, where factors beyond developer control, such as a limited access highway, an existing development, or the location of an existing intersection, prohibit completing a street connection, a private drive may be substituted for the interior street which cannot be connected to the public network.

8.2 One Principal Building on a Lot; Exceptions

Only one principal building and its customary accessory building(s) may be erected on any lot, except that multiple buildings which, taken together, compose a single principal use may be erected on a single lot as permitted by the district regulations and described by building and lot type. Requirements of subdivision ordinance Section 6.800 apply.

8.3 Lot Size

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size such that the requirements for building and lot type cannot be met, or the performance standards for spacing of structures, building mass and scale, and street frontage relationships cannot be respected. This prohibition shall not be construed to prevent the purchase, dedication, or condemnation of narrow strips of land for public utilities or street or sidewalk right-of-way purposes.

8.4 Yard Designation

- .1 On lots which abut more than one street, the building(s) and lot shall generally front upon the more pedestrian-oriented street, given the arrangement of existing and proposed streets and drives, and the orientation of buildings on adjoining lots.
- .2 Where multiple buildings are permitted on a single platted lot, each building shall generally front upon a pedestrian-oriented street, either external or internal to the development; side and rear yard designations shall be determined on the basis of building orientation.
- .3 On irregularly shaped lots, the location of required front, side, and rear yards will be determined by the Zoning Administrator. The determination will be based on the spirit and intent of this ordinance to achieve an appropriate spacing of buildings and orientation to the street(s).

8.5 Yard Dimensions for Corner Lots

- .1 If two corner lots are separated by a common rear lot line, the common side yards of the lots on the street must be at least 50 percent of the greater of the two front setbacks, existing or required.
- .2 In any district, where the side lot line of a corner lot is substantially a continuation of the front lot line of the lot to its rear, the required side yard of the corner lot shall (a) be at least 50 percent of the established front setback of the adjacent lot or (b) establish a transition between existing buildings by stepping toward the street or back from the street a distance equal to the lesser building setback + one-half of the difference between the setbacks of the adjoining buildings.
- .3 Buildings on corner lots shall be positioned on the corner abutting the build-to lines on both streets.

8.6 Through Lots

If both the front and rear yards of a lot abut public streets, then the rear building line shall respect the alignment of buildings on the back street while the front building line shall respect the alignment of buildings on the fronting street.

8.7 Height Limitation

- .1 The height of habitable buildings and components is controlled by building type (Article 4).
- .2 Structures and structural components not intended for human occupancy (including towers, steeples, flagpoles, chimneys, water tanks or similar structures) may exceed the height limit of buildings. Further, towers primarily used for manufacturing purposes that may also be occupied may exceed the height limit of buildings. Components of civic buildings which extend above the height limit shall follow the standards for the civic building type (Article 4). When adjacent to a lot or lots located in a

residential district, any part of a non-civic structure which extends above the height limit must be separated from the residential lot by a distance equal to its height measured from the ground. In all other instances, any part of a non-civic structure which extends above the height limit must be separated from lot lines by a minimum distance of one foot for every four feet in height measured from the ground.

- .3 The height limitations of this section shall not apply to public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.
- .4 Commercial communication towers, where permitted, may exceed the height limit for structures when the standards of Section 9.9 are met.

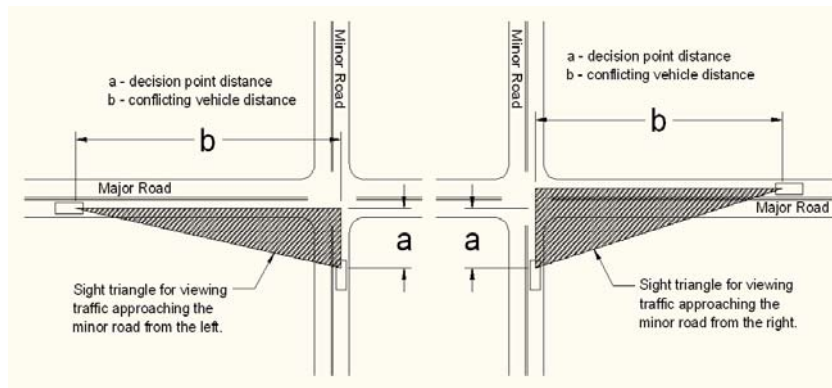
8.8 Structures and Uses Limited in Yards

- .1 No principal building or structure shall be located within any required setback or yard, forward of the build-to line for a principle structure, within any setback or yard established by a recorded plat, nor in any required buffer or screen.
- .2 Except as otherwise provided in this section, no accessory structure shall be located within an established setback or required side yard, nor within five feet of a side or rear lot line. Where permitted, accessory dwellings may be located no closer than 5 feet to the right-of-way or easement of an abutting mid-block alley, nor closer than 15 feet to an abutting rear property line. Piers, docks, and other water-dependent accessory structures may be located in any required setback or yard on lots, which abut a body of water. Fences, walls, security gates, paths, walkways, mailboxes, utility poles, lighting fixtures, patios at grade, and similar features may be located in an established setback or required yard, so long as the sight triangle on corner lots is protected according to the provisions of Section 8.9. If the accessory structure exceeds the height of the principal structure, it must meet the minimum side yard and be at least 15 feet from the rear lot line.
- .3 Fences may be located in any yard, established or required, according to the standards of Section 8.11.2.
- .4 Signs may be located in an established front setback or a sideyard abutting a public street as permitted by the provisions of Section 10, Signs.
- .5 Transit shelters may be located in any setback or yard which abuts a street, in accordance with Section 9.39.
- .6 Off-street parking areas, maneuvering areas for parking, and loading areas are prohibited in the established front building setback, which shall be landscaped, in any established side yard abutting a street, which shall be landscaped, and in any required buffer or screen. This restriction shall not apply to:
 - a) a driveway which crosses a front yard to provide access from the street to a parking area; or
 - b) an individual driveway, including conventional appurtenances thereto such as basketball goals, designed to also serve as a parking area for a detached or duplex dwelling; or
 - c) plazas associated with civic buildings or campus quadrangles that have been designed and approved for occasional use as secondary parking areas;
 - d) the frontage along a Retail/Mixed-Use Street for which specific streetscape plan and section have been adopted by the Board of Commissioners to include limited parking and access in a series of fronting yards.
 - e) off-street parking lots in established setbacks and yards of golf clubhouses, configured to minimize conflicts between street vehicles and recreational carts, located a minimum of 800 feet from a designated thoroughfare(s), and compliant with all other design standards for parking lots.
 - f) maneuvering areas for loading or delivery activities in the established setbacks and yards of buildings in mixed use zoning districts where the location of buildings that were legally constructed without the provision of these areas preclude them from being located out of established setbacks and yards. Maneuvering areas for parking, loading, or delivery activities are prohibited in the public right-of-way in residential and commercial districts.

- .7 No outdoor storage of goods and materials or refuse containers shall be located in any established setback or established side yard abutting a street, nor in any required buffer or screen, except for the temporary placement of refuse for scheduled curb side collection.
- .8 Notwithstanding other provisions of this section, architectural features such as cornices, eaves, bays, awnings, steps, gutters, and fire escapes may project up to 3 feet into an established or required yard; additional encroachment is permitted for certain building and lot types established in Article 4.
- .9 Subordinate structures attached to single family homes, such as decks, garages, porches, utility rooms, and similar features may extend into the required rear yard up to 25% of its depth, and may consume up to 20% of its area. Attached garages accessed from rear alleys may extend into the required rear yard to within 3' of the alley right-of-way or easement, and may consume up to 50% of its area. Such extensions may not exceed 50% of the width of the dwelling at the rear building line.
- .10 Above ground backflow preventers and water meters are expressly prohibited in the established front yards of buildings where they can be placed underground or a location outside of the established front yard is technically feasible according to the standards and requirements of the Charlotte-Mecklenburg Utility Department. Where there is no reasonable alternative to locating an above ground backflow preventer or water meter in the established front yard, the structure housing the device shall be covered in a non-reflective material and shall be surrounded, on all sides visible from public streets and abutting properties, by a landscaped opaque screen according to Article 7.6.2.

8.9 Clear Sight Triangle at Street Intersection

- .1 A clear view at each corner of an intersection of public or private streets or driveways shall be maintained by establishing a "sight triangle" that is free of obstructions that may block a driver's view. The extent of the required sight triangle varies according to the posted speed and traffic control device(s) of the streets forming the intersection. Below is a general figure from the American Association of State Highways and Transportation Officials (AASHTO) "*A Policy on Geometric Design of Highways and Streets*" which depicts the required sight triangle area to be free of obstructions at an intersection. Additional information on the required sight triangles can be found in the Town's Engineering Standards and Procedures Manual.



A sight triangle easement may need to be recorded on the property plat if the sight triangle does not fall completely within the recorded right-of-way. Should the sight triangle cross private property, the developer shall secure permanent sight triangle easement or right-of-way from all private property owners within the sight triangle prior to preliminary/construction plan approval.

- .2 No planting, structure, sign, fence, wall, man-made berm, or other obstruction to vision shall be installed, constructed, set out, or maintained so as to obstruct cross-visibility in the sight triangle between 30 inches and 96 inches above the level of the center of the street intersection.
- .3 The limitations of this section may be modified in the instances noted below, so long as adequate visibility is maintained relative to the intended speed limit:
 - (a) trees trimmed such that no limbs or foliage extend into the area between 30 and 96 inches above the level of the adjacent intersection. Required street trees in the green zone shall not create a walling effect within the sight triangle;
 - (b) fire hydrants, public utility poles, street markers, government signs, electrical junction boxes (below 30 inches in height), and traffic control devices;
 - (c) buildings located in the Town Center District, the Neighborhood Center District, or the commercial centers of either TND District;
 - (d) the approved and intentional use of traffic calming techniques to reduce speed; these include, but are not limited to: a series of hill crests, neckdowns, intersection diverters, and curb bulbs.
- .4 Corner easements refer to the Huntersville Engineering Standards and Procedures Manual (ESAPM).

8.10 Building Separation

All detached principal structures in all districts shall preserve a minimum building separation of 10 feet. The requirement of the district to conform to an existing pattern of building spacing along a street may require a greater separation or the provision of specified side yards. All detached accessory structures in all districts shall maintain a minimum building separation of 4 feet, as measured from the overhang.

8.11 Permitted Accessory Uses in All Districts

- .1 Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot.
- .2 Fences and walls.
 - In a residential, mixed-use, or commercial district, a fence or wall in the established front yard of a building shall be a minimum of 2 feet in height and a maximum of 5 feet in height. Decorative caps or spires which extend above the highest horizontal member of the fence shall not be included in the measurement of height. Chain link, welded wire, or similar fencing materials, if used, shall be placed on the interior side of a masonry wall, solid wood fence, or decorative wood or vinyl fence that is equal to or greater in height than the secure fencing and demonstrates effective screening capability. (For example, a 4' high welded wire fence attached to the interior of a decorative split rail fence or board farm fence of equal height or greater would perform to the standards of this section).
 - In a residential or mixed-use district, a fence or wall in an established rear or side yard **which abuts a street or alley** may not exceed 6 feet in height unless placed 15 or more feet inside property boundary. Within the first 15 feet, fences of chain link or similar material are permitted only if screened on the exterior side by evergreen shrubs planted no farther apart than 6 feet on center, minimum height 3 feet at installation, or if obscured from view by the screening method(s) set out in the paragraph immediately above.
 - In a residential or mixed-use district, a fence or wall in an established rear or side yard **which does not abut a street or alley** may not exceed 8 feet in height.
 - In a commercial district, a fence or wall shall not exceed 8 feet within the first 15 feet of an established side or rear yard abutting a street or alley. Fences of chain link or similar material are permitted in the first 15 feet of an established yard abutting a street or alley only if placed on the

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interior side of a masonry wall or solid wood fence and planted with a semi-opaque vegetative screen between wall or fence and street or alley. Beyond the first 15 feet abutting a street or alley, such materials may be used if screened on the exterior side by evergreen shrubs planted no farther apart than 6 feet on center, minimum height 2½ feet at installation, or if obscured from view by other screening method(s) which perform at the same or a higher level.

- In a commercial district, fences of chain link or similar material placed in an established yard which abuts a residential or mixed-use district shall provide a semi-opaque vegetative screen on the exterior side of the fence.
- For parking lots as principal or accessory uses, the standards of Article 6 will control.

.3 On-site Land Clearing and Inert Debris (LCID) landfill.

- Any on-site LCID landfill must obtain a permit from and comply with the standards of the Mecklenburg County Environmental Protection Department and the State of North Carolina.
- Any such landfill must be closed in an approved fashion within six months of completion of construction or within 12 months of cessation of construction, if the development project has not been completed.
- The location of any such landfill must be indicated on the preliminary subdivision plan and the final subdivision plat. Further, any parcel or lot which contains any part of any such landfill must have notification of the existence and extent of the landfill recorded as part of the deed for the lot or parcel.
- No portion of any such landfill may be located within 75 feet of any property line which constitutes the external boundary of the project. This includes structures, equipment storage, parking areas and fill areas, except that access drives may cross this area.
- Any on-site LCID landfill which is located in a corporate business district is exempted from the 12 month requirement provided that no portion of the landfill is located within 300 feet of any adjoining property zoned for residential or mixed use, and so long as an opaque screen is provided and/or maintained which visually separates the landfill from the residential or mixed use adjoiners.
- A surety bond or irrevocable letter of credit in an amount to be determined by the consulting engineer, must be provided to ensure that any active landfill area will be closed in an approved fashion. The amount of the bond will be based upon the maximum acreage expected to be in use at any given time.

.4 Petroleum storage, accessory to a permitted principal use or building, subject to the Fire Prevention Code of the National Board of Fire Underwriters.

.5 Temporary buildings and storage of materials, provided that the use is in conjunction with the construction of a building on the same lot or on an adjacent lot; the temporary uses shall be terminated upon completion of construction.

.6 Swimming pools located on any site, including single family residential sites, shall be:

- Located in a side or rear yard only;
- Located a minimum of ten feet from any property line measured to the water's edge;
- Completely enclosed by a fence or wall no less than four feet, but no more than eight feet in height above grade as measured on the side of the fence or wall which faces away from the swimming pool. This fence or wall shall enclose the pool itself and may include any other additional portions of the lot. All fence or wall openings into the pool area shall be equipped with a gate that opens outward away from the pool and shall be self-closing and have a self-latching device.

8.12 Standards for Construction; Developer Responsibility

Where standards and responsibility for infrastructure construction, including but not limited to streets, sidewalks, and landscaping, are specified in this document or in the subdivision regulations of the Town of Huntersville, town standards shall control unless otherwise specified. ~~In the absence of a specified town standard, construction shall be in conformance with the then most recent version of the Land Development Standards Manual.~~

Commented [JS3]: Below sentence no longer needed.

8.13 Regulation of Nuisances

- .1 Noise. No use shall be operated so as to generate recurring noises that are unreasonably loud, cause injury, or create a nuisance to any person of ordinary sensitivities. No nonresidential use shall be operated so as to generate any noise in an adjacent residential, research, or office-institutional district, as detected in that district without instruments, that is louder than the noise which could be generally expected from uses permitted in that district. Further, noise shall be subject to the provisions in the Huntersville Code of Ordinances within to Town Limits.
- .2 Fumes and Odors. No use shall emit fumes, gasses, or odors in concentrations or amounts that cause injury or create a nuisance to any person of ordinary sensitivities on another property.
- .3 Vibration. No use shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line without instruments.

8.14 General Standards for Driveway Permitting

- .1 No driveway or other point of access to a public street shall be constructed, relocated, or altered unless a driveway permit is obtained from the Town of Huntersville or the State of North Carolina, whichever jurisdiction applies. The applicant shall comply with the most restrictive standards.
- .2 For development projects composed of multiple buildings and lots, access to the pre-existing public street system shall be determined by the location of proposed intersecting streets. Except for lots in the Conservation Subdivision, no parcel of land which is a functional part of the overall development, even though it may be removed by the developer from the rest of the project area by subdivision or by metes and bounds description, shall be permitted to have driveway access to the public streets bounding the project area.
- .3 In a residential major subdivision, access to individual lots from streets constructed as part of the subdivision shall be reviewed and approved at the time each building permit is issued. Individual driveway permits are not required on a lot-by-lot basis.
- .4 Determination of the location and design of access to the public street system shall be made by professional reviewers based on a contextual examination of the site, surrounding development, potential traffic generated on the site, current and future surface transportation system needs, special policies which might exist for the corridor being accessed, and state of the practice principles for access management as promulgated by the Institute of Transportation Engineers and the Transportation Research Board.

8.15 Special Requirements for Lots along Thoroughfares

- .1 Authorization. Pursuant to North Carolina General Statutes 160A-306 and 153A-326 (which state that cities and counties shall have authority to (1) classify all or a portion of the streets within their jurisdictions according to their size, present and anticipated traffic load, and other characteristics relevant to the achievement of the purposes of this section, and (2) establish by ordinance minimum distances that buildings and other permanent structures or improvements constructed along each class or type of street shall be set back from the right-of-way line or the center line of an existing or proposed street) the following requirements shall apply.

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- .2 Minimum Setbacks Along Thoroughfares. The build-to or set back line for any lot which abuts a thoroughfare classified on the Comprehensive ~~Thoroughfare~~ Transportation Plan shall be measured from the proposed right-of-way line, if existing right-of-way is of lesser width. The Proposed Right-Of-Way Line established for each classification of thoroughfare is as follows:

Thoroughfare Classification	Feet
Freeway or Expressway	250-350
Boulevard	100' 200
Other Major Thoroughfare	100-150 70-120
Minor Thoroughfare	70- 100
Town Streets (Collector, Local, Alley)	Varies according to the standards of Article 5 of the Huntersville Zoning Ordinance and the Town's Engineering Standards and Procedures Manual

Commented [JS4]: Changes made for consistency with Comprehensive Transportation Plan

- .3 Transitional Setback for Lots Along Thoroughfares. A transitional setback or yard shall be established for each lot which abuts a thoroughfare that has an existing right-of-way which is not as wide as the ultimate right-of-way established for that thoroughfare. The transitional setback or yard area established for lots abutting thoroughfares can be used for any purpose allowed by the particular zoning district, except for those permanent uses which are prohibited in the established setbacks or yards. The area between the existing right-of-way and the proposed right-of-way line may not be used to satisfy any minimum open space requirement, any minimum lot size requirement, or any other minimum requirements imposed by this ordinance. At the time that the proposed right-of-way is dedicated or otherwise acquired for roadway purposes, the property owner shall be responsible for the removal of any uses from the transitional setback or yard that are not otherwise permitted in the yard by the district regulations. The property owner shall have one (1) year from the date of right-of-way acquisition to remove any such uses.
- .4 Exceptions. The standards herein prescribing setback from the proposed right-of-way line will not apply to any development for which a preliminary subdivision plan or a conditional zoning district site plan has been approved prior to the effective date of regulations requiring setback from proposed right-of-way lines along thoroughfares. Nor shall they apply to structures in the Town Center District.
- .5 Right to Appeal An affected property owner shall have the right to appeal transitional yard or setback requirements to the Board of Adjustment for variance or modification as they apply to a particular piece of property. The Board of Adjustment may vary or modify these requirements upon a showing that:

- (1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

In granting relief, the Board of Adjustment may impose reasonable and appropriate conditions and safeguards to protect the interests of neighboring properties. The Board of Adjustment's decision shall be subject to review by the superior court by proceedings in the nature of certiorari in accordance with N.C.G.S. 160D-1402.

Commented [ES5]: Aligns with 160D-705(d)

8.16 Standards for Residential Lot Widths, Alleys, Garages and Parking in Residential Districts

- .1 Except as specifically provided in the Rural and Transitional districts, detached house types and two-unit attached house types shall be required to have a lot width greater than 50' feet. Developers shall have the option to provide lots widths 50' feet wide or less when alley access allowing on-site parking is provided for detached house types and two-unit attached house types. Further, developers shall also have the option to apply for a conditional district rezoning to create lot widths of 50 feet wide or less without an alley provided it can demonstrated the development can accommodate on-street parking, meet all the provisions of the zoning ordinance including installation of street trees, and demonstrate public services such as trash pick-up can be provided.
- .2 Alley access for on-site parking is strongly encouraged for three-unit or more attached house types.
- .3 For lots 60 feet wide or less, driveways shall be no more than 14 feet wide as measured along the public street right-of-way for a detached house and two-unit attached house type. For lots wider than 60 feet, driveways shall be no more than 20 feet wide as measured along the public street right-of-way for a detached house and two-unit attached house type. For three or more unit attached house types, driveway width shall not occupy more than 50% of the public street front of a lot as measured along the public street right-of-way.
- .4 When front entry garages are used, it is recommended to minimize emphasis on front loaded garages by having a building feature projecting from or flush with the garage, have a column to separate a two-car garage or any other technique as determined by the owner to be appropriate.
- .5 Driveways shall extend at least twenty (20) feet from a public right-of-way and public sidewalk easement to prevent on-site residential parking from encroaching into the public right-of-way or easement for a public sidewalk.
- .6 On-street parking at lot front, when specifically provided, may be counted toward all or part of the parking requirement of a dwelling unit.
- .7 Detached garages may only be placed in the established rear yard. Garages for more than two cars must be detached and located in the established rear yard or be attached side or rear loading.
- .8 Lots in subdivisions approved prior to the effective date of this ordinance, are exempt from the limitations of .1 through .2, above.
- .9 Vehicles used primarily for commercial purposes and with more than two axles are prohibited from parking on streets, in driveways, or on private property in residential districts. This shall not be construed as preventing the temporary parking of delivery trucks, moving vans, and similar vehicles which deliver goods or services.
- .10 Provisions for parking unlicensed vehicles in residentially zoned districts shall be as follows:
 - (a) No more than two (2) motor vehicles that do not have a current, valid license plate and are not fully enclosed in a permanent structure shall be permitted outside on any premises, provided such

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vehicles are registered to the occupant of the premises or immediate family member of the occupant as the record title of the vehicle.

- (b) No unlicensed motor vehicle if not registered to the occupant of the premises or immediate family member of the occupant as the record title owner of the vehicle shall be permitted outside of any premises.
- (c) Vehicles described in paragraphs (a) and (b) are not permitted to be located within any established setback or any established side yards which abut a street or any required side yards contained in these regulations or any street right-of-way. If stored in the rear yard, it must be a minimum of five (5) feet off the rear property line.
- (d) Vehicles described in paragraphs (a) and (b) are not permitted on vacant or undeveloped parcels.

.11 Nothing in this subsection shall be interpreted to conflict with the building design element provision as found in GS 160D-702(b) for structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings

8.17 Water Quality

- .1 Purpose. The purpose of this ordinance is to establish storm water management requirements and controls to prevent surface water quality degradation to the extent practicable in the streams and lakes within the Town Limits and Extraterritorial Jurisdiction of Huntersville and to protect and safeguard the general health, safety, and welfare of Huntersville's residents. This ordinance seeks to meet this purpose by fulfilling the following objectives:

- a) Minimize increases in storm water runoff from development or redevelopment in order to reduce flooding, siltation and stream bank erosion, and maintain the integrity of stream channels;
- b) Minimize increases in non-point source pollution caused by storm water runoff from development or redevelopment that would otherwise degrade local water quality;
- c) Minimize the total volume of surface water runoff that flows from developed sites in order to replicate pre-development hydrology to the maximum extent practicable;
- d) Reduce storm water runoff rates and volumes, soil erosion and non-point source pollution, to the extent practicable, through storm water management controls, improved site design or best management practices (BMPs) and to ensure that these management controls are properly maintained and pose no threat to public health or safety; and
- e) Meet the requirements of the National Pollution Discharge Elimination System (NPDES) Storm Water Permit and other requirements as established by the Clean Water Act.

This ordinance and the Huntersville Water Quality Design Manual require the use of Low Impact Development (LID) BMPs that utilize infiltration, evaporation, retention and detention as well as biological and physical processes to more closely replicate pre-development hydrology characteristics and reduce negative water quality impacts.

- .2 Applicability. This ordinance shall apply to all of the land located within the Town Limits and Extraterritorial Jurisdiction of Huntersville. The effective date of this ordinance is June 30, 2007. This ordinance governs the development and use of all land and structures. No building, structure, or land shall be used, occupied or altered, and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered, unless in conformity with all the provisions of this ordinance and all other applicable regulations, except as otherwise provided by this ordinance.

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.3 Exceptions to Applicability.

- a) All properties shall be subject to this ordinance except those properties which, as of the effective date of June 30, 2007, fit into one of the following categories:
 - (1) Have been issued a Certificate of Building Code Compliance;
 - (2) Have a valid building permit;
 - (3) Are included on a valid preliminary subdivision plan and/or a valid sketch plan; or
 - (4) Are included in a complete conditional rezoning application and subdivision sketch plan submitted by May 1, 2007.
- b) Redevelopment of non-single family homes that disturbs less than 20,000 square feet, does not decrease existing storm water controls, is not part of a larger common plan of development or sale, and renovation and/or construction costs do not exceed 100% of the tax value of the property is not subject to the provisions of this ordinance.
- c) Residential development activity that disturbs less than one acre of land and is not part of a larger common plan of development or sale, including new development, redevelopment or expansions, is not subject to the provisions of this ordinance.
- d) Non-residential development activity that disturbs less than ½ acre of land and is not part of a larger common plan of development or sale, including new development, redevelopment or expansions, is not subject to the provisions of this ordinance.

.4 No Development or Redevelopment Until Compliance and Permit. No development or redevelopment shall occur except in compliance with the provisions of this ordinance or unless exempted. No development for which a permit is required pursuant to this ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit.

.5 Map. The provisions of this ordinance shall apply within the areas designated on the map titled "Post-Construction Ordinance Map of the Town of Huntersville, North Carolina" (hereafter referred to as the "Post-Construction Ordinance Map"), which is adopted simultaneously herewith. The Post-Construction Ordinance Map and all explanatory matter contained thereon accompanies and is hereby made a part of this ordinance. The Post-Construction Ordinance Map shall be kept on file by the Storm Water Administrator or designee (hereinafter referred to as the "Storm Water Administrator") and shall be updated to take into account changes in the land area covered by this ordinance and the geographic location of all structural BMPs permitted under this ordinance. In the event of a dispute, the applicability of this ordinance to a particular area of land or BMP shall be determined by appeal through the Storm Water Administrator.

.6 Definitions. For the purposes of this ordinance, the following words and phrases shall be defined as specified below:

Administrative Manual. A manual developed by the Storm Water Administrator and distributed to the public to provide information for the effective administration of this ordinance, including but not limited to application requirements, submission schedule, fee schedule, operation and maintenance agreements, criteria for recordation of documents, inspection report forms, requirements for submittal of bonds, and a copy of this ordinance.

Best Management Practices (BMPs). A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

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- Non-structural BMPs - Non-engineering methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.
- Structural BMPs - Engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from a water body.

Built-Upon Area (BUA). That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck or the water area of a swimming pool. The specific methodology for calculating BUA is contained in the Charlotte-Mecklenburg BMP Design Manual.

Charlotte-Mecklenburg BMP Design Manual. A document that contains designs for BMPs. The Huntersville Water Quality Design Manual and/or this ordinance indicate the designs from the Charlotte-Mecklenburg BMP Design Manual that are approved for use in the Town of Huntersville for compliance with this ordinance. The Charlotte-Mecklenburg BMP Design Manual shall be approved for use in the Town of Huntersville by the North Carolina Department of Environment and Natural Resources and shall be at least as stringent as the storm water design manual approved for use in Phase II jurisdictions by the Department for the proper implementation of the requirements of the federal Phase II storm water program. All references herein to the Charlotte-Mecklenburg BMP Design Manual are to the latest published edition or revision.

Conventional BMPs. Storm water treatment devices that are not LID BMPs as defined below in "Definitions."

Detain. To store and slowly release storm water runoff following precipitation by means of a surface depression or tank and an outlet structure. Detention structures are commonly used for pollutant removal, water storage, and peak flow reduction.

Huntersville Water Quality Design Manual. The document that contains the approved BMP designs and other information necessary for compliance with this ordinance. The Huntersville Water Quality Design Manual shall be approved for use in the Town of Huntersville by the North Carolina Department of Environment and Natural Resources and shall be at least as stringent as the storm water design manual approved for use in Phase II jurisdictions by the Department for the proper implementation of the requirements of the federal Phase II storm water program. All references herein to the Huntersville Water Quality Design Manual are to the latest published edition or revision.

Hydrologic Abstractions. Physical processes of interception of rainfall or overland storm water flow by vegetation, evaporation from land surfaces and upper soil layers, transpiration by plants, infiltration of water into soil surfaces, and storage of water in surface depressions.

Low Impact Development (LID) Approach. A technology-based system for managing urban storm water runoff that combines a hydrologically functional site design with pollution prevention measures to compensate for land development impacts on hydrology and water quality. To be effective, the LID approach must be applied to every phase of site planning, design, development and post-construction control for the purpose of mimicking predevelopment site hydrology by storing, infiltrating, evaporating and detaining storm water runoff. Examples of the LID Approach include reducing impervious surfaces, managing storm water closer to the source and avoiding large centralized management devices, phased grading, and vegetated conveyances instead of storm drain piping.

Low Impact Development (LID) BMPs. Decentralized, structural storm water treatment devices that utilize infiltration, evaporation, retention and detention as well as biological and physical processes to more closely replicate pre-development hydrology characteristics and reduce negative water quality impacts. Examples of LID BMPs include bio retention systems, sand filters, and vegetated filter strips.

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Mecklenburg County Land Use and Environmental Services Agency Charlotte-Mecklenburg Storm Water Services. The department or division of Mecklenburg County government (regardless of the title given to it by Mecklenburg County) which has responsibility for storm water and water quality matters, acting as the agent of the Town of Huntersville for various purposes in connection with the enforcement of this ordinance.

National Pollution Discharge Elimination System (NPDES) Permit. A permit issued pursuant to the federal Clean Water Act for the purpose of controlling discharges of pollutants to surface waters and protecting water quality. In North Carolina, NPDES Permits are issued by the N.C. Department of Environment and Natural Resources.

Non-Point Source (NPS) Pollution. Forms of pollution caused by sediment, nutrients, organic and toxic substances originating from land use activities and carried to lakes and streams by surface runoff.

Retain. To capture and hold storm water runoff following precipitation by means of surface depression allowing the water to infiltrate into the soil, thus reducing the hydrologic and pollution impacts downstream. Retention structures are commonly used for pollutant removal, water storage, and peak flow reduction.

Storm Water Administrator. The Mecklenburg County Water Quality Program Manager that has been designated by the Town of Huntersville Board of Commissioners to administer and enforce this ordinance.

Storm Water Management Permit. A permit required for all development and redevelopment unless exempt pursuant to this ordinance, which demonstrates compliance with this ordinance.

Total Suspended Solids (TSS). Total suspended matter in water, which is commonly expressed as a concentration in terms of milligrams per liter (mg/l) or parts per million (ppm).

.7 Interpretation.

a) Meaning and Intent

All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in Section 8.17.1, Purpose. If a different or more specific meaning is given for a term defined elsewhere in the Town of Huntersville ordinances, the meaning and application of the term in this ordinance shall control for purposes of application of this ordinance

b) Text Controls in Event of Conflict

In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

c) Authority for Interpretation

The Storm Water Administrator has authority to interpret this ordinance. Any person may request an interpretation by submitting a written request to the Storm Water Administrator who shall respond in writing within 30 days. The Storm Water Administrator shall keep on file a record of all written interpretations of this ordinance.

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d) References to Statutes, Regulations, and Documents.

Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the Design and Administrative Manuals), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated

e) Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town of Huntersville, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town of Huntersville. References to days are calendar days unless otherwise stated.

f) Delegation of Authority

Any act authorized by this ordinance to be carried out by the Storm Water Administrator of the Town of Huntersville may be carried out by his or her designee.

g) Usage

- (1) Mandatory and Discretionary Terms. The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.
- (2) Conjunctions. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word “and” indicates that all connected items, conditions, provisions or events apply. The word “or” indicates that one or more of the connected items, conditions, provisions or events apply.
- (3) Tense, Plurals, and Gender. Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.
- h) Measurement and Computation. Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

.8 Huntersville Water Quality Design Manual.

- a) Reference to the Huntersville Water Quality Design Manual. The Storm Water Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the Huntersville Water Quality Design Manual as the basis for decisions about Storm Water Management Permits and about the design, implementation and performance of structural and non-structural storm water BMPs. The Huntersville Water Quality Design Manual includes acceptable BMPs for compliance with ordinance requirements, including the specific design criteria for each BMP. BMPs that are designed and constructed in accordance with these criteria will be presumed to meet the minimum water quality performance standards of this ordinance and the federal Phase II Storm Water Rules. Failure to construct BMPs in accordance with these criteria may subject the violator to a civil penalty as described in this ordinance.
- b) Relationship of the Huntersville Water Quality Design Manual to Other Laws and Regulations. If the specifications or guidelines of the Huntersville Water Quality Design Manual are more

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restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Huntersville Water Quality Design Manual.

- c) Changes to Standards and Specifications. Standards, specifications, guidelines, policies, criteria, or other information in the Huntersville Water Quality Design Manual in affect at the time of acceptance of a complete application shall control and shall be utilized in reviewing the application and in implementing this ordinance with regard to the application.

Amendments to the Huntersville Water Quality Design Manual. Subject to Huntersville Planning Director approval, the Huntersville Water Quality Design Manual may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience. Prior to amending or updating the Huntersville Water Quality Design Manual, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided.

.9 Relationships to Other Laws, Regulations and Private Agreements.

- a) Conflict of Laws. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control.
- b) Private Agreements. This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this ordinance shall govern. Nothing in this ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this ordinance. In no case shall the Town of Huntersville be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

.10 Severability. If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

.11 Effective Date and Transitional Provisions.

- a) Effective Date. This ordinance shall take effect on June 30, 2007.
- b) Violations Continue. Any violation of the provisions of this ordinance existing as of the effective date of this ordinance shall continue to be a violation under this ordinance and be subject to penalties and enforcement unless the use, development, construction, or other activity complies with the provisions of this ordinance.

.12 Performance Criteria. All development and redevelopment to which this ordinance applies shall comply with all the Performance Criteria of this section unless mitigation requirements are satisfied as described in Section 8.17.15 of this ordinance. The Huntersville Water Quality Design Manual contains a list of BMPs approved for meeting these criteria. The specific design criteria for these BMPs are contained in the Huntersville Water Quality Design Manual as well as other State and/or local design manuals as specifically referenced in Huntersville Water Quality Design Manual.

- a) Performance Criteria for Low Density Projects. Any project is considered low density when said project has less than or equal to 12% built upon area as determined by the methodology established in the Charlotte-Mecklenburg BMP Design Manual. Such low density projects shall comply with each of the following standards.
- (1) Vegetated Conveyances. Storm water runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable
 - (2) Built-Up Area Setbacks. All built-upon area for development and redevelopment subject to the requirements of this ordinance shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. This built-upon area setback can be located within the water quality buffer area. Surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement shall be granted if one or more of the following is satisfied and documented:
 - (a) Based on an on-site determination by the Storm Water Administrator, surface waters are not present on the site. When a landowner or other affected party believes that the maps have inaccurately depicted surface waters, he or she shall consult the Storm Water Administrator. Upon request, the Storm Water Administrator shall make on-site determinations. Surface waters that appear on the maps shall not be subject to this ordinance if this on-site determination shows that they fall into one of the following categories:
 - Ditches and manmade conveyances other than modified natural streams unless constructed for navigation or boat access.
 - Manmade ponds and lakes located outside natural drainage ways.
 - Ephemeral (storm water) streams.
 - (b) Based on a Variance issued pursuant to Section 11.3 of this ordinance, unnecessary hardships would result from the strict application of this requirement.
 - (c) Based on a determination by the Storm Water Administrator, a lack of practical alternatives exists for accomplishing the basic purpose of the project in a manner that would avoid or result in less adverse impact to surface waters considering the potential for a reduction in size, configuration, or density and all alternative designs.
 - (3) Stream Buffers. The S.W.I.M. Stream Buffer requirements as described in Section 8.25 of this ordinance shall apply to low density projects
- b) Performance Criteria for High Density Projects. Any project is considered high density when said project has greater than 12% built upon area as determined by the methodology established in the Charlotte-Mecklenburg BMP Design Manual. Such high density projects shall comply with each of the following standards:
- (1) Built-Up Area Setbacks. All built-upon area for development and redevelopment subject to the requirements of this ordinance shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. This built-upon area setback can be located within the water quality buffer area. Surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps

prepared by the United States Geologic Survey (USGS). An exception to this requirement shall be granted if one or more of the following is satisfied and documented:

- (a) Based on an on-site determination by the Storm Water Administrator, surface waters are not present on the site. When a landowner or other affected party believes that the maps have inaccurately depicted surface waters, he or she shall consult the Storm Water Administrator. Upon request, the Storm Water Administrator shall make on-site determinations. Surface waters that appear on the maps shall not be subject to this ordinance if this on-site determination shows that they fall into one of the following categories:
 - Ditches and manmade conveyances other than modified natural streams unless constructed for navigation or boat access.
 - Manmade ponds and lakes located outside natural drainage ways.
 - Ephemeral (storm water) streams.
 - (b) Based on a Variance issued pursuant to Section 11.3 of this ordinance, unnecessary hardships would result from the strict application of this requirement.
 - (c) Based on a determination by the Storm Water Administrator, a lack of practical alternatives exists for accomplishing the basic propose of the project in a manner that would avoid or result in less adverse impact to surface waters considering the potential for a reduction in size, configuration, or density and all alternative designs.
- (2) Stream Buffers. The S.W.I.M. Stream Buffer requirements as described in Section 8.25 of this ordinance shall apply to high density projects.
 - (3) Storm Water Quality Treatment Volume. Storm water quality treatment systems shall treat the runoff generated from the first inch of rainfall.
 - (4) Storm Water Quality Treatment Standard. All BMPs used to meet these Performance Criteria shall be designed to achieve an average annual 85% Total Suspended Solids (TSS) removal for the developed area of the site. LID BMPs or a combination of LID and Conventional BMPs as described in the Huntersville Water Quality Design Manual shall be used to meet these water quality Performance Criteria. If a combination of LID and Conventional BMPs is used, then at a minimum the first 50% of the runoff from the one (1) inch storm event must be treated using LID BMPs. The remaining percentage shall be treated using Conventional BMPs capable of achieving the above described pollutant removal efficiency. No one bio retention BMP shall exceed 5,000 square feet of soil media surface area.
 - (5) Storm Water Treatment System Design. General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the Huntersville Water Quality Design Manual.
 - (6) Storm Water Volume Control. LID BMPs or a combination of LID and Conventional BMPs shall be used to control and treat the increase in storm water runoff volume associated with post-construction conditions as compared with pre-construction (existing) conditions for the 2-year frequency, 24-hour duration storm event in the Rural and Transitional Zoning Districts. For all other Zoning Districts, LID BMPs or a combination of LID and Conventional BMPs shall be used to control and treat the increase in storm water runoff volume associated with post-construction conditions as compared with pre-construction (existing) conditions for the 1-year frequency, 24-hour duration storm event. Where any storm water BMP employs the use of a temporary water quality storage pool as a part of its treatment system, the drawdown time shall be a minimum of 48 hours and a maximum of 120 hours.

- (7) Storm Water Volume Peak Control. The peak storm water runoff release rates leaving the site during post-construction conditions shall be equal to or less than the pre-development peak storm water runoff release rates for the 2-year frequency, 24-hour duration storm event and 10-year frequency, 24-hour duration storm event. The emergency overflow and outlet works for any pond or wetland constructed as storm water BMP shall be capable of safely passing a discharge with a minimum recurrence frequency of 50 years. For detention basins, the temporary storage capacity shall be restored within 72 hours. Requirements of the Dam Safety Act shall be met when applicable.

.13 Low Impact Development (LID) Approach. The Low Impact Development (LID) Approach is a technology-based system for managing urban storm water runoff that combines a hydrological functional site design with pollution prevention measures to compensate for land development impacts on hydrology and water quality. To be effective, the LID Approach must be applied to every phase of site planning, design, development and post-construction control for the purpose of mimicking predevelopment site hydrology by storing, infiltrating, evaporating and detaining storm water runoff. Examples of the LID Approach include reducing impervious surfaces, managing storm water closer to the source and avoiding large centralized management devices, phased grading, and vegetated conveyances instead of storm drain piping. The principal goal of the LID Approach is to ensure maximum protection of the ecological integrity of the receiving waters by maintaining the watershed's hydrologic regime. In contrast, the conventional approach to storm water management seeks to alter the watershed's hydrologic regime by conveying runoff into a piping system and centralized storm water management devices to quickly and efficiently remove storm water from the development site. Most development practices follow this conventional approach to storm water management. The use of the LID Approach is not required by this ordinance but is strongly encouraged. One of the post-construction components of the LID Approach is the LID BMP, which is a single structural device that utilizes the LID principles of infiltration, evaporation, retention and detention as well as biological and physical processes to treat storm water runoff. The use of LID BMPs is required by this ordinance unless mitigation practices are approved and implemented. The purpose of this Section of the ordinance is to encourage the use of the LID Approach along with LID BMPs, which is most effective and efficient combination for managing storm water runoff and facilitating compliance with the Purpose of this ordinance as described in Section 8.17.1. The LID Approach and LID BMPs are further defined and explained in the Huntersville Water Quality Design Manual.

.14 Standards for Storm Water Control Measures.

- a) Evaluation According to Contents of Huntersville Water Quality Design Manual. All storm water BMPs required under this ordinance shall be evaluated by the Storm Water Administrator according to the policies, criteria, and information, including technical specifications, standards and the specific design criteria for each BMP contained in the Huntersville Water Quality Design Manual. The Storm Water Administrator shall determine whether these measures will be adequate to meet the requirements of this ordinance.
- b) Determination of Adequacy. BMPs that are designed, constructed, and maintained in accordance with the criteria and specifications in the Huntersville Water Quality Design Manual will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Huntersville Water Quality Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this ordinance before it can be approved for use. The Storm Water Administrator may require the applicant to provide such documentation, calculations, and examples as necessary for the Storm Water Administrator to determine whether such an affirmative showing is made.

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- c) Submittal of Digital Records. Upon submittal of as-built surveys, the location of storm drainage pipes, inlets and outlets as well as the location of all structural BMPs must be delivered to the Storm Water Administrator in the digital format specified in the Administrative Manual.

.15 LID Mitigation Options.

a) General Description:

- (1) Mitigation Allowed. Developments with greater than or equal to 50% built-upon area based on lot size shall be allowed to forgo the use of LID BMPs on the development site for compliance with this ordinance provided:
 - (a) A mitigation option is approved and successfully implemented for the development;
 - (b) Conventional BMPs are designed, constructed, and maintained on the development site to achieve an average annual 85% Total Suspended Solids (TSS) removal for the developed area of the site in accordance with the criteria and specifications in the Huntersville Water Quality Design Manual; and
 - (c) The development site achieves full compliance with the Performance Criteria contained in Section 8.17.12(b) 1, 2, 3, 5, 6, and 7 of this ordinance.
- (2) LID Mitigation Options. There are two (2) LID mitigation options available to developments greater than or equal to 50% built-upon area, including off-site and buy-down mitigation. Both off-site and buy-down mitigation shall result in the construction of retrofit projects in the same river basin in the Town of Huntersville (Catawba or Yadkin) as the development site.

b) Criteria for Off-Site Mitigation Option

- (1) Off-Site LID BMP Construction. The owner or designee of the development site shall satisfy the off-site mitigation option by constructing a BMP retrofit project off-site and in the same river basin in the Town of Huntersville (Catawba or Yadkin) as the development site. The project shall be designed and constructed to achieve a net mass removal of pollutants greater than or equal to the pollutant load associated with the difference between the pollutant removal efficiencies for LID versus Conventional BMPs at the development site treating runoff from the first one (1) inch of rainfall. The Huntersville Water Quality Design Manual shall contain the criteria for satisfying this requirement.
- (2) Off-Site Mitigation Application. The Storm Water Administrator shall receive, review, approve, disapprove or approve with conditions an "Application for Off-Site Mitigation." The Storm Water Administrator shall design this application to include all pertinent information. This application shall be submitted with the Concept Plan Application. The Huntersville Water Quality Design Manual shall contain information regarding the proper completion and submittal of this application.
- (3) Criteria for Approval of Off-Site Mitigation. The criteria for approval of off-site mitigation by the Storm Water Administrator are as follows:
 - (a) BMP(s) shall be designed, constructed, and maintained in accordance with the criteria and specifications in the Huntersville Water Quality Design Manual.
 - (b) BMP(s) shall be sized for the corresponding watershed area according to the approved design standards in the Huntersville Water Quality Design Manual.

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- (c) BMP(s) shall be inspected by the Storm Water Administrator and found to be in compliance with all approved plans and specifications prior to the release of occupancy permits for the development site.
 - (d.) All off-site mitigation BMPs shall be subject to the maintenance requirements as well as installation and maintenance performance securities specified in this ordinance and the Administrative Manual.
- c) Criteria for Buy-Down Mitigation Option
 - (1) Payment of Mitigation Fee. Buy-Down mitigation shall be satisfied by payment to the Town of Huntersville of a fee established by the Storm Water Administrator to cover the cost for installation by the Town or its designee of a mitigation project in the same river basin (Catawba or Yadkin) as the development site. The project shall be designed and constructed to achieve a net mass removal of pollutants greater than or equal to the pollutant load associated with the difference between the pollutant removal efficiencies for LID versus Conventional BMPs at the development site treating runoff from the first one (1) inch of rainfall. The Huntersville Water Quality Design Manual shall contain the criteria for satisfying these requirements.
 - (2) Buy-Down Mitigation Application. The Storm Water Administrator shall receive, review, approve, disapprove or approve with conditions an "Application for Buy-Down Mitigation." The Storm Water Administrator shall design this application to include all pertinent information. This application shall be submitted with the Concept Plan Application. The Huntersville Water Quality Design Manual shall contain information regarding the proper completion and submittal of this application.
 - (3) Criteria for Approval of Buy-Down Mitigation. The criteria for approval of buy-down mitigation by the Storm Water Administrator are as follows
 - (a) The buy-down option shall not be approved by the Storm Water Administrator unless projects and/or properties are available for mitigation at the time the "Application for Buy-Down Mitigation" is received.
 - (b) There is no time constraint for the Town of Huntersville to spend mitigation money; however, the Town of Huntersville shall strive to spend buy-down monies in a timely and efficient manner such that a net improvement in water quality results.
 - (c) All projects constructed by the Town of Huntersville as part of this mitigation option shall be maintained by the Town of Huntersville or its designee into perpetuity.
- d) Mitigation for Development and Redevelopment on Lots Less Than One Acre. Development and redevelopment on a lot less than one (1) acre in size are allowed by right to forego meeting the requirements of this article, provided the following criteria are met:
 - (1) The lot has been described by metes and bounds in a recorded deed or shown on a recorded plat prior to July 1, 2007;
 - (2) Development and redevelopment on the lot are not part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules;
 - (3) Stream Buffer requirements are fulfilled as described in Section 8.25 of this ordinance; and

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- (4) Mitigation is provided by fulfilling at least one (1) of the three (3) criteria described in Subsection f) below.
- e) Mitigation for Redevelopment in the Town Center Zoning District. Redevelopment projects in the Town Center Zoning District for the Town of Huntersville are allowed by right to forego meeting the requirements of this article, provided the following criteria are met:
 - (1) Stream Buffer requirements are fulfilled as described in Section 8.25 of this ordinance;
 - (2) Mitigation is provided by fulfilling at least one (1) of the three (3) criteria described in Subsection f) below; and
 - (3) If there is no net increase in existing built-upon area, including built-upon area that is removed as part of the redevelopment, and there is no decrease in existing storm water controls, then there is no limit on the amount of disturbed area, or
 - (4) If there is a net increase in existing built-upon area, including built-upon area that is removed as part of the redevelopment, or there is a decrease in existing storm water controls, then the amount of total disturbed area on the site must be less than one (1) acre.
- f) Criteria for Development and Redevelopment Mitigation. One (1) of the following three (3) criteria must be fulfilled to satisfy the mitigation requirement for development and redevelopment projects described in Subsection d) and e) above:
 - (1) Storm Water Quality Treatment requirements are met on site as described in Section 8.17.12(b)(3), (4) and (5) of this ordinance with LID or Conventional BMPs allowed;
 - (2) Storm Water Volume and Peak Control requirements are met on site as described in Section 8.17.12(b)(6) and (7) of this ordinance; or
 - (3) The Town is paid a mitigation fee prorated at \$60,000 per acre for all projects except single-family residential that will be prorated at \$45,000 per acre for the untreated post-project built-upon-area. This fee shall be used to cover the cost for installation by the Town or its designee of a mitigation project(s) capable of achieving a net mass removal of pollutants greater than or equal to the pollutant removal that would have been achieved by BMPs installed at the development site in full compliance with ordinance requirements. The mitigation project(s), as determined by the Town, must be located in the same named lake or stream watershed that is receiving storm water discharge from the development site, including Lake Norman, Mountain Island Lake, McDowell Creek, Gar Creek, Ramah Creek, and Clarke Creek. An exception to the location of the mitigation project can be made if the Storm Water Administrator determines there are no viable mitigation projects in that watershed provided mitigation is done in the Town of Huntersville zoning jurisdiction.

.16 Administration and Procedures.

- a) Storm Water Administrator

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- (1) Designation. The Mecklenburg County Water Quality Program Manager has been designated as the Storm Water Administrator by the Town of Huntersville for the purpose of administering and enforcing this ordinance. Any act authorized by this ordinance to be carried out by the Storm Water Administrator of the Town of Huntersville may be carried out by his or her designee.
- (2) Powers and Duties. In addition to the powers and duties that may be conferred by other provisions of other laws, the Storm Water Administrator shall have the following powers and duties under this ordinance.
 - (a) To review and approve or disapprove applications submitted pursuant to this ordinance.
 - (b) To make determinations and render interpretations of this ordinance.
 - (c) To establish application requirements and schedules for submittal and review of applications and appeals.
 - (d) To enforce this ordinance in accordance with its enforcement provisions.
 - (e) To maintain records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of this ordinance.
 - (f) To provide expertise and technical assistance upon request to the Huntersville Town Board.
 - (g) To designate appropriate other person(s) who shall carry out the powers and duties of the Storm Water Administrator.
 - (h) To provide information and recommendations relative to variances and information as requested by the Town of Huntersville in response to appeals.
 - (i) To take any other action necessary to administer the provisions of this ordinance.
- b) Administrative Manual. For applications required under this ordinance, the Storm Water Administrator shall compile into an Administrative Manual the application requirements, submittal checklist, submission schedule, fee schedule, operation and maintenance agreements, a copy of this ordinance, and other information and materials necessary for the effective administration of this ordinance. This Administrative Manual shall be made available to the public.
- c) Review Procedures
 - (1) Permit Required. A Storm Water Management Permit is required for all development and redevelopment unless exempt pursuant to this ordinance. A permit may only be issued subsequent to a properly submitted, reviewed and approved permit application, pursuant to this Section. The content and form of the permit shall be established by the Storm Water Administrator.
 - (2) Effect of Permit. A Storm Water Management Permit shall govern the design, installation, and construction of storm water management and control practices on the site, including structural BMPs and elements of site design for storm water management other than structural BMPs. The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of storm water for the development or redevelopment site consistent with the requirements of this ordinance. Compliance after project construction is assured by the maintenance provision of this ordinance.
 - (3) Authority to File Applications. All applications required pursuant to this ordinance shall be submitted to the Storm Water Administrator by the land owner or the land owner's duly authorized agent or anyone having interest in the property by reason of a written contract with the owner.
 - (4) Establishment of Application Requirements, Schedules, and Fees

- (a) The Storm Water Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. Two (2) applications are required for submittal, including the Concept Plan Application and Storm Water Management Permit Application.
 - (b) The Storm Water Administrator shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.
 - (c) The Town of Huntersville shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.
- (5) Consultations. An applicant may request consultation(s) on a Concept Plan Application for the post-construction storm water management system to be utilized in the proposed development project. This consultation meeting(s) should take place at the time of the preliminary plan of the subdivision or other early step in the development process. The purpose of this meeting(s) is to discuss the post-construction storm water management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to storm water management designs before formal site design engineering is commenced.
- (6) Submittal of Applications
- (a) A Concept Plan. Application shall be submitted to the Storm Water Administrator for review prior to the submittal of the Storm Water Management Permit Application. This Concept Plan Application shall include the information necessary to evaluate the proposed development site for compliance with Performance Criteria as detailed in the Huntersville Water Quality Design Manual.
 - (b) A Storm Water Management Permit Application shall be submitted to the Storm Water Administrator for review following the approval of the Concept Plan Application. This Storm Water Management Permit Application shall detail how post-construction storm water runoff will be controlled and managed and how the proposed project will meet the requirements of this ordinance. The application shall also include the design of all storm water facilities and practices, supporting computations, drawings, soil analyses, calculations for each BMP, site hydrology calculations, and other information sufficient to describe the manner, location, and type of measures for managing storm water from the development in compliance with this ordinance. All design plans submitted with the application shall be prepared by a registered North Carolina professional engineer or landscape architect. The engineer or landscape architect shall perform services only in their area of competence, and shall verify that the design of all storm water management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the Huntersville Water Quality Design Manual, and that the designs and plans ensure compliance with this ordinance. The submittal shall include all of the information required in the submittal checklist established by the Storm Water Administrator. Incomplete submittals shall be treated pursuant to Section 8.17.16(c) (7).
- (7) Submittal of Complete Application. Applications shall be submitted to the Storm Water Administrator pursuant to the application submittal schedule in the form established by the Storm Water Administrator, along with the appropriate fee established pursuant to this Section. An application shall be considered as timely submitted only when it contains all elements of a

complete application pursuant to this ordinance, along with the appropriate fee. If the Storm Water Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

- (8) Application Review. Within 20 working days after a complete application is submitted, the Storm Water Administrator shall review the application and determine whether the application complies with the standards of this ordinance
- (a) If the Storm Water Administrator finds that the application complies with the standards of this ordinance, the Storm Water Administrator shall approve the application and issue a Storm Water Management Permit to the applicant. The Storm Water Administrator may impose conditions of approval as needed to ensure compliance with this ordinance. The conditions shall be included in the permit as part of the approval.
 - (b) If the Storm Water Administrator finds that the application fails to comply with the standards of this ordinance, the Storm Water Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.
 - (c) A complete revised application shall be reviewed by the Storm Water Administrator within 15 working days after its re-submittal and shall be approved, approved with conditions or disapproved. If a revised application is not re-submitted within sixty (60) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee.

- .17 As-Built Surveys and Final Approval. The applicant shall certify that the completed project is in accordance with the approved plans and designs, and shall submit actual "as-built" surveys for all storm water management facilities or practices after final construction is completed. Failure to provide approved as-built surveys within the time frame specified by the Storm Water Administrator may result in assessment of penalties. At the discretion of the Storm Water Administrator, performance securities or bonds may be required for storm water management facilities or practices until as-built surveys are approved.

As-built surveys shall show the final design specifications for all storm water management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the storm water management measures and plans shall certify, under seal, that the as-built storm water measures, controls, and devices are in compliance with the approved plans and designs and with the requirements of this ordinance. The exact boundary of all storm water management measures shall be shown on final plats prepared by a registered surveyor. Further, final plats shall contain the following statement: "This lot contains a storm water management structure that must be maintained in accordance with the recorded Maintenance Covenant as specified in the Huntersville Zoning Ordinance."

Final as-built surveys and a final inspection and approval by the Storm Water Administrator are required before a project is determined to be in compliance with this ordinance and before performance securities shall be released. At the discretion of the Storm Water Administrator, certificates of occupancy may be withheld pending receipt of as-built surveys and the completion of a final inspection and approval of a project.

Upon submittal of as-built surveys, the location of storm drainage pipes, inlets and outlets as well as the location of all BMPs must be delivered to the Storm Water Administrator in the digital format specified in the Administrative Manual

.18 Approvals.

- a) Effect of Approval. Approval authorizes the applicant to go forward with only the specific plans and activity authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities

- (1) Time Limit/Expiration

- A Storm Water Management Permit and accompanying plan approved under the provisions of this ordinance shall remain valid for a period of three (3) years from the date of approval. If no work on the site in furtherance of the plan has commenced within the three-year period, the permit and plan approval will become null and void and a new application will be required to develop the site. If work on the site in furtherance of the plan has commenced that involves any utility installations or street improvements except grading, the permit and plan shall remain valid and in force and the project may be completed in accordance with the approved plan

.19 Incentives.

- a) Purpose. The purpose of this Section is to set forth incentives to offset restrictions that LID may have on the development of certain sites.
- b) Setbacks. In order to accommodate water quality BMPs, required setbacks, side yards and rear yards in the Rural and Transitional Zoning Districts may be reduced up to 25%. The reductions may not compromise public safety such as the site distance triangles as defined by this Zoning Ordinance. It also must not compromise buffer widths or the 30-foot setback described in Section 8.17.12 of this ordinance.
- c) Sidewalks. To reduce impervious cover and promote LID, sidewalks on one side of the street may be waived in the Rural Zoning District.
- d) Required Plant Reduction and Substitution. In order to accommodate water quality BMPs, the number of planted trees may be reduced in buffer yards by 10%, 50% of the required trees may be 1.5 inches in caliper, and all shrubs may be 24 inches in height.
- e) Encroachments. Water quality BMPs may encroach into a required buffer yard as long as the encroachment does not disturb existing vegetation. Minor understory may be disturbed in order to accommodate water quality structures. Trees and shrubs shall be placed to maximize screening where the encroachment takes place. If the encroachment runs parallel to the buffer, the width of the buffer shall be increased by the amount of the encroachment.

.20 Appeals and Variances. An appeal to reverse or modify the order, decision, determination, or interpretation of the Storm Water Administrator or any other designated administrative officer as well as a request for variance from any of the requirements contained in this ordinance shall comply with the procedures and standards of Section 11.3 of this ordinance.

.21 Posting of Financial Security. Approval of a Storm Water Management Permit Application shall be subject to the owner filing a surety bond or letter of credit or making other financial arrangements in favor of Mecklenburg County as agent for the Town of Huntersville acceptable to the [Mecklenburg County Land Use and Environmental Services Agency-Charlotte-Mecklenburg Storm Water Services](#)

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guaranteeing the installation and maintenance of required BMPs until the issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to be built within the area which drains into the BMP, allowing credit for improvements completed prior to the submission of the final plat. At such time that this level of occupancy is achieved, written notice thereof shall be submitted by the owner to the ~~Mecklenburg County Land Use and Environmental Services Agency~~ [Charlotte-Mecklenburg Storm Water Services](#). The owner shall verify the adequacy of the Maintenance Covenant for the BMPs including the necessary financing to support the proposed maintenance practices. The owner shall also provide professional engineer certification that the BMP is designed and constructed in accordance with approved plans and specifications. The ~~Mecklenburg County Land Use and Environmental Services Agency~~ [Charlotte-Mecklenburg Storm Water Services](#) will inspect the structural BMP and verify the effectiveness of the Maintenance Covenant and, if both are found to be satisfactory, the ~~Mecklenburg County Land Use and Environmental Services Agency~~ [Charlotte-Mecklenburg Storm Water Services](#) will notify the owner in writing within 30 days of the date of notice regarding approval of the BMP. Following the issuance of this written approval, the owner can request the release of the surety bond, letter of credit or other financial arrangements at which time the maintenance responsibilities for the BMPs shall revert to the Homeowners Association, property owner or other party responsible for long term maintenance as specified in the Maintenance Covenant. It shall be expressly stated within the restrictive covenants or Property Owners Association documents that it will be the responsibility of the owner or assigns to maintain BMPs until such time as maintenance responsibilities have been transferred to the Homeowners Association Board of Directors, property owner or other party responsible for long term maintenance of the BMPs. It shall be the sole responsibility of the owner or assigns to correct any deficiencies prior to said transfer of maintenance responsibilities

.22 Maintenance. The owner of each BMP installed pursuant to this ordinance shall maintain and operate it so as to preserve and continue its function for controlling storm water quality and quantity at the degree or amount of function for which the BMP was designed. BMPs shall not be constructed on public land, within public rights-of-way, and/or within public easements without written approval from the public body with ownership/jurisdiction of the subject property. The following requirements shall be met for all BMPs that have been constructed on privately-owned property and not within a public easement.

- a) Operation and Maintenance Agreement. Prior to the issuance of an Occupancy Permit for any building within a permitted development served by a BMP, the applicant or owner of the BMP shall establish a formal Operation and Maintenance Agreement approved by the Storm Water Administrator and recorded in the Office of the Register of Deeds in which the owner acknowledges the duty of the owner and all subsequent owners of the property to maintain the BMP in accordance with the terms of the Agreement, including repairing and, if necessary, reconstruction of the BMP. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the provisions of the Operation and Maintenance Agreement. A maintenance plan shall be included as part of the Agreement that shall state the terms, conditions, and schedule of maintenance for the structural BMP as well as describe the mechanism for funding maintenance and repairs. The Operation and Maintenance Agreement shall also specify the Property Owners' Association or other party responsible for maintenance of the BMP. A Property Owners Association or similar legal entity shall have the power to compel contributions from residents of a development to cover their proportionate shares of the costs associated with BMP maintenance. At the discretion of the Storm Water Administrator, certificates of occupancy may be withheld pending receipt of an Operation and Maintenance Agreement.

Standard Operation and Maintenance Agreements for BMPs shall be developed by the Storm Water Administrator and made available in the Administrative Manual. The Operation and Maintenance Agreement must be approved by the Storm Water Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded by the applicant or owner with the Mecklenburg County Register of Deeds upon final plat approval. A copy of the

recorded Operation and Maintenance Agreement shall be given to the Storm Water Administrator within fourteen (14) days following its recordation.

- b) **Inspection and Maintenance Requirements.** All BMPs installed pursuant to the requirements of this ordinance shall be inspected by a qualified professional as designated by the Storm Water Administrator at a minimum of annually within 45 days prior to the anniversary date of the approval of the as-built survey. The purpose of these inspections is to identify maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The person responsible for BMP maintenance shall submit to the Storm Water Administrator a completed inspection report. All inspection reports shall be on forms supplied by the Storm Water Administrator and contained in the Administrative Manual. Any identified maintenance and/or repair needs shall be addressed in a timely manner. The inspection and maintenance requirement may be increased as deemed necessary by the Storm Water Administrator to ensure proper functioning of the BMP and compliance with this ordinance.
- c) **Records of Installation and Maintenance Activities.** Parties responsible for the inspection, operation, and maintenance of a BMP shall make records of the installation of all the maintenance and repairs and shall retain the records for at least five (5) years. Those records shall be made available to the Storm Water Administrator upon request and/or as specifically outlined in the Maintenance Covenant
- d) **Failure to Maintain Practices.** It is unlawful for a property owner to fail to meet the requirements of the Operation and Maintenance Agreement. Any person or association that fails to meet the requirements of the Operation and Maintenance Agreement, as required by this ordinance, shall be subject to a civil penalty as described in Section 8.17.25.
- e) **Maintenance Easement.** Every structural BMP installed pursuant to this ordinance shall be made accessible for adequate inspection, maintenance, reconstruction and repair by a maintenance easement. The easement shall be recorded with the Mecklenburg County Register of Deeds Office and its terms shall specify who may make use of the easement and for what purposes.

.23 **Deed Recordation and Indications on Plat.** The approval of the Storm Water Management Permit shall require an enforceable restriction on property usage that runs with the land, such as plat, recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans. Stream buffers as described in Section 8.25, including the delineation of each buffer zone, must be specified on all surveys and record plats. The Operations and Maintenance Agreement pertaining to every structural BMP shall be referenced on the final plat and shall be recorded with the Mecklenburg County Register of Deeds Office upon final plat approval. If no subdivision plat is recorded for the site, then the Operation and Maintenance Agreement shall be recorded with the Mecklenburg County Register of Deeds Office so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. A copy of the recorded Operation and Maintenance Agreement shall be provided to the Storm Water Administrator within fourteen (14) days following receipt of the recorded document. A maintenance easement shall be recorded for every structural BMP to allow sufficient access for adequate maintenance. The specific recordation and deed restriction requirements as well as notes to be displayed on final plats and deeds shall be contained in the Administrative Manual

.24 **Inspections of BMPs.**

- a) **Inspections.** As described in Section 8.17.22(b), the owner of a BMP shall inspect said BMP at a minimum of annually within 45 days prior to the anniversary date of the approval of the as-built survey. Additional inspections may be conducted by the Storm Water Administrator on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspections of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants;

inspections of businesses or industries of a type associated with higher than usual dischargers of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of State or Federal water quality standards or the NPDES Storm Water Permit; and joint inspections with other agencies inspecting under environmental and safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; evaluating the condition of BMPs and other storm water management practices.

- b) Right-of-Entry for Inspection. When any new BMP is installed on private property, the property owner shall grant to the Storm Water Administrator the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the Storm Water Administrator has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance. The Storm Water Administrator shall take reasonable steps to inform the responsible party prior to inspecting the property.

.25 Enforcement and Violations

- a) General
 - (1) Authority to Enforce. The provisions of this ordinance shall be enforced by the Storm Water Administrator, his or her designee, or any authorized agent of the Town Huntersville.
 - (2) Violation Unlawful. Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance
 - (3) Each Day a Separate Offense. Each day that a violation continues shall constitute a separate and distinct violation or offense.
 - (4) Responsible Persons/Entities. For the purposes of this ordinance, responsible person(s) shall include but not be limited to:
 - (a) Person Maintaining Condition Resulting in or Constituting Violation. An architect, engineer, builder, contractor, developer, agency, property owners' association or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists
 - (b) Responsibility for Land or Use of Land. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for storm water controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.
- b) Remedies and Penalties. The remedies and penalties provided for violations of this ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.
 - (1) Remedies
 - (a) Withholding of Certificate of Occupancy. The Storm Water Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the storm water

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practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

- (b) Disapproval of Subsequent Permits and Development Approvals. As long as a violation of this ordinance continues and remains uncorrected, the Storm Water Administrator or other authorized agent may withhold and the Town of Huntersville may disapprove, any request for permit or development approval or authorization provided for by this ordinance or the zoning, subdivision, and/or building regulations for the land on which the violation occurs.
 - (c) Injunction, Abatements, etc. The Town of Huntersville may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this ordinance. Any person violating this ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.
 - (d) Correction as Public Health Nuisance, Costs as Lien, etc. If the violation is deemed dangerous or prejudicial to the public health or public safety, the Town of Huntersville may cause the violation to be corrected and the costs to be assessed as a lien against the property.
 - (e) Stop Work Order. The Storm Water Administrator may issue a stop work order to the person(s) violating this ordinance. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise corrected the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to correct such violation(s).
- (2) Civil Penalties. Violation of this ordinance may subject the violator to a civil penalty up to the full amount of penalty to which the Town of Huntersville is subject for violations of its Phase II Storm Water Permit. If the violator does not pay the penalty within 30 days after notice of the violation is issued by the Storm Water Administrator, the violation shall be recovered in a civil action in the nature of a debt.
- (3) Criminal Penalties Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.
- c) Procedures
- (1) Initiation/Complaint. Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Storm Water Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Storm Water Administrator.
- (2) Inspection. The Storm Water Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.

- (3) Notice of Violation and Order to Correct. When the Storm Water Administrator finds that any building, structure, or land is in violation of this ordinance, the Storm Water Administrator shall notify, in writing, the property owner or other person violating this ordinance. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The Storm Water Administrator may deliver the notice of violation and correction order personally, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure. If a violation is not corrected within a reasonable period of time, as provided in the notification, the Storm Water Administrator may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.

- (4) Emergency Enforcement. If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance or pose an immediate danger to the public health, safety, or welfare, then the Storm Water Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Storm Water Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this ordinance.

8.18 Flags

- .1 Flag shall mean a piece of fabric or other flexible material solely containing distinctive colors, patterns, standards, words or emblems used as the symbol of any nation, state, city, or any fraternal, religious, or civic organization.
- a) All flags shall be displayed on flagpoles, which may be vertical or mast-arm flagpoles.
 - b) In non-residential districts, vertical flagpoles shall not exceed the allowed height provided for a structure or building in the applicable zoning district, or 54 feet, whichever is less.
 - c) In residential districts, vertical flagpoles shall not exceed 25 feet in height, or the height of the primary structure on the parcel, whichever is less.
 - d) The hoist side of the flag shall not exceed 20% of the height of a vertical flagpole or the length of a mast-arm flagpole. Mast-arm flagpoles shall not exceed 25 feet in length and therefore would have a maximum hoist of 5 feet.
 - e) Vertical flagpoles are subject to the following limitations:

<u>Vertical Pole Height</u>	<u>Maximum Flag Size (total square feet)</u>
15 to 24 feet	20 square feet
25 to 34 feet	50 square feet
35 to 44 feet	100 square feet
45 to 54 feet	160 square feet
 - (g) Each parcel shall be allowed a maximum of three flagpoles unless a variance is obtained.
 - (h) A maximum of 2 flags shall be allowed per flagpole.

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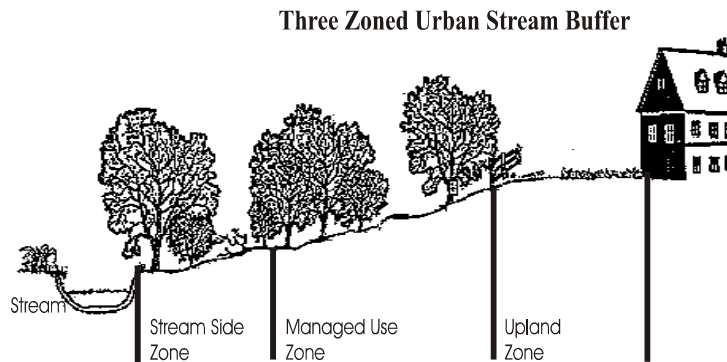
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- (i) Flags displaying a logo, message, statement, or expression relating to commercial interests and banners not meeting the definition of a flag contained herein shall conform to all applicable ordinances pertaining to signs.
- (j) A vertical flagpole must be set back from all property boundaries a distance which is at least equal to the height of the flagpole.
- (k) Flags and flagpoles shall be maintained in good repair, and to the extent applicable shall be in compliance with the building code. Flagpoles with broken halyards shall not be used and flags that are torn or frayed shall not be displayed.
- (l) On officially designated county, state, or federal holidays, there shall be no maximum flag size, number, or other limitations on display.
- (m) This section shall not be construed to restrict the right to display eligible flags as banners or signage as provided elsewhere in the ordinance.

8.19 - 8.24 Reserved

8.25 S.W.I.M. (Surface Water Improvement and Management) Stream Buffers

- .1 Purpose. The purpose of a stream buffer network is to filter pollutants, store floodwaters, provide habitat, and contribute to the “green infrastructure”. Stream systems are comprised of each stream and its respective drainage basin.
 - Streams have the primary natural functions of conveying storm and ground water, storing floodwater, and supporting aquatic life.
 - Vegetated lands adjacent to the stream channel in the drainage basin serve as “buffers” to protect the stream’s ability to fulfill its natural functions. Buffers have the primary natural functions of protecting water quality by filtering pollutants, providing intermittent storage for floodwaters, allowing channels to meander naturally, and providing suitable habitat for wildlife.
- .2 Definitions. For the purposes of this section, the following words and phrases shall be defined as specified below:
 - Best Management Practices (BMPs). A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.
 - Buffer. A vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.
 - Buffer Zones. Buffer widths are measured in three (3) zones as shown below. The buffer width is measured horizontally and must be surveyed by a licensed land surveyor on a line parallel to the surface water, landward from the top of the bank on each side of the stream.



Drainage Basin. The area of land that drains to a given point on a body of water.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the allowable surcharge (currently one foot).

Flood Fringe. The land area located between the limits of the floodway and the maximum elevation subject to inundation by the base (1% chance) flood.

Floodplain. The low, periodically flooded lands adjacent to rivers and lakes. For land use planning purposes, the regulatory floodplain is usually viewed as all land alongside a watercourse that would be inundated by the base (1% chance) flood; the floodway plus the flood fringe.

Mitigation. Actions taken on-site and/or off-site to offset the effects of temporary or permanent loss of a buffer.

Top of Bank. The landward edge of the stream channel during high water, bankfull conditions at the point where water begins to overflow onto the floodplain.

.3 Applicability.

- a) All properties shall comply with the buffer requirements of this Section except those which, as of the effective date of October 19, 1999, have previously secured a right to proceed by one of the following methods, and have received written authorization to disturb the buffer from the Town's Planning Staff:
- Having been issued a Certificate of Building Code Compliance;
 - Being subject to an approved major subdivision preliminary plan and/or recorded final plat;
 - Being subject to a minor subdivision plat, exempt plat listed under the definition of subdivision in the Subdivision Ordinance, or described by metes and bounds in a recorded deed which:
 - If to be used for residential purposes, are one (1) acre or less in size.
 - If to be used for nonresidential purposes or mixed-use purposes, are four (4) acres or less in size if located on a non-FEMA regulated floodway, or are seven (7) acres or less in size if located on a FEMA regulated floodway.
 - Being subject to a site-specific vesting plan defined under Section 2.2.2 of these zoning regulations; or

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- Having otherwise secured a vested property right under state law.
- b) Redevelopment or expansion of uses and structures included in a), above, shall comply with the buffer requirements of this Section, however uses and structures previously approved and constructed in a buffer may remain.
- c) A site-specific vesting plan amended by action of the Board of Commissioners subsequent to adoption of this Section shall comply, in its amended form, with the S.W.I.M. buffer requirements, however uses and structures previously approved for construction in a buffer may remain.
- d) Where stream buffers are also required as part of the Lake Norman or Mountain Island Lake Watershed Overlay Districts, the more stringent of the stream buffer requirements shall apply.

.4 Buffer Delineation.

S.W.I.M. Stream Buffers, throughout the jurisdiction of the Town of Huntersville shall be delineated by Mecklenburg County through its geographic information system (GIS) using the most current digital elevation model (DEM) of no greater than 10-foot cells. This stream buffer delineation including buffer widths shall be periodically updated as new data becomes available. The most recent delineation shall be provided for public use through Mecklenburg County's website.

.5 Minimum Buffer Widths.

All perennial and intermittent streams draining less than 50 acres shall have a minimum 30-foot vegetated buffer including a 10-foot zone adjacent to the bank. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the 10-foot zone adjacent to the bank shall require stream bank stabilization using bioengineering techniques as specified in the Design Manual. All perennial and intermittent streams draining greater than or equal to 50 acres and less than 300 acres shall have a 35-foot buffer with two (2) zones, including a 20-foot stream side and 15-foot upland zone. Streams draining greater than or equal to 300 acres and less than 640 acres shall have a 50-foot buffer with three (3) zones, including a 20-foot stream side, 20-foot managed use and 10-foot upland zone. Buffers for streams draining greater than or equal to 640 acres shall be 100 feet in width or include the entire floodplain, whichever is greater. This buffer shall consist of a 30-foot stream side, 45-foot managed use and 25-foot upland zone or the entire FEMA floodplain, whichever is greater. All buffers shall be measured from the top of the bank on both sides of the stream. A summary of minimum buffer widths is provided in the table below.

Table of Minimum Buffer Widths by Basin Size and Buffer Zone

Area Designation	Stream Side Zone	Managed Use Zone	Upland Zone	Total Buffer Width each side of Stream	Notes
< 50 acres	N/A	N/A	30 feet	30 feet	(1), (2)
> 50 acres	20 feet	None	15 feet	35 feet	(2)
> 300 acres	20 feet	20 feet	10 feet	50 feet	(2)
> 640 acres	30 feet	45 feet	25 feet or balance of floodplain, whichever is greater	100 feet or entire floodplain, whichever is greater	(2), (3)

Notes:

(1) All perennial and intermittent streams draining less than 50 acres shall have a minimum 30-foot vegetated buffer including a 10-foot zone adjacent to the bank. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the 10-foot zone adjacent to the bank shall require stream bank stabilization using bioengineering techniques as specified in the Design Manual.

(2) Buffer widths are surveyed horizontally on a line parallel to the surface water, landward from the top of the bank on each side of the stream.

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(3) Floodplain and buffer calculations will be based upon the FEMA flood fringe and floodway encroachment lines, as locally adopted and as may be amended from time to time.

.6 Buffer Description.

Buffer function, vegetation and use vary according to the different buffer zones and are described in the following table.

Table of Buffer Treatment by Buffer Zone

	Stream Side Zone	Managed Use Zone	Upland Zone	Notes
Function	Protect the integrity of the ecosystems	Provide natural filter; provide distance between upland development and the stream side zone	Prevent encroachment and filter runoff	
Land Disturbance/ Vegetative Requirements	<u>Undisturbed (no cutting, clearing or grading).</u> If existing tree density is inadequate, reforestation is required.	<u>Limited clearing (no grading).</u> Existing tree density must be retained to a minimum of 8 healthy trees of a minimum 6-inch caliper per 1,000 square feet. If existing tree density is inadequate, reforestation is encouraged.	<u>Herbaceous ground cover,</u> including grass, is allowed; maintenance of existing forest or reforestation is encouraged. <u>Limited grading that does not change the functionality or extent of the floodplain is permitted.</u>	(1)
Uses	<u>Very restricted.</u> Permitted uses limited to flood control structures and bank stabilization (where permitted) as well as installation of parallel or near perpendicular ($\geq 75^\circ$) water and sewer utilities and near perpendicular road crossings ($\geq 75^\circ$) with stabilization of disturbed areas as specified in Section 8.25.10.	<u>Restricted.</u> Permitted uses limited to those allowed in the Stream Side Zone, as well as bike paths and greenway trails up to 10 feet in width.	<u>Restricted.</u> Permitted uses limited to those allowed in Stream Side and Managed Use Zones, as well as gazebos, non-commercial storage buildings less than 150 square feet, limited grading that does not change the functionality or extent of the floodplain, and storm water structural best management practices (BMPs) if approved in accordance with Section 8.25.11 b), as a condition of a buffer width variance or if they are located a minimum distance of 100 feet from the stream bank.	(2), (3), (4)

Commented [JS6]: Consistent with Subdivision Ordinance

Note:

- (1) When reforestation of disturbed buffers is required, tree planting shall be as specified in the [Charlotte-Mecklenburg SWIM Stream Water Quality Buffer Implementation Guidelines](#).
- (2) Fill material **cannot** be brought into any required buffer. In the Upland Zone only, limited grading that does not change the extent or functional characteristics of the floodplain is permitted. Uses permitted in the buffer zones should be coordinated to ensure minimal disturbance of the buffer system. For example, if it is necessary to install utilities within the buffer, then if Greenway Trails are built they should follow these cleared areas instead of necessitating additional clearing.

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- (3) Notwithstanding the uses and structures permitted in the “Upland Zone”, the stricter standards of floodway regulations, if applicable, shall apply.
- (4) Greenway Trails referenced in this table refer exclusively to those approved by and dedicated to the Town of Huntersville or Mecklenburg County Parks and Recreation Departments. Other paths or trails in the buffer shall be in accordance with the Charlotte-Mecklenburg SWIM Stream Buffer Implementation Guidelines.
- .7 Diffuse Flow Requirement. Diffuse flow of runoff shall be maintained in the buffer by dispersing concentrated flow through the use of level spreaders or other such devices to create sheet flow and by reestablishing vegetation. Techniques for providing diffuse flow are specified in the Charlotte-Mecklenburg BMP Design Manual.
 - Maximum drainage area size shall be no greater than 10 acres for all outfalls discharging directly into a stream buffer.
 - When practical, a drop structure should be installed prior to the last section of outfall pipe discharging to a buffer. A short length of outfall pipe should be laid flat (0% Slope Energy Dissipater), prior to the riprap apron or other energy dissipater.
 - Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the buffer.
 - Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to impede the formation of erosion gullies.
- .8 Ponds that intersect the stream channel shall have the same buffers as the original stream. Buffer requirements do not apply to wet ponds used as structural BMPs.
- .9 Buffer Delineation. The following buffer delineations are required:
 - a) Buffer boundaries including all buffer zones must be clearly delineated on all site-specific plans for Board of Commissioner approval, on all construction plans, including grading and clearing plans, erosion and sediment control plans, and site plans.
 - b) The surveyed outside buffer boundary, including all buffer zones, must be clearly marked on-site with orange “tree-protection” or “high-hazard” fence prior to any land disturbing activities. Tree protection is required by Section 7.4(3) of this Ordinance. Where existing trees are to be preserved in a buffer zone, the limits of grading shall equal the drip line of those trees plus an additional five (5) feet on the upland side of the buffer. All Specimen and Heritage trees require a tree survey prior to land-disturbing activity and shall be saved in all buffer zones.
 - c) The surveyed outside boundary of the buffer must be permanently marked with an iron pin at the intersection of the watershed buffer and each property line on each parcel following the completion of land disturbing activities and prior to occupancy. Properties greater than 200’ in width shall be marked at a maximum of 100’ intervals.
 - d) Separate buffer zones must be permanently marked at highway stream crossings.
 - e) Buffer boundaries including all buffer zones as well as all buffer requirements must be specified on the record plat, on individual deeds, and in property association documents for lands held in common.
- .10 Buffer Impacts Permitted under Section 8.25, S.W.I.M. The following buffer impacts are permitted, but design and construction shall comply with the specifications provided in the Charlotte-

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Mecklenburg Buffer Implementation Guidelines for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.

- Near perpendicular (75° or greater) road crossings for connectivity or transportation links where the Town of Huntersville has granted site plan approval.
- Near perpendicular (75° or greater) utility crossings as approved by Charlotte-Mecklenburg Utilities.
- Parallel water and sewer utility installation as approved by Charlotte-Mecklenburg Utilities, where a logical and appropriate basis for the impact is demonstrated, where disturbance of the Stream Side Zone is minimized to the maximum extent practicable, and where guidelines for restoring vegetation within buffers disturbed as a result of parallel utility installation are met. These guidelines are specified in the Charlotte-Mecklenburg Buffer Implementation Guidelines.
- Public paths and trails parallel to the creek outside the Stream side Zone and near perpendicular stream crossings in any zone. Pathways must use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall preserve existing drainage patterns and avoid drainage structures that concentrate storm water.
- Incidental drainage improvements/repairs for maintenance.
- Individual pedestrian paths connecting homeowners to the stream in the form of narrow, pervious footpaths with minimal tree disturbance.
- New domesticated animal trails (farming) where existing trails are lost as a result of action beyond the farmer's control. Stream crossings should be constructed to minimize impacts to the Stream Side Zone and be maintained with fencing perpendicular to and through the buffer to direct animal movement.
- Mitigation approved by a state or federal agency acting pursuant to Sections 401 or 404 of the federal Clean Water Act.

.11 Appeals and Variances.

- a) An appeal to reverse or modify the order, decision, determination, or interpretation of the Zoning Administrator shall comply with the procedures and standards of Section 11.3_of these ordinances.
- b) Special Variance Provisions/Mitigation Techniques.
 - When “unnecessary hardships”, as defined in Section 11.3.2 (e), would result from strict adherence to the buffer width requirements and/or buffer treatment standards, a petition for variance may be filed with the Huntersville Board of Adjustment in compliance with the procedures and standards of Section 11.3.
 - Site specific mitigation plans using the mitigation techniques set out below and approved by the designated agency shall be construed by the Board of Adjustment to be evidence responsive to Section 11.3.2(e)(4), which requires consistency with adopted plans and protection of public safety and welfare. Specifications for these mitigation techniques are provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines (for Structural BMPs). The techniques below are not construed to offset the requirement of Section 8.25.6 for diffuse flow.

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- (1) Installation of Structural BMPs. The installation of an on-site structural BMP designed to achieve specified pollutant removal targets will allow for all proposed stream buffer impact on the specific site. The BMP must remain outside of the Stream Side Zone and Manage Use Zone. A detailed BMP design plan must be submitted to the [Mecklenburg County Land Use and Environmental Services Agency-Charlotte-Mecklenburg Storm Water Services](#) for approval based on specifications contained in the Charlotte-Mecklenburg BMP Design Manual. This plan must also include a long-term maintenance strategy for the BMP, complete with the establishment of adequate financing to support the proposed maintenance practices.
- (2) Stream Restoration. The owner may restore and preserve the buffer area on any stream of equivalent or greater drainage area the condition of which is determined to be qualified for restoration by [the Mecklenburg County Land Use and Environmental Services Agency-Charlotte-Mecklenburg Storm Water Services](#) on a 1:1 basis in linear feet of stream. This restoration shall include stream bank improvements and Stream Side and Managed Use Zone re-vegetation, in accordance with the Charlotte-Mecklenburg Buffer Implementation Guidelines, and receive approval from [the Charlotte-Mecklenburg Storm Water Services Mecklenburg County Land Use and Environmental Services Agency](#).
- (3) Stream Preservation. The owner may purchase, fee simple, other stream segments at equivalent or greater drainage area on a 1:1 linear foot basis and convey fee simple and absolute title to the land to the Town of Huntersville, Mecklenburg County, or conservation trust, with a plan approved by [the Mecklenburg County Land Use and Environmental Services Agency-Charlotte-Mecklenburg Storm Water Services](#).
- (4) Wetlands Restoration. On a 2:1 acreage basis for disturbed stream and buffer area (2 acres of wetland for each acre of disturbed area), the owner may provide a combination of the preservation and/or restoration of wetlands with protective easements and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area. Restoration plan must be approved by [the Mecklenburg County Land Use and Environmental Services Agency-Charlotte-Mecklenburg Storm Water Services](#).
- (5) Bottom Land Hardwood Preservation. On a 2:1 acreage basis for impacted stream and buffer area 2 acres of bottomland hardwood for each acre of disturbed area), the owner may provide a combination of the preservation of existing bottom land hardwood forest or other specifically approved natural heritage area by conservation easement or other legal instrument, and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area. Plan to be approved by [Mecklenburg County Land Use and Environmental Services Agency-Charlotte-Mecklenburg Storm Water Services](#).
- (6) Controlled Impervious Cover for Disturbance Landward of Stream Side Zone. The owner may commit to, and provide, a specific site development plan for the parcel with requested buffer disturbance. The plan shall limit overall site impervious cover to less than or equal to 24%. Preservation of the Stream Side Zone is still required. Plan to be approved by [Mecklenburg County Land Use and Environmental Services Agency-Charlotte-Mecklenburg Storm Water Services](#).
- (7) Open Space Development. The submission of a site-specific development plan that preserves 50% of the total land area as undisturbed open space. Plan to be approved by

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Mecklenburg County Land Use and Environmental Services Agency Charlotte-Mecklenburg Storm Water Services.

- (8) Mitigation Credits: The purchase of mitigation credits through the Stream Restoration Program on a 1:1 basis, utilizing linear feet of stream impacted and the prevailing rate of purchase as established by the Charlotte-Mecklenburg Buffer Implementation Guidelines. Mitigation credits purchased under any other program (i.e., U.S. Army Corp of Engineers) shall not cover this requirement unless the issuing agency agrees to relinquish the funds to the appropriate local government agency.
- (9) Alternative mitigation. The list of mitigation techniques shall not prevent the creative development of alternative mitigation plans that achieve the purposes of this section.
- .12 Posting of financial security required. When structural BMPs (wet detention ponds and other BMPs) are approved for mitigation of a buffer disturbance, the approval will be subject to the owner filing a surety bond or letter of credit or making other financial arrangements which are acceptable to the Mecklenburg County Land Use and Environmental Services Agency Charlotte-Mecklenburg Storm Water Services, in a form which is satisfactory to the County Attorney, guaranteeing the installation and maintenance of the required structural BMPs until the issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to be built within the area which drains into the BMPs, allowing credit for improvements completed prior to the submission of the final plat. At such time that this level of occupancy is achieved, written notice thereof must be submitted by the owner to the Mecklenburg County Land Use and Environmental Services Agency Charlotte-Mecklenburg Storm Water Services. The owner must also verify the adequacy of the maintenance plan for the BMPs including the necessary financing to support the proposed maintenance practices. The Mecklenburg County Land Use and Environmental Services Agency Charlotte-Mecklenburg Storm Water Services will inspect the structural BMPs and verify the effectiveness of the maintenance plan; if both are found to be satisfactory, the department will notify the owner in writing within 30 days of the date of notice.
- .13 Maintenance responsibilities for structural BMPs – Civil Penalties. Maintenance of all structural BMPs will be the responsibility of the property owner or his designee. Any person who fails to maintain the required BMPs in accordance with the approved maintenance plan will be subject to a civil penalty of not more than \$5,000. Each day that the violation continues shall constitute a separate violation. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in assessment of a civil penalty or other enforcement action.
- .14 Request for Determination of Buffer Requirements. When a landowner or other affected party believes that the S.W.I.M stream buffer delineation maps described in Section 8.25.4 inaccurately depict buffer requirements, he or she shall request a determination from the Storm Water Administrator. Such determinations shall be made by the Storm Water Administrator based on an on-site evaluation using the U.S. Army Corps of Engineers and N.C. Division of Water Quality methodology for stream delineation as well as information from databases maintained for stream delineation by Mecklenburg County. Such determinations can also be made at the discretion of the Storm Water Administrator in the absence of a request from a landowner or other concerned party. The buffer requirements of this ordinance shall apply based on determinations made by the Storm Water Administrator. Surface waters that appear on the maps shall not be subject to this ordinance if an on-site determination by the Storm Water Administrator shows that they fall into one of the following categories.
 - (1) Ditches and manmade conveyances other than modified natural streams.

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- (2) Manmade ponds and lakes that are not intersected by a buffered stream segment and that are located outside natural drainage ways.
- (3) Ephemeral (storm water) streams.

8.26 Site Lighting

The purpose of the site lighting regulations is to ensure public safety and welfare and to protect the night sky. External lighting shall meet the following standards unless otherwise permitted or restricted by this ordinance.

.1 General Requirements:

- a. At a minimum, all lighting installations shall be designed to achieve no greater than the minimal illuminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).
- b. Including the base/mounting fixture, the maximum height for lighting (pole mounted and wall mounted) shall be 40 feet except for sports complex lighting as addressed in sections 9.21 and 9.35 of this ordinance.
- c. To prevent glare on off-site locations, all outdoor lighting fixtures shall be full cut-off. Where necessary to prevent light trespass or glare, accessories such as hoods and shields shall be used on fixtures. No source of glare shall be visible from any adjacent property or street.
- d. Light trespass shall be prevented by employing lighting shields, hoods, walls, or fences which control light projection. In no case shall the spillover light level from site lighting onto adjacent property or a public road exceed 1.0 foot-candle measured at the property line.
- e. Security lighting (floodlights, where permitted, wall packs, and etc.) shall be shielded and directed at a downward angle no higher than 45 degrees above straight down (half-way between straight down and straight to the side) measured perpendicular from the pole or mounting wall.
- f. Unless otherwise specified by this ordinance, uniformity ratios shall not exceed 4:1. Uniformity shall be based on average illuminance. Uniformity ratios shall only be measured for developed areas of the site for parcels greater than one acre.
- g. Parking lot lighting shall not exceed an initial maximum output of ten foot-candles as measured at ground level from any orientation of the measuring device.
- h. Unless provided elsewhere, canopy lighting shall not exceed an initial maximum output of fifteen-foot candles as measured at ground level from any point underneath the canopy and from any orientation of the measuring device.
- i. An isolux lighting plan shall be required for all non-residential projects as part of the site plan approval process. Such plan shall indicate lighting levels expressed as foot candles at grade by contour diagram or grid points over the entire site and shall be sealed by a registered engineer. The zoning administrator may waive this requirement for projects located on less than one acre where specific lighting fixtures to be used are indicated on the site plan.
- j. An as-built/installed lighting certification sealed by a registered engineer stating that all site lighting is installed according to an approved site plan shall be required prior to issuance of a certificate of occupancy for all non-residential projects.
- k. Decorative lighting shall:
 - (1) Be focused toward the ground,

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- (2) Be designed and installed to prevent light trespass and unnecessary glare, and
- (3) Only be used to highlight significant architectural or natural features.
- 1. Outdoor lighting not necessary for security purposes shall be turned off during non-operating hours.
- m. Lighting for an outdoor amusement facility within the Special Purpose (SP) Zoning District that cannot conform to all the standards of this section may be approved with the issuance of a Special Use Permit (as outlined in Article 11.4.10), contingent on the following conditions:
 - (1) Ensure the Special Use Permit (SUP) conforms to the standards of this article regarding safety, downward lighting, glare, offsite light trespass, uniformity ratio, and obtrusive/flashing lighting, etc., to the extent practicable.
 - (2) All Special Use Permit applications shall be accompanied by a photometric lighting plan, graphics of all exterior lighting fixtures proposed for the facility and any other evidence of conformance with the standards of the article.
 - (3) Upon review of the proposed lighting plan and the specific context of the associated development, the Town Board may add specific conditions to the permit related to the application to ensure that the principles of this article are followed to the extent practicable.
 - (4) No Special Use Permit (SUP) may permit lighting levels to exceed 30 foot-candles.

.2 Light Level Standards

The following levels shall be met unless otherwise specified:

USES	MAX. FOOTCANDLE
Automotive Sales	30
Banks: ATM's,	30
Parking Areas	10
Civic and Institutional	10
Convenience Stores, Gas Station	10
• Parking Area	10
• Canopy	35
Office Uses	10
Industrial	15
Retail, Commercial Uses	10
Shopping Centers	10
All other uses not listed	4

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.3 Prohibited Lighting and Fixtures

- a. Drop lenses and similar lighting fixtures are prohibited.
- b. Floodlights are not permitted for illumination in non-residential districts except in loading areas of light and heavy manufacturing uses. Floodlights, when permitted in loading areas, shall:
 - (1) be fully shielded;
 - (2) be aimed at no higher than a 45-degree angle (halfway between the horizontal plane and straight down) unless a sight line graphic is submitted demonstrating that no off-site glare will be created from any portion of the lighting fixture due to screening by existing topography, accessory buildings, landscaping, etc.
 - (3) be focused toward the primary building or the loading area only;
 - (4) not be aimed toward an adjoining residential zone or conforming residential land use;
 - (5) not emit glare or light trespass onto adjacent streets or properties.

In all applications, lighting shall be directed downward. Floodlights in residential districts shall not shine directly onto an adjacent property or public rights-of-way.

- c. Canopies and awnings used for building accents shall not be internally illuminated.
- d. Flashing, colored or obtrusive lighting is prohibited.
- e. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment is prohibited.
- f. The operation of searchlights for advertising purposes is prohibited.
- g. Black lights and neon lights (including argon and similar rare gas fixtures), except for signage, are prohibited.

.4 Exemptions to these requirements.

The following shall be exempt from the lighting requirements of this ordinance:

- a. Emergency lighting, used by police, firefighting, or medical personnel, or at their direction, is exempt for as long as the emergency exists.
- b. Underwater lighting used for the illumination of swimming pools and fountains.
- c. Lighting used for nighttime street construction and repair.
- d. The lighting of official governmental flags and public civic monuments shall not be subject to these lighting standards. Such lighting shall utilize a narrow cone beam of light of no more than 150 watts.
- e. Seasonal decorations.

.5 Maintenance requirements.

- a. All light fixtures that are required to be shielded shall be installed and maintained in such a manner that the shielding is effective as required.

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- b. Anything other than routine servicing and same-type lamp replacement of any exterior lighting shall require town approval prior to installation.
- c. Any damaged, broken or malfunctioning light fixture or pole which results in failure to meet any part of this ordinance shall be repaired or replaced immediately.

8.27 Street Lighting

The purpose of street lighting is to ensure public safety and welfare and to protect the night sky. Street lighting shall meet the following standards unless otherwise permitted or restricted by this ordinance.

- .1 Street lights shall in all cases use fully shielded fixtures except that decorative street light fixtures shall be designed with caps so that light does not shine upward at more than a 135-degree angle measured above straight down (three-quarters of the way between straight down and straight to the top) from the pole or mounting wall.
- .2 Fixtures with minimal across-road and "house side" waste shall be used, especially in residential areas, taking into consideration the details of roadway geometry and width.
- .3 Low pressure sodium lights are strongly encouraged.
- .4 A street lighting plan must be approved by the Town prior to Preliminary Plan or Commercial Site Plan approval.

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ARTICLE 9: CONDITIONS FOR CERTAIN USES**9.1 Accessory Dwelling**

- .1 An accessory dwelling may be attached, within, or separate from the principal dwelling.
- .2 The principal use of the lot shall be a detached or attached single-family dwelling, built to the standards of the North Carolina Housing Code.
- .3 No more than one accessory dwelling shall be permitted on a single deeded lot in conjunction with the principal dwelling unit.
- .4 The accessory dwelling shall be owned by the same person as the principal dwelling.
- .5 The accessory dwelling shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling is accessed from a rear alley and the principal dwelling is accessed from a street.
- .6 A detached accessory dwelling shall be housed in a building not exceeding 650 square feet of first floor area (maximum footprint) or 50% of the first floor area of the principal dwelling, whichever is greater; the structure may be dwelling only or may combine dwelling with garage, workshop, studio, or similar use.
- .7 A detached accessory dwelling shall be located in the established rear yard and meet the standards for the applicable building and lot type, Article 4, and the limitations on rear yard use of Section 8.8.
- .8 An accessory dwelling must be registered with the Planning Director at the time a certificate of occupancy is obtained.

9.2 Adult Establishments

Studies have shown that adult establishments tend to have serious deleterious effects upon nearby residential areas and uses where juveniles congregate, specifically schools, religious institutions, child care centers, parks and playgrounds. Further, studies have shown that lowered property values and increased crime tend to accompany geographic concentrations of adult establishments. It is the intent of this section to establish regulations to prevent the concentration of adult establishments and to separate adult establishments from residential areas, schools, religious institutions, child care centers, parks, and playgrounds.

- .1 Adult establishments are permitted in the HC District subject to the requirements below:
 - (a) Any structure in which an adult establishment is the principal or accessory use shall be separated by a distance of at least 1,000 feet from any residential or mixed-use zoning district and from the following principal or accessory uses, defined as protected uses for purposes of this section: dwelling units, elementary and secondary schools, religious institutions, child care centers, parks and playgrounds.
 - (b) Any structure in which an adult establishment is the principal or accessory use shall be separated by a distance of at least 1,000 feet from any other adult establishment.
 - (c) The distance of separation from residential and mixed use zoning districts and from the protected uses listed in a), above, shall be measured from the closest point of the lot occupied by an adult establishment to the nearest residential or mixed-use zoning district or the property line of a protected use. The distance of separation between adult establishments shall be measured from the closest points of the lots occupied by adult establishments.
 - (d) No more than one adult establishment may be located within the same structure or on the same lot.

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- (c) In the interest of public health and safety, mini-motion picture booths shall be constructed without doors, and shall orient the customer entrance of each booth toward the principal sales counter.

9.3 Agricultural Industry in the Rural and Transitional District

Agricultural Industry, limited to the production of commercial poultry or small livestock in enclosed buildings, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for the production of commercial poultry or small livestock in enclosed buildings in the Rural and Transitional District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

- .1 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
- .2 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
- .3 That no part of the proposed use will be located or operated so as to emit dust, noise, fumes, or odors in concentrations or amounts that would constitute a nuisance to persons of ordinary sensitivities on nearby properties; and
- .4 That there will be a separation of no less than 250 feet between structures housing the agricultural industry and any property located in a residential district or developed for residential or mixed-use purposes; and
- .5 That the proposed use shall be located on a lot of no less than ten acres.

9.4 Airports

Airports are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

- .1 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
- .2 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
- .3 That the proposed use will not constitute a nuisance to properties located in residential or mixed-use districts or developed for residential purposes with respect to noise, dust, fumes, light, vibration, or traffic; and
- .4 That the proposed use will comply with all applicable Federal Aviation Administration regulations.

9.5 Amusement Facilities (Outdoor)

- .1 Outdoor amusement facilities will be separated by an opaque screen from any abutting property located in a residential or mixed use district;
- .2 No amusement facilities, such as miniature golf courses, skateboard courses, or mechanical rides shall be located within 200 feet of any abutting property located in a residential district;
- .3 Hours of operation will be no earlier than 6:00 a.m. and no later than 12:00 midnight.

9.6 Car Wash

The outdoor service area of a car wash shall be placed and screened in accordance with the standards for on-site parking, Article 6.

9.7 Cemeteries

1. Tombstones, crypts, monuments, and mausoleums must be located at least 25 feet from any street right-of-way line or abutting property.
2. Buildings for maintenance, management, rent and /or sale of cemetery lots must conform to a building type permitted in the zoning district.

9.8 Religious institutions

The scale and activity level of religious institutions is a function of size and the range of accessory uses associated with the institution; very high activity levels have the potential to be disruptive to residential and small scale mixed-use areas. To diminish disruptive impacts by ensuring appropriate locational and design standards, the development and expansion of religious institutions and accessory uses in residential, town center, and neighborhood center districts shall meet the following standards:

1. Religious institutions shall meet the standards for civic building and lot type, Article 4.
2. Development Standards.
 - (a) Exterior lighting shall be ~~in accordance with Section 8.26, Site Lighting, directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties.~~
 - (b) Accessory dwelling units for persons associated with or employed by the religious institution may be provided at a ratio of 1 unit for each 3 acres of site; these limits do not apply to the placement of convents, rectories, parsonages or similar uses on the site.
3. Accessory uses such as religious institution offices, religious bookstores serving the immediate congregation, parking lots, family life centers, multi-purpose facilities, outdoor recreational facilities, cemeteries and day care centers on the same site or sites contiguous to the principal use shall be permitted wherever religious institutions are permitted and shall meet the civic building and lot type, or another building and lot type permitted in the zoning district. Similar uses on non-contiguous sites or on a site separated from the principal use by a public street shall be considered principal uses in their own right and be regulated as such. Tombstones, crypts, monuments, and mausoleums in accessory cemeteries shall be located at least 25 feet from any street right-of-way line or abutting property.
4. Religious institution accessory uses which are **not** permitted as principal uses in a district shall adhere to the following restrictions:
 - (a) no merchandise or merchandise display shall be visible from outside the building;
 - (b) no business or identification sign pertaining to the accessory uses shall be visible from outside the building;
5. Except as noted in .3, above, accessory uses not permitted as principal uses (including television stations, radio stations, printing presses, or sports complexes) are prohibited. This provision shall in no way restrict accessory use family life centers and multipurpose facilities, a part of whose function may include recreation and sports activities.
6. Application for a building permit shall include a comprehensive site plan which addresses the required standards and conditions for the main site and all abutting holdings.
7. ~~In a Corporate Business zoning district, religious institutions shall only be allowed with the issuance of a special use permit subject to the following:~~

Commented [JS1]: .7 below was removed because it is not recommended that religious institutions go through a Special Use Permit while other uses do not.

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- ~~a. Religious institutions shall only be allowed on existing lots and in existing buildings as of August 5, 2013, no greater than 50,000 sq. ft. Additions to buildings intended for church use will be limited to 10% of the existing floor area of the building.~~
- ~~b. Religious institutions shall be limited to a temporary use. The length of time allowed for the religious institution to operate will be determined by the Town Board during the special use permit process; not to exceed three (3) years from the occupancy of the temporary building. If the religious institution does not occupy the building within one (1) year of the special use permit approval, the permit will become null and void. A religious institution may apply for another Special Use Permit allowing an additional two (2) years in the CB district with the approval of the Town Board. At no time shall an individual religious institution be located in the CB district at the same location for more than a total of five (5) years.~~
- ~~e. The maximum number of members shall be set in accordance with the fire code.~~
- ~~d. Parking shall be internal to the site. Unless the adjacent public street is specifically designed to accommodate on-street parking, no on-street parking is allowed.~~

9.9 Commercial Communication Tower

A Commercial Communication tower shall meet the following standards:

1. To encourage future shared use of commercial communication towers, the tower owner must demonstrate that the tower will support a specified number of antennas; and must file a letter of intent with the town to lease the space to other users in good faith. In turn, the owner may charge users a proportionate share of capital, financing, and operating costs, plus the cost of insulating equipment so that the transmissions do not interfere with one another. To encourage col-location of commercial communication antenna and facilities and to reduce the need for new commercial communication towers, co-location of such antennae and facilities shall be permitted on any commercial communication tower or tower for radio communication for business or governmental purposes of which the tower was in existence on July 20, 2009, regardless of when it was constructed, the underlying zoning district, or any condition of approval for the existing tower other than a condition which was imposed or accepted by the Board of Commissioners. To the extent practical as determined by the Planning Director, all standards of this Section 9.9 shall be applicable.
- .2 No new commercial communication tower may be established if there is a technically suitable space available on an existing communications tower within the geographic area that the proposed tower is to serve.
- .3 The entire facility must be aesthetically compatible with its environment. If not otherwise camouflaged, towers shall be of a coloration that will blend with the surroundings. Example: brown/green/gray.
- .4 Fencing must be provided to secure the communication equipment on site. If chain link or similar fencing material is used on the site, an opaque screen shall be provided on the exterior side of the fence.
- .5 All obsolete or unused facilities must be removed within 12 months of cessation of operations at the site.
- .6 ~~ENo equipment, mobile or immobile, not~~ used in direct support of the transmission or relay facility shall be stored or parked on the site unless repairs to the facility are being made.
- .7 Towers shall not be artificially lighted except to ensure human safety as required by the Federal Aviation Administration (FAA) regulations. To the extent possible, tower lighting shall be located and directed to avoid flashing or shining into the interior spaces of dwellings.
- .8 An opaque screen expected to reach minimum 8' height at maturity shall be planted around the perimeter of the area occupied by the tower, security fencing, and auxiliary uses such as parking. In addition, existing onsite trees and other vegetation shall be preserved to the extent possible.
- .9 No more than one communication tower shall be constructed on a single tract of land.
- .10 If such a structure is located on a lot adjacent to a lot or lots located in a residential or mixed-use district, it must be located at least 200 feet from all property lines adjacent to the residential or mixed use district(s).

Commented [JG2]: No equipment not used is a double negative which changes definition that I believe they were going for.

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- .11 To be permitted as an incidental accessory use in any zoning district, a tower shall be camouflaged on, with, or in an existing or proposed conforming structure (e.g., inside religious institution steeple, on utility transmission line tower). A detailed site plan and structural elevations must be submitted to the Planning Department for approval. The affirmative decision of the Planning Department shall be based upon a determination that the proposed tower is so camouflaged as to be unnoticeable to the public; or if placed upon a utility transmission line tower, that the additional equipment would not further diminish the quality of the view from surrounding properties and public streets, nor would additional light(s) intrude upon the private interior or exterior living areas of existing dwellings.
- .12 Commercial Communication Towers, in addition to meeting criteria 9.9.1-~~9.9.10,10~~ may be allowed in the Rural (R) district only if they meet the following criteria and are subject to a Special Use Permit, according to the procedures of Section 11.4.10:
- The height of the commercial communication tower may not exceed 199 feet above ground level;
 - The commercial communication tower may only be placed on properties in eight and a half (8.5) acres on a tract that existed as an eight and a half (8.5) acre tract or greater on February 6, 2012;
 - The commercial communication tower must be set back a distance of at least 500 feet from any public right-of-way and 200 feet from any property line;
 - The commercial communication tower may only be placed on a property where it will not require artificial illumination;
 - The commercial communication tower must provide technically-suitable space for at least four (4) users;
 - The commercial communication tower must be set back a distance of at least the tower's fall zone, as certified by a North Carolina Professional Engineer, from any occupied structure.
 - All commercial communication towers in the Rural district shall be constructed using a monopole design.
 - A new communication tower cannot be placed within a ~~one-mile~~one-mile radius of an existing tower.

9.10 Commercial Outdoor Kennel

The outdoor containment of animals shall be at least 250 feet from abutting property located in a residential or mixed-use district.

9.11 Day Care Centers and Small Day Care Homes

- Child Day Care Center.
 - A center must meet a permitted building and lot type for the district in which it is to be located.
 - Play space must be provided in accordance with the regulations of North Carolina Department of Human Resources.
 - Outdoor play space must be enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas, or land otherwise unsuited for children's play space; play space may not be in the established front yard.
 - Sufficient stacking lanes for drop-off and pick-up shall be provided onsite so that traffic circulation is not impeded on any public right-of-way.
- Adult Day Care Center.
 - A center must meet a permitted building and lot type for the district in which it is to be located.
 - There is no limit on the hours of operation of an Adult Day Care Center, but it shall not serve any client on a continuous 24-hour basis.
 - Sufficient stacking lanes for drop-off and pick-up shall be provided onsite so that traffic circulation is not impeded on any public right-of-way.
- Child Day care home, small, accessory.

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- a. The day care operation must be located within the residential dwelling unit occupied by the operator of the service. Preschool instruction and daytime care is limited to 6 children not related to the operator.

- b. A Child Day Care home shall meet the following standards:

- i. Child Day Care Homes must be licensed by the North Carolina Department of Health and Human Services.
- ii. Play space must be provided in accordance with the regulations of the North Carolina Department of Health and Human Services.
- iii. Outdoor play space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space; Outdoor play space is prohibited in any established building setback from a street.
- iv. Chain link and similar fencing materials shall be planted on exterior side with evergreen shrubs minimum 3 feet in height and 6 feet on center at installation; or be obscured by a comparable screening treatment.
- v. A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.
- vi. There are no specific limitations on the hours of operation of a Day Care Home, but no outdoor play shall be permitted after ~~sun-down~~ sundown.

4. Adult Day Care Home, small.

- a. An Adult Day Care home must be located within the residential dwelling unit occupied by the operator of the service. Care is limited to no more than 6 adults who do not reside in the dwelling.

- b. An Adult Day Care home shall meet the following standards:

- i. A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.
- ii. There is no limit on the hours of operation of an Adult Day Care Center, but it shall not serve any client on a continuous 24-hour basis.

9.12 Drive Through Windows as an Accessory Use

1. Drive-through service windows, stacking lanes, and circulation are prohibited in the established front setback of the principal building, or in an established side yard which abuts a street;
2. Drive-through service windows, stacking lanes, and circulation are treated as components of on-site parking for the purposes of screening as described in (Article 6 of this ordinance);
3. The length of on-site stacking lane(s), taken together, shall be a minimum of 200 feet if window access is provided directly from a major or minor thoroughfare; a minimum of 100 feet if window access is provided directly from a street of lesser capacity.
4. The drive-through lane(s) must be distinctly marked by special striping, pavement markings, or traffic islands. A separate circulation drive must be provided d for passage around and escape from the outermost drive-through service lane.
5. Screening is not required for walk-up service accessories such as depositories and ATM's.

9.13 Duplex on Corner Lot

Duplexes are permitted on corner lots in any residential or ~~mixed-use~~~~mixed-use~~ district according to the following standards:

1. The entrances to each unit in the structure will face different streets;
2. The dwelling must meet the minimum front yard setback from both streets upon which a unit faces;
3. The lot has at least 1.5 times the minimum lot area, if any, for the district.
4. Duplexes which meet the standard for the attached house or apartment building, are permitted without corner lot restrictions in those districts which permit attached housing and apartment building types.

9.14 Essential Services 1 and 2

1. Utility distribution lines, which deliver service to the end user from a substation fed by a transmission line providing service to an area larger than the individual parcel or project area, should be installed underground, unless subsurface conditions make underground installation not possible or practical.
2. Facilities used for the operation of essential services should, whenever possible, be located on interior properties rather than on properties aligned with other lots that have continuous street frontage.
3. Buildings and other structures which cannot adhere to the scale, volume, spacing, setback and typology of existing buildings along fronting streets shall be provided an opaque screen to shield the view from all public rights-of-way and from abutting properties.

9.15 Essential Services 3

Essential Services, Class 3, are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section- 11.4.10.

The Town board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
3. That the proposed use will not constitute a nuisance to properties located in residential districts or developed for residential or institutional purposes with respect to noise, dust, odors, light, vibration, or traffic; and
4. That area of active use will be enclosed by a fence, not easily climbable, at least six feet in height, and the fence must be located at least 20 feet from the public street right-of-way and 100 feet from abutting property lines; and
5. That a minimum separation of 100 feet, fully vegetated, will be provided between the fenced use area and any abutting property line; existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties; and
6. That the site shall be screened from the street(s) by a screen composed of a masonry wall or a solid fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; -security fencing shall be placed on the interior side of the vegetation and wall or fence.

9.16 Facilities for the Intake and Transfer Off-site of Inorganic Household Waste and Residential Recyclables; and the Intake and Processing of Yard Waste

1. Recyclable materials from residential sources shall be limited to tires, scrap metal such as lawnmowers and play equipment; white goods such as refrigerators, clothes dryers and stoves; lead acid batteries; motor oil; cardboard; and other recyclables of residential origin.
2. The area of active use must be enclosed by a fence, not easily climbable, from six to seven feet in height, and the fence must be located at least 20 feet from the public street right-of-way and 100 feet from abutting property lines.
3. A minimum separation of 100 feet, fully vegetated, shall be provided between the fenced use area and any abutting property line; existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties.
4. The site shall be screened from the street(s) by a screen composed of a masonry wall or a solid fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; security fencing shall be placed on the interior side of the vegetation and wall or fence.

9.17 Hazardous or infectious material incineration, handling, or storage

Hazardous or infectious materials, storage and treatment facilities are permitted in the [Special Purpose \(SP\)](#) District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
3. That the use complies with the Federal Resource Conservation and Recovery Act of 1976, as amended ([42 U.S.C. §6901 et seq](#)) and the North Carolina Solid Waste Management Act, as amended, ([Article 913B](#), G.S. 130A-290 et seq) for design, siting, and monitoring, and for materials to be stored or treated; and
4. That all storage, treatment, and loading facilities handling hazardous or infectious materials will be located at least 200 feet from any exterior property line and at least 2,000 feet from any lot zoned or used for residential, institutional, or office purposes; and
5. That the use will be entirely fenced with ~~nonclimbable~~ fencing material to a height of at least 7 feet; and the site shall be screened from the street(s) by a screen composed of a masonry wall or a solid fence, planted on the exterior side with ~~planted on the exterior side with~~ a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; security fencing shall be placed on the interior side of the vegetation and wall or fence; ~~and~~;
6. That vehicular access to the operation will be provided only by way of a designated thoroughfare; and
7. That all surface water and groundwater on the property shall be protected so as to minimize to the greatest extent possible the probability of contamination by hazardous materials; and
8. That the site will be served by a publicly operated sewage disposal system and all sanitary sewer and storm water management systems on the property will be protected so as to minimize to the greatest extent possible the probability of contamination by hazardous or infectious materials; and
9. That no structures or operations of any kind on the site shall be located within 200 feet of any adjacent lot.

[9.](#)

9.18 Helistop as an Accessory Use

A helistop shall be permitted as an accessory use in the ~~Campus Districts CI, CB~~ and the ~~SPecial Purpose~~ District provided it complies with all applicable Federal Aviation Administration regulations and guidelines.

9.19 Home Occupation

A home occupation is permitted accessory to any dwelling unit (except manufactured housing) in accordance with the following requirements:

1. The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.
2. A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure typically associated with a dwelling.
3. The use shall employ no more than one person who is not a resident of the dwelling.
4. A home occupation housed within the dwelling shall occupy no more than 25 percent of the total floor area of the dwelling.
5. There shall be no visible outside display of stock in trade which is sold on the premises.
6. There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.
7. Operation of the home occupation shall not be visible from any dwelling on an adjacent lot, nor from a street.
8. Only vehicles used primarily as passenger vehicles will be permitted in connection with the conduct of the home occupation.
9. The home occupation shall not utilize mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling or accessory structure housing the home occupation.
10. Home occupations shall be limited to those uses which do not draw clients to the dwelling on a regular basis.
11. Outdoor kilns used for the firing of pottery shall be provided with a semi-opaque screen to obstruct the view from the street and from adjacent properties located in residential districts, shall have a secured work area, and shall be a minimum of 10 feet from abutting property lines.
12. No business identification or advertising signs are permitted.

9.20 Junk Yards

1. The area of active use must be enclosed by a fence, not easily climbable, from six to seven feet in height, and the fence must be located at least 20 feet from the public street right-of-way and 100 feet from abutting property lines.
2. A minimum separation of 100 feet, fully vegetated, shall be provided between the fenced use area and any abutting property line; existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties.
3. The site shall be screened from the street(s) by a screen composed of a masonry wall or a solid wooden fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; if security fencing of chain link or similar material is used, it shall be placed on the interior side of the vegetation and wall or fence.

9.21 Neighborhood and Outdoor Recreation

1. Buildings constructed in association with neighborhood recreation or outdoor recreation shall meet one of the building types permitted in the zoning district.
2. Permanent parking lots shall meet the standards of Article 6, Off-Street Parking.
3. Service areas will be separated by an opaque screen from the view from any street and from abutting properties.
4. Chain link and similar fencing materials, if used, shall be planted on exterior side with evergreen shrubs minimum 3 feet in height and 6 feet on center at installation.
5. Outdoor lighting associated with outdoor recreational facilities shall be designed as follows:
 - a. Facilities shall use fully shielded lighting fixtures except where luminaries are:
 - (1) Provided with internal and/or external glare control louvers and installed so as to minimize up light and offsite light trespass, and;
 - (2) Installed and maintained with aiming angles that permit no greater than five percent (5%) of the light emitted by each fixture to project above the horizontal.
 - b. Lighting plans shall limit light trespass to the maximum extent possible. A maximum of .5 foot-candles at any location on any non-residential property, and .1 foot-candles at any location on any residential property, as measurable from any orientation of the measuring device, shall be met.
 - c. Lighting shall be extinguished after 11:00 p.m. Illumination of the sports facility shall be permitted after this time only to conclude a scheduled event that was unable to conclude before this time due to unusual circumstances.
6. Hours of operation shall be no earlier than 6:00 a.m. and no later than 11:00 p.m.

9.22 Neighborhood and Highway Commercial Gasoline Stations

1. Neighborhood Gasoline Stations, by definition, permit retail sale of gasoline and convenience products and the minor service and repair of motor vehicles; they have no more than two gasoline service islands. Highway Commercial gasoline stations permit major service and repair of motor vehicles and are unlimited as to gasoline service islands.
2. Buildings shall meet the requirements of Article 4, Building and Lot Types.
3. Gasoline pumps, canopies, and associated service areas are prohibited in any established yard abutting a street.

9.23 Off-Site Land Clearing and Inert Debris (LCID) and Construction & Demolition (C&D) Landfills

Off-Site LCID and C&D Landfills are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10. The Town Board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes the conditions below.

1. That the Site will operate in compliance with the rules according to the NCDENR for C&D and LCID landfills, as amended.
2. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
3. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
4. That the comprehensive site plan addresses each of the environmental and development standards below:

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- a. A landfill which would be larger than 10 acres shall be accessed from a major or minor thoroughfare or from a street built to Industrial Collector Street standards that connects directly to a major or minor thoroughfare. Landfills 10 acres or less must directly connect to a major or minor thoroughfare, or to an Industrial Collector Street or Industrial Local Street where available. However, if such thoroughfares or streets are not reasonable available, the Board may nevertheless issue a special use permit upon finding that the use for which the permit is granted would not likely cause any injurious effect on the property adjacent to the access.
 - b. That the proposed or existing use will be in compliance with the rules and regulations as established by Traffic Impact Analysis (TIA) Article 14.
 - c. Neither clearing, grading, land disturbing activities nor any portion of a C&D or LCID landfill may be located within 100 feet of any exterior property line. Further, the buffer requirements for the site are required per the state permitting criteria. The requirements stated below take precedence over any and all modifications made by the state unless the state standards become more restrictive.
 - 500-foot buffer from existing residential water supply wells to fill area.
 - 200-foot buffer from adjacent property to fill area.
 - No fill in designated wetlands or the FEMA and/or Community Special Flood Hazard Areas.
 - 50-foot buffer from delineated streams.
 - 50-foot buffer from road right-of-way to fill area (non state requirement)
 - d. Driveway access to the facility must be paved for a distance of at least 100' from the public street.
 - e. Vehicular and pedestrian access to the site must be controlled; the site must be closed and secured during hours when filling activities are not under way. A non-climbable fence, at least 6' high, shall be installed around the landfill and all of its operations as a safety device. These fences must be constructed of wire mesh with openings not to exceed 2 inches by 4 inches or equivalent and must be placed on the interior side of screening/buffering devices.
 - f. All driveways which serve the site must be wide enough to accommodate two-way traffic for a distance of at least 100 feet from the public street so that no traffic waiting to enter the site will be backed up on any public right-of-way.
5. That the landfill operator will be responsible for removal of any and all debris, dirt, or other materials which fall from trucks entering or leaving the landfill from all adjoining streets on at least a weekly basis. Failure to comply constitutes a violation of this ordinance and may constitute grounds for revocation of the operating permit.
 6. That use of the site for any purpose shall be limited to the hours of 7:00 a.m. until 6:00 p.m. Monday through Saturday, if the site adjoins or is across the street from property located in a residential district.
 7. That a timetable has been submitted with the application indicating the development phases and the projected life expectancy of the landfill.
 8. That a reclamation plan is provided that shows how the site will be reclaimed upon the closing of the landfill. The reclamation plan shall state the proposed method of conservatorship and perpetual maintenance or use. It shall demonstrate that the site, when closed, will pose no threat to public safety; that the finished contours and groundcover will reestablish a compatible appearance with surrounding lands and buildings; and that the method of maintenance or use will cause no future environmental degradation.
 9. An existing LCID landfill shall not be required to be brought into compliance with the provisions of this ordinance provided:
 - a. The landfill has been continuously operating since 1990 and was not within the zoning jurisdiction of the Town of Huntersville in 1991;

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- b. The landfill has a valid LCID or demolition landfill permit and/or obtains any renewals of the LCID or demolition landfill permit required by the State of North Carolina and/or Mecklenburg County;
- c. The landfill has a closure plan approved by the State of North Carolina and/or Mecklenburg County; and
- d. In no event shall the landfill operate under a demolition landfill permit later than December 4, 2016 and further provided that on the earlier of the final date permitted for operation of the landfill or the date the landfill permanently ceases operation, the owner and/or operator of the landfill shall immediately commence and continuously pursue to completion closure of the landfill according to the provisions of the then current closure plan approved by the State of North Carolina and/or Mecklenburg County. Failure to complete closure according to such approved plan shall be a violation of this ordinance enforceable by all remedies and penalties available to the Town.
- e. In no event shall a landfill operate under an LCID landfill permit later than March 3, 2028 and further provided that on the earlier of the final date permitted for operation of the landfill or the date the landfill permanently ceases operation, the owner and/or operator of the landfill shall immediately commence and continuously pursue to completion closure of the landfill according to the provisions of the then current closure plan approved by the State of North Carolina and/or Mecklenburg County. Failure to complete closure according to such approved plan shall be a violation of this ordinance enforceable by all remedies and penalties available to the Town. Recycling from an LCID landfill shall be considered an LCID activity and shall not be considered an expansion for purposes of determining nonconformance.
- f. A landfill operating under an LCID landfill permit as described in e) shall meet the following requirements to the extent reasonably practicable without violating County, State, or Federal regulations:
 - (1) In the event that, after September 5, 2017, a driveway is permitted to replace an existing permitted driveway for the facility, the new driveway shall be paved for a distance of 100 feet from the public right of way, or, if the Planning Director determines that 100 feet of pavement is not reasonable due to topographic conditions, for such lesser distance as is determined by the Planning Director;
 - (2) Landscaping along street frontages to the extent commercially reasonable; and
 - (3) The landfill operator will be responsible for removal of any and all debris, dirt, or other materials which fall from trucks entering or leaving the landfill from all adjoining streets on at least a weekly basis, or more as needed.

- 10. Any existing C&D landfill shall be permitted to continue operation in the zone in which it is located provided the landfill has an unexpired special use permit. Any expansion beyond the property boundary of an existing C&D landfill as approved on November 11, 2005 must be located in the SP district with a special use permit in accordance with the provisions of this Section.

9.24 Environmentally Sensitive Uses not Expressly Permitted

Uses not expressly named in this ordinance, but which may constitute a greater than average impact on the environment or diminish the use and enjoyment of nearby property by generation of noise, smoke, fumes, odors, glare, commercial vehicle traffic, or similar nuisances, are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

- 1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
- 2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
- 3. That a comprehensive site plan addresses the development standards below:
 - a. Adjoining properties and streets are protected from adverse impacts of the use and buildings on the proposed site by the locations of buffers and/or screens;

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- b. Any areas of the site which may present a danger to residents, their children, pets, or livestock shall be fenced with non-climbable fencing material to a height sufficient to avert said danger; fencing shall be installed on the interior of any buffering or screening;
- c. Vehicular access to the proposed use will be provided by way of a road sufficiently sized to accommodate the generated trips and the vehicles typically associated with the use; a use considered under the standards of this special use permit process shall not be accessed through a residential neighborhood nor from a Residential Local street.

9.25 Outdoor Display of Vehicles and Boats for Sale, Lease, and Cleaning

The following requirements shall apply to the outdoor display of vehicles and boats associated with sales, rental, cleaning, mechanical repair, body repair, and similar services.

1. Vehicles and boats for sale shall not be displayed in an established front yard or in an established side yard abutting a street.
2. Vehicles and boats for sale may be displayed in a side yard which does not abut directly on a street, so long as:
 - a. the display is placed behind the established front setback line of the building, extended to the side lot lines;
 - b. the display area meets the standards for a parking lot [as described in \(Article 6 of this ordinance\)](#);
 - c. the display area is screened from abutting properties by an opaque screen [as described in \(Section 7.6 of this ordinance\)](#).
3. Nothing in this section shall prohibit a break in a planted screen or wall for the crossing of a driveway which provides access to on-site parking from the fronting street or a rear alley, or access between the parking lots of abutting businesses.

9.26 Outdoor Storage

1. Outdoor storage defined:
 - a. includes all goods and materials not returned to an enclosed building at the end of each business day; regardless of whether such goods or materials are kept on the premises for retail sale, wholesale sale, storage, or use by a business on or off the lot; (to be classified as goods for sale and therefore exempt from regulation as outdoor storage, items must be placed within an enclosed building at the end of each business day);
 - b. includes up to two storage trailers placed on a single lot or in conjunction with a single principal use;
 - c. includes all items awaiting or in process of repair except customary passenger vehicles awaiting repair which are not visibly damaged or are not used or intended to be used as "parts" vehicles; (rather than being considered outdoor storage, such vehicles may await repair in any conforming off-street parking lot associated with the principal use);
 - d. includes vehicles with more than two axles, boats, manufactured homes, and trailers of tractor trailers awaiting or in process of repair;
 - e. does not include construction equipment; where permitted, outdoor storage of construction equipment is regulated by Section 9.27.
2. Outdoor storage, where expressly permitted, may be established on a lot according to the following standards:
 - a. where permitted as an accessory use in conjunction with a building, the area of storage shall not be placed in any established yard abutting a street;
 - b. where permitted as a principal use on a lot, the area of storage shall be no closer than 40 feet from an abutting street right-of-way;

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- c. all areas established for outdoor storage shall be screened from view from the street(s) and from all abutting properties by an opaque screen [as described in Section 7.6 of this ordinance](#); wherever security fencing is desired, it shall be placed on the interior side of the opaque screen.

9.27 -Outdoor Storage of Construction Equipment

Outdoor storage of construction equipment, where expressly permitted, may be established on a lot according to the following standards:

1. where permitted as an accessory use in conjunction with a building, the area of storage shall not be placed in any established yard abutting a street;
2. where permitted as a principal use on a lot, the area of storage shall be no closer than 40 feet from an abutting street right-of-way;
3. the area of outdoor storage shall be screened from view from the street(s) and from all abutting properties by an opaque screen [as described in Section 7.6 of this ordinance](#) ~~(Section 7.6)~~; wherever security fencing is desired, it shall be placed on the interior side of the opaque screen.

9.28 -Parking Lot as Principle Use

Parking lots not associated with a building shall adhere to the standards of Article 6, Off-Street Parking, except that parking lots may be constructed up to the prevailing established setback line for structures within 300' in either direction on the same side of the street. The prevailing established setback applies for both the fronting street and any abutting side street.

9.29 Parks (including greenways)

1. Buildings constructed in association with a park or greenway shall meet one of the building types permitted in the zoning district.
2. Permanent parking lots associated with parks and greenways shall meet the standards of Article 6, Off-Street Parking.
3. Dust-free, pervious surface areas are encouraged for overflow or event parking; such areas, if maintained in a natural condition, need not conform with Article 6.
4. Service areas shall be separated by an opaque screen from view from any street and from abutting properties [as described in Section 7.6 of this ordinance](#) ~~(Section 7.6)~~.
- ~~5.~~ Outdoor lighting associated with active outdoor recreation shall not shine directly into yards associated with a residential use nor into the windows of a residential structure.
- ~~5.~~ Hours of operation of outdoor recreation will be no earlier than 6:00 a.m. and no later than 11:00 p.m. for uses located in or abutting a residential district.

9.30 Petroleum Storage Facilities

1. The use meets the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the "Flammable and Combustible Liquids Code, NEPA 30" of the National Fire Protection Association;
2. All storage tanks and loading facilities will be located at least 100 feet from any exterior property line;
3. Vehicle access to the use shall be provided by way of a major or minor thoroughfare, or an Industrial Street directly connecting to a thoroughfare.

9.31 Quarries

Quarries are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
3. That the quarry and all its buildings, pits, and processing equipment will be separated by a ~~400~~ ~~feet~~ 100-foot buffer from the street and from any adjacent property that is located in a residential district or developed for residential or institutional use; and
4. That the quarry and all its buildings, pits, and processing equipment will be provided with an opaque screen to shield the view from the public street and from all abutting properties, regardless of use; and
5. That a non-climbable fence, at least 6 feet high, will be installed around the quarry and all of its operations as a safety device. These fences must be constructed of wire mesh with openings not to exceed 2 inches by 4 inches or equivalent and must be placed on the interior side of screening and/or buffering devices; and
6. Vehicle access to the quarry shall be provided by way of a major or minor thoroughfare, or an Industrial Street directly connecting to a thoroughfare; and
7. That any crushing of rock or processing of material must be done in such a way as to minimize the amount of air-borne dust created; and
8. That the minimum distances of quarry **operations** from adjacent properties shall be:
 - a. for any quarry building 100 feet
 - b. for any crushing of rock, processing of stone, gravel or other material 300 feet
 - c. for any blasting 500 feet
9. And that upon termination of quarrying operation, the site must be reclaimed in accordance with NC General Statutes.

9.32 Raceways and Drag Strips

Raceways and Drag strips are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
3. That the use will be located on a lot of at least 50 acres; and
4. That vehicular access to the use will be provided only by way of a major or minor thoroughfare; and
5. That no direct beams of light from outdoor lighting fixtures, signs, or vehicles maneuvering on the site will shine into any abutting property located in a residential district; and
6. That a minimum separation of 100 feet, fully vegetated, shall be provided between the fenced use area and any abutting property line; existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties; and
7. That the site shall be screened from the street(s) by a masonry wall or a solid wood fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at

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maturity; if security fencing of chain link or similar material is provided, it shall be placed on the interior side of the vegetation and wall or fence; and

- .8 That hours of operation will be no earlier than 8:00 a.m. and no later than 11:00 p.m.

9.33 Riding Academies and Commercial Stables

Riding academies are permitted in the Rural and Transitional District if the following standards are met.

- .1 All buildings and structures related to the care of animals and to the conduct of the academy must be located at least 100 feet from property boundaries.
- .2 Maximum number of horses is 2 per acre.
- .3 Off-street parking, service areas, and buildings which are not used for residential purposes, farm purposes, or the stabling of horses, shall be separated by an opaque screen from the view from any street and from abutting properties.
- .4 Entrance drives, internal drives, parking and service areas may be gravel, crushed stone, or other suitable material approved by the Planning Director. These areas shall be well maintained and kept free of potholes, weeds, etc. The initial 50 feet of the driveway from the public roadway connection shall be paved with concrete or asphalt.

9.34 Sanitary Landfill

Sanitary Landfills are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section- 11.4.10.

The Town board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

- .1 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
- .2 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
- .3 That the comprehensive site plan addresses each of the development standards below:
 - (a) The use shall be located on a lot of at least 50 acres;
 - (b) All land filling operations and off-street parking and service areas will be separated by a 100-foot buffer from all adjacent properties and shielded by an opaque screen from the view from a public street;
 - (c) No structure or land filling operation will be located within 100 feet of any property line nor within 200 feet of abutting property located in a residential district or developed for residential or mixed use;
 - (d) Vehicle access to the proposed use shall be provided by way of a major or minor thoroughfare, or an Industrial Street directly connecting to a thoroughfare; -and
- .4 That the plan for development and operation of the site addresses the environmental standards below:
 - (a) The siting and design of the facility will comply with the "Siting and Design Requirements for Disposal Sites" of the North Carolina Solid Waste Management Rules ([Title 15A NCAC Chapter 13B](#)) in effect at the time of review of the application;
 - (b) Monitoring of surface water and groundwater will be conducted in accordance with the State of North Carolina permit and monitoring documents developed pursuant to the State of North Carolina Solid Waste Management Rules;
 - (c) The facility complies with the Mecklenburg County Department of Environmental Protection's policy concerning Actual and Suspected Contaminants of Mecklenburg County Surface and Groundwater; and
- .5 That there is a general timetable indicating the development phases and projected life expectancy of the landfill; and

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- .6 That there is a detailed plan for the re-use of the property, after landfill operations cease, that is not in conflict with the objectives of the most detailed plan approved for the area; and
- ~~.7~~ That the plan for close-out of the landfill includes the creation of an escrowed fund to finance close-out, with contributions to the fund escrowed annually, beginning at the time facility development begins.

.7

9.35 - Schools

- .1 Schools shall conform principal buildings to the standards of Civic Buildings and lots, Article 4. Accessory and incidental buildings may be placed within a street fronting yard if they conform to a building and lot type permitted in the zoning district. Buildings which do not so conform shall be placed within established rear and side yards which do not abut a street.
- .2 Permanent parking lots associated with schools shall meet the standards of Article 6, Off-Street Parking. However, areas designated for temporary bus parking that also serves as a recreational area shall not be subject to interior parking lot landscaping requirements.
- .3 Notwithstanding .1 and .2, above, where the safe transport of students requires functional separation of parking and circulation areas (i.e. school bus, auto drop-off, etc.), the location of parking and circulation according to building and lot type may be modified, so long as streets abutting parking and circulation areas are, to the extent practicable, detailed as plazas. Sufficient stacking lanes for drop-off and pick-up shall be provided onsite so that traffic circulation is not impeded on any public right-of-way. Stacking on Town streets may be allowed if all of the following are met:
- (a) Site is zoned TND-R, TND-U or TND-Overlay;
 - (b) Maximum enrollment shall not exceed 360 -kindergarten to 8th grade students;
 - (c) Two-way traffic maintained on -Town streets along the entire pick up/drop-off zone;
 - (d) Pick-up/drop-off zone shall have a minimum width of eight (8) feet exclusive of the two-way traffic lanes.
 - (e) The school shall provide at a minimum a ~~11.5-foot-wide~~ 11.5-foot-wide hardscaped area behind the back of curb. Street trees with grates are allowable, but bushes/shrubs in the area are not allowed.
 - (f) A traffic impact analysis, including a mandatory circulation plan and queuing analysis must be approved by the Town of Huntersville Engineering & Public Works Department prior to plan approval. Should conditions in the field vary from the analysis, the Town Engineer has the ability to modify the circulation plan.
- .4 Dust-free, pervious surface areas are encouraged for overflow or event parking; such areas need not conform with Article 6 if they are maintained in a natural condition (for example, as a grassed field).
- .5 Service areas shall be separated by an opaque screen from the view from any street and from abutting properties (~~Section 7.6~~) as described in Section 7.6 of this ordinance.
- .6 Where chain link and similar fencing material are installed in an established yard abutting a street, such fencing shall be planted on the exterior side with evergreen shrubs minimum 3 feet in height (expected height at maturity minimum 6 feet), 6 feet on center at installation.
- .7 Outdoor lighting associated with active outdoor recreational facilities shall be designed as follows:
- (a) Facilities shall use fully shielded lighting fixtures except where luminaries are:

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- (1) Provided with internal and/or external glare control louvers and installed so as to minimize up-light and offsite light trespass; ~~and~~
 - (2) Installed and maintained with aiming angles that permit no greater than five percent (5%) of the light emitted by each fixture to project above the horizontal.
- (b) Lighting plans shall limit light trespass to the maximum extent possible. A maximum of .5 foot-candles at any location on any non-residential property, and .1 foot-candles at any location on any residential property, as measurable from any orientation of the measuring device, shall be met.
- (c) Lighting shall be extinguished after 11:00 p.m. Illumination of the sports facility shall be permitted after this time only to conclude a scheduled event that was unable to conclude before this time due to unusual circumstances.
- .8 Elementary and Junior High Schools shall be located on streets sized to accommodate traffic volumes of background uses plus the additional traffic projected to be generated by the school(s)
- .9 Senior high schools shall be on a lot which abuts a minor or major thoroughfare; primary vehicular access shall be provided from the thoroughfare.
- .10 When permitting temporary classroom units, the entire site shall be reviewed for compliance with applicable codes (i.e. sidewalks, landscaping, turn-lanes). Applicants are encouraged to bring the site into compliance where deficiencies are identified relative to the intensification of use proposed.
- .11 Sufficient stacking lanes for drop-off and pick-up shall be provided onsite so that traffic circulation is not impeded on any public right-of-way.
- .12 In a Corporate Business zoning district, schools shall only be allowed with the issuance of a special use permit subject to the following:
- a. Schools shall only be allowed on existing lots and in existing buildings as of December 20, 2010 no greater than 50,000 sq. ft. Additions to buildings intended for school use will be limited to 10% of the existing floor area of the building.
 - b. Schools shall be limited to a temporary use. The length of time allowed for the school to operate will be determined by the Town Board during the special use permit process; not to exceed three (3) years from the occupancy of the temporary building. If the school does not occupy the building within one (1) year of the special use permit approval, the permit will become null and void. A school may apply for another Special Use Permit allowing an additional two (2) years in the CB district with the approval of the Town Board. At no time shall an individual school be located in the CB district at the same location for more than a total of five (5) years.
 - c. The maximum number of students shall be 300.
 - d. In a CB zoning district, the school site shall be designed, located, and accessed such that primary passenger vehicles routes avoid those that will be heavily used by truck/industrial traffic.

9.36 -Solid Waste Incineration

Solid Waste Incineration, materials that are neither hazardous nor infectious, is permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

- .1 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
- .2 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
- .3 That the incineration units(s) will be constructed and operated in compliance with environmental regulations, both current and future, as annotated in the United States Code of Federal Regulations, particularly [40 CFR § 63.988](#) ~~Chapter 40~~, which deals with environmental regulations, as amended by the State of North Carolina and Mecklenburg County Department of Environmental Protection; and
- .4 That all storage, handling, incineration, and loading facilities will be located at least 200 feet from any exterior property line and at least 1,250 feet from any lot located in a residential or mixed use district or developed for residential, institutional, or mixed use; and

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- .5 That structures, off-street parking and service areas will be separated by a 100-foot buffer from all adjacent properties and shielded by an opaque screen from the view from all public streets; and
- .6 That active use portions of the site will be entirely fenced with non-climbable fencing material to a height of at least six feet, which shall be installed on the interior of the buffer; and
- .7 That vehicular access to the operation will be provided only by way of a designated thoroughfare; and
- .8 That all surface water and groundwater on the property shall be protected so as to minimize to the greatest extent possible the potential for contamination; and
- .9 That the site will be served by a publicly operated sewage disposal system and all sanitary sewer and storm water management systems on the property will be protected so as to minimize to the greatest extent possible the potential for contamination.

9.37 - Temporary Uses and Structures, Including Seasonal Markets

- .1 The establishment of temporary sales lots for farmers markets, Christmas trees, and other seasonal agricultural products, plus related goods, are permitted for up to a maximum of three months per site and calendar year upon the issuance of a temporary use permit by the Zoning Administrator. The following conditions apply.
 - (a) Storage of goods in or sale of goods from trailer(s) on the site is prohibited.
 - (b) The use may only be located on a vacant lot or on a lot occupied by a nonresidential use.
 - (c) The use shall be conducted behind the prevailing established setback line for structures within 300' in either direction on the same side of the street.
 - (d) Off-street parking may be provided behind or to the side of the established use, but not forward of the prevailing established setback line, defined in (c), above.
 - (e) On-site parking may be provided on a dust-free, pervious surface area and need not comply with Article 6.
 - (f) Signs on the premises of a temporary use shall meet the same standards as the correlative building and lot type permitted in the district.
- .2 The establishment of temporary mobile food sales are permitted as an accessory use upon issuance of a temporary use permit by the Zoning Administrator. The following conditions apply.
 - (a) Trailers, carts and related storage shall be removed by the close of each business day.
 - (b) The use may only be located on a lot occupied by a non-residential use.
 - (c) The use shall be located a minimum of 15' behind existing road right-of-way, shall not impede the flow of pedestrian traffic, nor shall be located in any required parking space, loading space, or vehicle maneuvering area.
 - (d) Off-street parking may be provided in existing parking spaces, as long as they are not part of the required number of spaces for the principal use.
 - (e) No signage shall be permitted, except signs that are painted on or applied directly to the mobile food unit.
 - (f) All applicable local and state regulations, including, but not limited to, Health Department, Environmental Health, and Environmental Protection, shall be met.
 - (g) All discharge, waste and trash shall be properly disposed of in accordance with the applicable regulations by the close of each day.
 - (h) A temporary use permit shall be required and is valid for one year and may be renewed annually. Prior to the issuance of a temporary use permit all appropriate approvals, as provided in the Mecklenburg County Environmental Health Department's Mobile Food Unit and ~~Push~~ ~~Cart~~~~Pushcart~~ Flow Chart, shall be provided to the Planning Department.

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- (i) At the issuance and renewal of a temporary use permit, the applicant shall supply the Zoning Administrator with a schedule of the days of operation of the business along with permission from the property owner to locate on the property.
- (j) The use shall not create any additional non-conformities on the existing site.
- .3 Temporary accessory structures, including but not limited to, school mobile classrooms and temporary offices placed on development sites during construction and sale of buildings, are permitted for up to a maximum of two years, renewable thereafter in one year increments, upon the issuance of a temporary use permit by the Zoning Administrator. Such structures shall meet the standards for building and lot type to the extent practicable, given the location of existing buildings and improvements on the site and location of permitted of construction areas. Temporary structures associated with construction projects shall be removed upon completion of construction.
- .4 Temporary Storage Containers are permitted as temporary accessory use for residences, when not associated with new construction, subject to the following:
(construction addressed in Section 9.37.3)
 - (a) Temporary storage containers shall be removed within thirty days of being placed on a lot and shall not be replaced for six months from the date of removal. Temporary storage containers may be placed on a property twice during a twelve-month period.
 - (b) The temporary storage container cannot be located in a street right of way.
 - (c) The temporary storage container shall not be placed in required parking spaces.

9.38 -Transfer Station for Organic and Inorganic Waste Products

Transfer Stations are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

- .1 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby the property; and
- .2 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
- .3 That the comprehensive site plan addresses the development standards below:
 - (a) The active use areas of the site shall be separated by a 100-foot buffer from all adjacent properties and shielded by an opaque screen from all public streets; and
 - (b) That active use portions of the site will be entirely fenced with non-climbable fencing material to a height of at least six feet, which shall be installed on the interior of the buffer and screen; and
 - (c) No active area will be located within 100 feet of any property line nor within 200 feet of abutting property located in a residential district or developed for residential, institutional, or mixed use; and
 - (d) Vehicular access to the proposed use shall be provided by way of a major or minor thoroughfare, or an Industrial Street directly connecting to a thoroughfare.

9.39 -Transit Shelter

- .1 Transit shelters may be located within any street right-of-way or within an established yard fronting a street, but may not be located so as to obstruct the sight distance triangle (Section 8.9).
- .2 Only governmental signs are permitted in association with a transit shelter.
- .3 If constructed by other than the Town of Huntersville, a schematic plan must be submitted and approved by the Board of Commissioners. The plan must include the following:

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- (a) the location of the proposed shelter relative to street, property lines, and established building yards; and
 - (b) the size and design of the shelter, including front, side, and rear elevations, building materials, and any public convenience or safety features such as -telephone, lighting, heating, or trash containers.
- .4 A building permit shall be issued only after approval by the Board of Commissioners of the proposed schematic plan in .3, above.
- .5 A transit shelter located within a street right-of-way or an established yard may be removed by the Town of Huntersville if the Town Board determines that it no longer serves the best interest of the public.

9.40- Trucking Terminals

Trucking Terminals are permitted in the SP District provided:

- .1 The area designated for truck parking shall be located no closer than 40 feet from an abutting street right-of-way. Truck parking areas are not classified as parking lots. ~~Therefore~~ Therefore, they are exempt from the standards of Article 6, but subject to the alternative standard in .2, below.
- .2 The area of truck parking shall be screened from view from the street(s) and from all abutting properties by an opaque screen; wherever security fencing is desired, it shall be placed on the interior side of the screening materials.
- .3 The use shall be located on or directly accessible to a major thoroughfare, or Industrial Streets; truck terminals shall not be sited such that residential or town streets are regularly traversed to access the larger capacity road.

9.41- Correctional Facilities

Correctional Facilities are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for a correctional institution in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

- .1 That the proposed use will comply with all standards which this ordinance applies to uses in the SP Districts; and
- .2 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
- .3 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
- .4 That the principal structure and any accessory use or structure (excluding property boundary fencing) will be located at least 500 feet from any property located in a residential district or mixed-use district; and
- .5 That property boundary fencing shall not employ barbed wire, razor wire, electrical fencing, or similar materials where abutting property located in a residential district or mixed-use district; and
- .6 That security fencing will be provided an opaque screen on the exterior of fencing wherever it is adjacent to a street or property in a residential or mixed-use district; and
- .7 That all lighting for the facility will be oriented so that direct beams of light shine away from all abutting properties and into the correctional facility property; and
- .8 That the use will be located on a lot of at least 10 acres if the facility has beds for more than 100 inmates; and
- .9 That the use will be located on a lot of at least five acres if the facility has beds for 100 or fewer inmates.

9.42- Marinas (accessory to residential use)

A marina is permitted as an accessory use to residential development in the R, TR, GR, NR, NC, both TND districts, and in the MH-O District provided:

- .1 No sale of goods or services or other commercial activities shall occur at the marina.
- .2 The number of boat slips shall not exceed 110 percent of the number of dwelling units in the residential development which the marina serves.
- .3 Areas for parking and service shall meet all applicable screening and landscape requirements of this ordinance.
- .4 Dry boat storage (indoor or outdoor) is not permitted at marinas accessory to residential developments.
- .5 Any accessory marina serving more than 50 dwelling units shall have a boat launching facility for use by residents only.
- .6 Accessory marinas shall adhere to pier and water facilities development standards in Section 9.43.

9.43 -Special Requirements for Facilities Located on or Adjacent to the Catawba River and its impoundments (Lake Norman and Mountain Island Lake)

The purpose of this Section is to provide supplemental restrictions to protect and enhance water quality, safety, and public recreational opportunities on the Catawba River and its impoundments (Lake Norman and Mountain Island Lake). These requirements shall apply to the surface waters of the Catawba River and its impoundments and all land areas within 1,000 feet of their shorelines. In the case of Lake Norman, the regulatory boundary shall be measured as 1,000 feet horizontally and upland of the designated full pond level of 760 feet contour elevation. This contour elevation shall also serve as the standard from which all related measurements will be taken. In the case of the Catawba River and its impoundments, the shoreline shall be the mean high-water mark. The restrictions of this section shall be supplemental to any other standards established in these regulations.

1. All water-related structures shall be approved by Duke Energy Lake Services prior to any construction. After the issuance of a zoning compliance for a building permit, the applicant must obtain and submit the required authorization from Duke Energy Lake Services or any other pertinent outside agency.
2. Individual Private Facilities (residential piers) are permitted on lots currently in single-family residential use.
3. Piers and other shoreline projections must be located and constructed within the area described by and in accordance with the standards below:
 - (a) A projection over the water may be established at each of the two property corners. Each projection shall bisect the angle between two points where a ~~10-foot~~10-foot radius from a common property corner intersects the property lines defining the shoreline, as illustrated in Figure 9.43(a). If there is no common property corner, the center of the radius shall be the point on the side property line closest to the water, as illustrated in Figure 9.43(b). A line is then drawn from the new center of the radius parallel to the property line defining the shoreline for the adjacent property and the projection is created from that center of radius as illustrated in Figure 9.43(c).

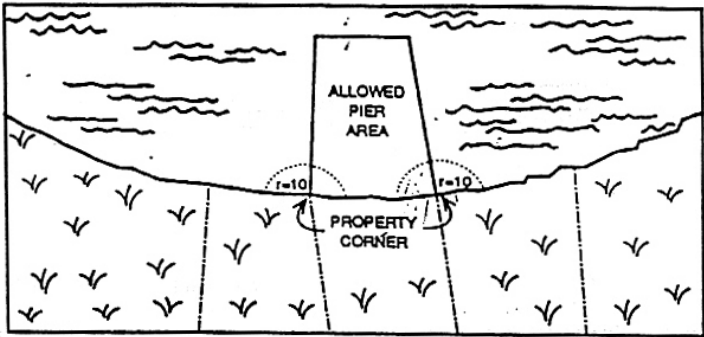


Figure 9.43 (a)

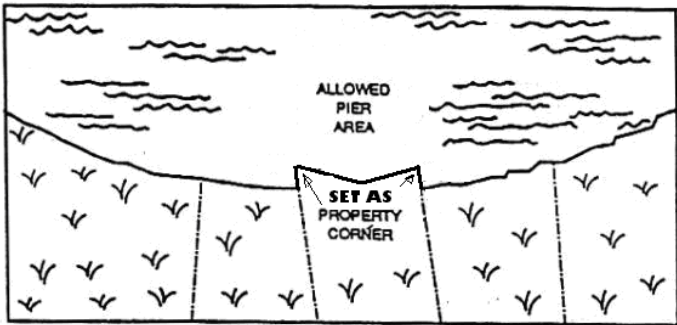


Figure 9.43 (b)

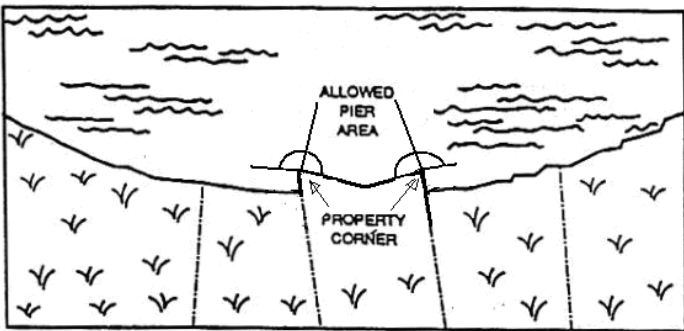


Figure 9.43 (c)

9.44 Beneficial Landfills

- .1 Prior to commencement of fill activity, a change of use permit accompanied by a site plan shall be issued to ensure compliance with the standards found herein.
- .2 Any such site may not be operated for more than 12 months, after which time it must be closed in an approved fashion according to Mecklenburg County Department of Environmental Protection standards.
- .3 The site may be operated only between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday.
- .4 Final fill elevations must match or compliment adjacent surrounding topography. The final contours and drainage patterns of the fill area may not adversely affect adjacent properties.
- .5 No fill which includes used asphalt may be placed in any portion of a regulatory flood plain, including both the floodway and floodway fringe area.
- .6 No portion of any such site may be located within 30 feet of any exterior property lines. This includes structures, equipment storage, parking areas and fill areas. When required by other sections of this ordinance, buffer yards shall be used as required.
- .7 Any beneficial landfill must obtain disposal site approval from the Mecklenburg County Environmental Protection Department and comply with the standards of the State of North Carolina.
- .8 At the time of permitting the location of any such site must be indicated on any required final subdivision plat. Further, any parcel or lot which contains any part of any such site must have notification of the existence and extent of the site recorded at the time of permitting as part of the deed for the lot or parcel, even if no subdivision plan is required for the development of the property.
- .9 Fill activity is not exempt from and must comply with, all other applicable Federal, State, and local laws, ordinances, rules and regulations, including, but not limited to, other zoning restrictions, flood plain restrictions, watershed regulations, wetland restrictions, mining regulations, sedimentation and erosion control regulations.
- .10 The landfill operator shall be responsible for removal of any and all debris, dirt, or other materials which fall from trucks entering or leaving the landfill from all adjoining streets on at least a weekly basis or more frequently if needed. Failure to comply constitutes a violation of this ordinance and may constitute grounds for revocation of the operating permit.
- .11 The individual operating the landfill and the property owner, if other, shall provide their name(s), mailing address, and phone number at the time of permitting.
- .12 All driveways which serve the site must be wide enough to accommodate two-way traffic at all times and an area on the site must be provided to accommodate vehicles entering the site so that no traffic waiting to enter the site will be backed up on any public right-of-way. The first 50 feet of any driveway access to the facility must be paved and must directly connect to a major or minor thoroughfare or to an Industrial or Retail/Mixed-Use Collector or Local Street. Driveway permits from the appropriate agency must be issued.
- .13 The actual fill area must be located at least 300 feet from any existing residential structure.
- .14 Vehicular access to the site must be controlled; and must be closed and secured during hours when filling activities are not under way.

Beneficial fill sites less than one-fourth acre do not require a zoning permit or site approval and are exempt from this section, except for conditions (2), (3), (4), (5), (8), (9), and (10) above. In addition (7) is required, if it contains material such as concrete, concrete block, brick or used asphalt.

9.45 -Hotels and Motels

Hotels are permitted in the Highway Commercial and Corporate Business Districts subject to the requirements below; Motels are permitted in the Corporate Business District only, subject to the requirements below:

- .1 Any structure in which a hotel or motel is the principal or accessory use shall be separated by a distance of at least 250 feet from any residential or mixed-use zoning district, measured from the closest point of the lot occupied by the hotel or motel to the closest point of lots in residential and mixed-use zoning districts.
- .2 Any structure in which a hotel or motel is the principal or accessory use is spaced less than established in 1 above shall require a special use permit subject to the following standards as well as all other standards applicable for special use permits:
 - a. Any structure in which a hotel or motel is the principle or accessory use shall be separated by a distance no less than three (3) times the height of the proposed structure closest to the common lot line of the adjoining residential and mixed-use zone, but in no case less than 100 feet.
 - b. That all other site design requirements stated in this code are met.
 - c. That the proposed use will not endanger the public health and safety, not substantially reduce the value of nearby property.
 - d. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area.
 - e. That vehicular access to the use will be provided only by way of a major or minor thoroughfare, or a Retail/Mixed-Use Local or Collector Street within a commercial or mixed-use project.
- .3 Any structure in which a hotel or motel is the principal or accessory use may exceed the permitted building height of the zoning district, not to exceed six (6) stories, subject to a Special Use Permit, and the requirements of Article 9.45.2

9.46 -Plant Nurseries

Plant nurseries as defined in Section 12.2.1 are permitted in any R and TR district according to the following standards:

- .1 No part of the proposed use will be located or operated so as to emit dust, noise, fumes or odors in concentrations or amounts that would constitute a nuisance to persons of ordinary sensitivities on nearby properties.
- .2 There shall be a separation of no less than 250 feet between structures located on the tract and any property located in a residential district or developed for residential or mixed-use purposes. The total square footage of all structures located on the tract shall not be greater than five percent (5%) of the total area within the tract. No structures on the tract shall be predominantly metal. Greenhouses are permitted but each greenhouse structure shall not be greater than 36 feet wide, 200 feet long or 14 feet high.
- .3 The proposed use shall be located on a tract of not less than 30 acres. Up to 50% of the tract may be impervious with gravel and up to 12% may be impervious with structures and paved areas.
- .4 Any nonorganic goods or materials available for sale which are positioned in such a way as to be visible from any public right-of-way shall either be returned to an enclosed building each night or screened from view from all public rights-of-way using a semi-opaque screen as defined in Section [8-12.3-7.6 of this ordinance](#).
- .5 The proposed use shall be accessed by a major thoroughfare. The number of ingress and egress points shall be limited to the total road frontage for the tract divided by 300. Each point of ingress and egress shall be paved for the first 40 feet from the thoroughfare right-of-way.

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.6 The proposed use shall be open to the public only between the hours of 7:00 a.m. and 9:00 p.m.

9.47. —Special Uses in TOD-R Districts

Uses permitted in the TOD-R district that exceed maximum first floor area or exceed the maximum limit for non-residential uses are permitted subject to approval of a Special Use Permit. The procedures of Section 11.4.10 shall be followed.

The Town Board shall issue a Special Use Permit for the subject use(s) and building(s) if, but not unless, the evidence presented at the Special Use Permit hearing establishes each of the following:

- .1 That along any street providing primary pedestrian access to a transit station:
 - a. Street level building edge(s) shall line at least one-half of the approved block length; and
 - b. distance between pedestrian entries at street level shall not exceed 100 feet; and
 - c. at least thirty percent (30%) of the area of the street level façade shall be composed of windows and doors; and
 - d. standards above are met by either the principal building, or by the construction of liner buildings along street level.
- .2 That the proposed buildings and uses shall not substantially increase the demand for automobile access to the transit-oriented development.
- .3 That the proposed buildings and uses meet the Intent statement for the district.

9.48. —Special Uses in TOD-E Districts

Uses permitted in the TOD-E district that have the potential for reducing employment intensity are permitted subject to approval of a Special Use Permit. The procedures of Section 11.4.10 shall be followed.

The Town Board shall issue a Special Use Permit for the subject use(s) and building(s) if, but not unless, the evidence presented at the Special Use Permit hearing establishes each of the following:

- .1 That the use is in the area between the ¼ mile and the ½ mile walk from the station site.
- .2 That, for buildings along any street in the district that provides primary pedestrian access to a transit station:
 - a. Street level building edge(s) shall line at least one-half of the approved block length; and
 - b. distance between pedestrian entries at street level shall not exceed 100 feet; and
 - c. at least thirty percent (30%) of the area of the street level façade shall be composed of windows and doors; and
 - d. standards above are met by either the principal building, or by the construction of liner buildings along street level.
- .3 That the proposed buildings and uses shall not substantially increase the demand for truck and automobile access through the pedestrian-oriented street system of the TOD.
- .4 That the proposed buildings and uses meet the Intent statement for the district.

9.49 — Transit-Oriented Parking Lots as a Principal Use

Transit-oriented parking lot as a principal use shall be permitted in any zoning district subject to the following standards:

- .1 Transit-oriented parking lots shall adhere to the standards of Article 6, Off-Street Parking, except that in the NR district parking lots may be constructed up to the prevailing established setback line for structures within 300' in either direction on the same side of the street. The prevailing setback applies for both the fronting street and any abutting streets. In all other zoning districts, transit-oriented parking lots may be constructed up to 10 feet from street right-of-way.
- .2 Buildings associated with transit-oriented parking lots shall meet the standards of Article 9.39, Transit Shelters.
- .3 Transit-oriented parking lots in the Corporate Business (CB), Campus Institutional (CI), or Special Purpose (SP) Districts shall be exempt from the 80' buffer yard requirement along public streets. All other buffer yard standards of Article 7.6 apply.
- .4 Up to 50% of a transit-oriented parking lot may be unpaved.

9.50 Retirement Communities are permitted in the Neighborhood Residential (NR) District subject to the conditions below:

- .1 Community must meet the requirements concerning massing and scaling in Article 3.2.4 d-1.
- .2 A minimum of eighty percent (80%) of residents must be fifty-five (55) years of age or older.

9.51 Commercial Use in a Detached House Building Type

- .1 All outdoor display of goods shall be located immediately adjacent to the storefront on the front porch during the hours of operation only; display goods shall not block building access. No other outdoor display is permitted.
- .2 The hours of operation shall be compatible with the residential area. The hours of operation shall be between 8AM and 9PM. The following activities are prohibited outside of business hours: loading and unloading of materials, exterior maintenance, refuse removal, and other activities that create a nuisance.
- .3 Site lighting shall meet the requirements of Article 8.26 Site Lighting.

9.52 Country Inn Development in the Transitional Residential Zoning District

Country Inn Developments are permitted in the Transitional Residential Zoning District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for the subject facility in the TR District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

1. That the use will be located on a lot of at least twenty (20) acres in size; and
2. That the total dwelling rooms do not exceed twenty-four (24) rooms for rental and/or owner/staff occupancy in a maximum of ten buildings (two (2) main inns and up to eight (8) residential cottages); and
3. That the owner/management shall reside onsite.
4. That the use may utilize the Residential Local Street design standards of Article 5; and

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5. That the use may utilize a paved private drive. If a private drive is used it shall be constructed on a recorded easement not less than twenty (20) feet in width serving the Country Inn exclusively with the following restrictions:
 - a. The recorded easement shall have at least thirty (30) feet of frontage on a public street.
 - b. The private paved road must be at least eighteen (18) feet wide and constructed in accordance with the Land Development Standards Manual as it applies to Huntersville. Private drive right of way or easement shall be of such width to accommodate drainage/water quality treatment.
 - c. The plat and associated deeds shall clearly state such drive shall remain private and will not be taken over by a public entity in the future; and
6. That special events shall be allowed for the public such as wedding receptions, rehearsal dinners, afternoon tea, parties, business meetings/retreats and similar events with the following restrictions:
 - a. That hours of operation, including set-up and break-down, for special events will be no earlier than 9:00 a.m. and no later than 11:00 p.m.
 - b. That special events must comply with the noise restrictions identified in the Town of Huntersville Noise Ordinance; and
7. That there will be a separation of no less than:
 - a. Parking areas shall be located one-hundred (100) feet from arterial roads and thoroughfares, thirty-five (35) feet from internal public streets and driveways and one hundred (100) feet from adjacent properties except when their uses are adjacent to dedicated open spaces, either by deed or easement, in which case, the setback shall be thirty-five (35) feet. Parking areas will be visually buffered from the arterial roads and thoroughfares.
 - b. Special event areas shall be located one hundred (100) feet from any property boundary located in a residential district or developed for residential or mixed-use purposes except when their uses are adjacent to the dedicated open spaces either by deed or easement, in which case the setback shall be thirty-five (35) feet. A thirty (30) foot vegetated buffer along the property line is required for special event areas except when the adjacent property uses are dedicated open spaces either by deed or easement. Additional buffers may be required as part of d) of this section.
 - c. All newly constructed accessory structures such as: Barns, Green Houses, Vertical Gardens, Agriculture or Farm related structures shall be located one hundred (100) feet from any property located in a residential district or developed for residential or mixed-use purposes except when their uses are adjacent to the dedicated open spaces either by deed or easement in which case the setback shall be thirty-five (35) feet.
 - d. As each property is unique, the Town Board may modify the buffers for a Country Inn Development based on particular topographical issues and uses of the property. For instance, additional buffer requirements may be appropriate for special event areas and/or reduction in buffer area may be appropriate for farming or pasture areas within the Country Inn project.
8. The Country Inn Development shall be rural in nature and considered a single lot development and shall not be required to provide connector roads to or through other residential developments.

9.53 Wind Energy Facilities

1. No wind energy facility, or addition of a wind turbine to an existing wind energy facility, shall be constructed unless a Special Use Permit has been issued to the facility owner or operator approving construction of the facility under this Ordinance.
2. Any physical modification to an existing and permitted wind energy facility that materially alters the size and/or type of wind turbines or other equipment shall require a Special Use Permit modification under this Ordinance. Like-kind replacements shall not require a permit modification.
3. Permit Requirements: In addition to Special Use Permit Requirements found in Article 11.4.10, the permit application shall contain the following:

- (a) A narrative describing the proposed wind energy facility, including an overview of the project;
- (b) The proposed number, representative types and height or range of heights of wind turbines to be constructed, dimensions and a description of ancillary facilities;
- (c) Identification and location of the properties on which the proposed wind energy facility will be located;
- (d) A site plan showing the planned location of all wind turbines, property lines, setback lines, access roads and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, building(s), and transmission and distribution lines. The site plan must also include the location of all structures and properties, demonstrating compliance of the setbacks;
- (e) Other relevant information as may be reasonably requested by the Town of Huntersville to ensure compliance with the requirements of this Ordinance.
- (f) Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the wind power project will be decommissioned and the site restored;
- (g) Signature of the Landowner and Applicant.
- (h) Certification of compliance with applicable local, state, and federal regulations, such as [Federal Aviation Administration](#) and [Federal Communications Commission](#) regulations.
 - (1) The applicant shall avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the Wind Energy Facility.
- (i) All wind energy conversion systems shall be equipped with manual (electronic or mechanical) and automatic over speed controls to limit the blade rotation speed to within the design limits of the residential wind energy system.

4. General Requirements

- (a) Setbacks: The following dimensional requirements shall apply to the installation of wind turbines and/or wind energy facilities:

Wind Energy Facility Type	Minimum Setback Requirements ¹				Maximum Height from Grade	Minimum Turbine Blade Clearance
	Occupied Structures (Subject Property)	Occupied Structures (Adjacent Property)	Property Lines	Street Right-of-Way		
Minor	0.0 ²	2.5	2.0	2.0	75ft.	20ft.
Major	1.0	2.5	2.0	2.0	150ft.	20ft.

- 1 The setback is calculated by multiplying the minimum setback requirement number by the wind turbine height and measured from the center of the wind turbine base to the property line, public street, or nearest point on the foundation of an occupied structure.
 - 2 Minor wind facilities attached to the roof of a structure are prohibited.
- (b) Minimum Lot Size Requirements:
 - (1) The minimum lot size required for a minor wind facility shall be 10 acres.
 - (2) The minimum lot size required for a major wind energy facility shall be 30 acres.
 - (c) Maximum number of turbines:
 - (1) There shall be no more ~~than~~ one wind turbine that serves as a minor wind energy facility on a single property.
 - (2) Any property with more than one wind turbine shall be considered a major wind facility.

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5. Installation and Design

- (a) The installation and design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute, and take into consideration local conditions.
- (b) All structural, electrical and mechanical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national codes.
- (c) Any on-site collector system shall, to the maximum extent possible, be placed underground.
- (d) The visual appearance of Wind Energy Facilities shall at a minimum:
 - (1) Turbine(s) shall be of a coloration that will blend with the surroundings (example: brown, green, gray, off-white or white).
 - (2) Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety; and,
 - (3) Not display advertising (including flags, streamers or decorative items), except for identification of the turbine manufacturer, facility owner and operator.
 - (4) The base of the turbine(s) shall be a monopole construction rather than a guyed pole or lattice construction.
- (e) Noise:
 - (1) Audible sound from a Major or Minor Wind Energy Facility shall not exceed fifty-five (55) dBA as measured from any adjacent property line of any Non-Participating Landowner.

6. Decommissioning

- (a) The Wind Energy Facility Owner shall have 6 months to complete decommissioning of the Facility if no electricity is generated for a continuous period of 12 months.
- (b) Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, and any other associated structures required by staff.
- ~~(c)~~ Disturbed earth shall be graded and re-seeded.

~~(c)~~

9.54 Solar Energy Facilities

Any major or minor solar energy facility shall require approval from all applicable state and federal agencies as well as the affected energy provider.

1. Minor Solar Energy Facilities:

- a. Residential Property (refer to illustration): Minor solar facilities shall be allowed in accordance with the provisions below. However, these conditions will be waived if they prevent reasonable use of solar collectors as provided in GS 160D-914.:

Minor Solar Facility on Residential Property		
Street/common access or yard	Street or Common Access	
	Front Yard Prohibited (1)	
	Front Façade SUP (2)	
	Side Yard (4)	Roof (3) SUP (5) (5)
	Rear Yard (4)	

- (1) Front yard placement is prohibited.
- (2) Front façade placement (if facing street or common access) requires a Special Use Permit (SUP).
- (3) Front roof slope placement requires a Special Use Permit (SUP).
- (4) Side & rear yard placement permitted as by-right accessory use in all districts subject to the issuance of a zoning permit.
- (5) Side & rear roof slope placement permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.

b. Non-Residential Property:

- (1) Minor free-standing solar facilities on non-residential property shall require a Special Use Permit (SUP).
 - (2) Minor rooftop solar facilities on non-residential property: Facilities on flat roofs, facilities on roof slopes not facing a street and building integrated solar panels on roof slopes facing the street that are not noticeable are permitted by right in any zoning district. All other roof mounted solar panels facing street shall require a Special Use Permit (SUP).
 - c. Minor free-standing facilities must comply with accessory structure setbacks and spacing.
 - d. Minor free-standing facilities shall be a maximum of 5 feet in height as measured from the grade at the base of the structure to the apex of the structure.
 - e. Minor rooftop solar energy facilities shall not be considered as rooftop equipment on any building type and therefore, do not require screening and are not subject to any architectural standards that would prohibit reflective materials.
2. Major Solar Energy Facilities
- a. Shall require the issuance of a Special Use Permit and in addition to the Special Use Permit requirements found in Article 11.4.10 shall include the following:
 - (1) An existing features plan as described in the Subdivision Ordinance Article 6.300.1.14 is required. Placement of solar panels shall be based on preserving existing features to the extent practical.
 - (2) Major solar energy facilities are exempt from any parking requirements in the Huntersville Zoning Ordinance if there is no commercial or office building component.
 - (3) Setbacks
 - i. Shall meet the minimum required setbacks for the underlying zoning district for installations in the R & TR zoning districts.

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- ii. Shall be a minimum of 20 feet from any property line in the SP zoning district.
- (4) Height:
 - i. Free standing major solar facilities shall be a maximum of 8 feet in height as measured from the grade at the base of the structure to the apex of the structure.
- (5) The minimum lot size requirement for major solar facilities is 10 acres.
- b. Town of Huntersville to be given copies of any lease agreement and plan for removal of facility/equipment.
- c. Glare resistant solar panels shall be used if the solar facility is adjacent to any airport.
- d. Rooftop major solar energy facilities should not be considered as rooftop equipment on any building type and therefore, do not require screening and are not subject to any architectural standards that would prohibit reflective materials.

9.55 Halfway Houses

Halfway houses are permitted in the Special Purpose (SP), Highway Commercial (HC) and Campus Institutional (CI) zoning districts subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for a halfway house in the SP, HC, or CI district if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

1. The following shall be prohibited:
 - a. Persons dangerous to others
 - b. Sex offenders
 - c. Active (but not recovering) substance abusers
2. A Halfway house must meet a permitted building and lot type for the district in which it is to be located.
3. No Halfway house may be located within a one-half (1/2) mile radius of any other halfway house or any schools (public or private), parks, playgrounds, day care centers, public and private youth centers.
 - ~~a.~~ Applicant must include in their submittal an area plan showing zoning classifications and land uses of all properties within a one-half mile radius of the site of the proposed halfway house.
 - ~~a-b.~~ This minimum separation requirement may be waived in situations where its purpose can be otherwise met.
4. Applicant must provide:
 - a. Copy of arrest/release records for all occupants.
 - b. Copy of any contracts or policies for the operation of the facility.
 - c. Copy of the rules for the residents of the halfway house.
 - ~~d.~~ Documentation stating that a supervisor will be on duty at all times.
 - ~~e-d.~~

9.56 Crematoriums, accessory

Crematoriums are permitted in the HC district subject to a Special Use Permit, according to the procedures of [Section 11.4.10](#).

The Town Board shall issue a Special Use Permit for the use in the HC District if, but not unless the evidence presented at the Special use Permit hearing establishes:

1. Are accessory to an established Funeral Home.
2. That the proposed use will not endanger the public health and safety, substantially reduce the value of nearby property, nor emit noticeable odors; and
3. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
4. That the proposed use will be constructed and operated in compliance with all applicable environmental regulations; and
5. That all storage, handling, incineration, and loading facilities will be located at least 50 feet from any exterior property line; and
6. The number of cremations shall be below that requiring an air quality permit by Mecklenburg County per current calendar year.
7. That active use portions of the site will be entirely enclosed in the principal structure.

9.57 Automotive Country Club

An Automotive Country Club is a retreat destination and storage facility for rare, collectible, high-end, vintage, and exotic vehicles for club members. —Such facilities are permitted in the Corporate Business District if the conditions below are met.

1. The club shall only be permitted within a gated and private development (all buildings will front upon and be accessed by privately designed and maintained paved parking and maneuvering areas which shall have adequate widths and turning radii for emergency service access to all individual Units).
2. The club may be comprised of both for sale and rental spaces that accommodate Vehicles to be stored, displayed, and for minor repair and maintenance by club members and occupants, but excluding retail repair operations.
3. The club shall be established on a site not less than 15 acres in size with frontage upon a public street.
4. The club shall include a clubhouse facility and may include a management or sales office.
5. The club shall permit garage/storage units (“Units”) to be individually sold or leased. Each building may be comprised of varying Unit sizes separated by demising walls.
6. The club shall limit the total number of overnight stays by occupants to a maximum of thirty (30) per year.
7. The club may permit up to 24 memorabilia or charity auctions, fundraisers, rallies, car shows, or similar events per calendar year.
8. The Automotive Country Club use shall include the definition of a “Vehicle” as any motorized device considered to be rare, collectible, high-end, vintage or exotic.
9. The club shall prohibit outdoor storage.
10. The club shall prohibit automotive wholesale and retail sales of Vehicles.

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11. No part of the automotive country club use will be located or operated so as to emit noise in concentrations or amounts that would constitute a nuisance to persons of ordinary sensitivities on nearby or adjacent properties.

9.58 Internet Sweepstakes

Internet Sweepstakes are permitted in the Highway Commercial (HC) and Special Purpose (SP) Zoning Districts, subject to the following standards:

- .1 Internet Sweepstakes are not permitted as an accessory use;
- .2 Any structure in which an Internet Sweepstakes is the principal use shall be separated by a distance of at least 400 feet from any residential or mixed-use zoning district and from the following principal or accessory uses, defined as protected uses for purposes of this section: dwelling units, elementary and secondary schools, religious institutions, child care centers, parks and playgrounds;
- .3 Any structure in which an Internet Sweepstakes is the principal use shall be separated by a distance of at least 400 feet from any other Internet Sweepstakes;
- .4 The distance of separation from residential and mixed-use zoning districts and from the protected uses listed in .2, above, shall be measured from the closest point of the lot occupied by an Internet Sweepstakes to the nearest residential or mixed use zoning district or the property line of a protected use. The distance of separation between Internet Sweepstakes shall be measured from the closest points of the lots occupied by Internet Sweepstakes;
- .5 No alcohol may be sold or consumed on the premises;
- .6 Operations must be visible and open to the front of the store. Tinted glass with a minimum visual transmittance factor of 35 is permitted.
- .7 Patrons must be 18 years of age or older.

9.59 Banquet Facility

Banquet Facilities are permitted in the Rural Zoning District subject to a Special Use Permit, according to the procedures of Article 11.4.10. Events shall be allowed at Banquet Facilities for the public such as weddings, catered receptions, rehearsal dinners, business meetings/retreats.

The Town Board shall issue a Special Use Permit for the subject facility in the Rural District if, but not unless, the evidence presented at the Special Use Permit Hearing establishes:

1. That the hours of operation, including set-up and break-down, for events will be no earlier than 8:00 am and no later than midnight (12:00 am).
2. That events must comply with the noise restrictions identified in the Town of Huntersville Noise Ordinance whether or not the property is located within the Town's corporate limits; and
3. That events must comply with the noise restrictions identified in the Town of Huntersville Noise Ordinance or Mecklenburg County Noise Ordinance, whichever is applicable, whether or not the property is located within the Town's corporate limits; and
4. That the use will be located on a lot of at least 10 acres in size with a minimum of 30 feet of frontage on a public road either by fee simple ownership or by exclusive easement.
5. One residence (single-family detached house) may be located on the site.
6. New buildings shall maintain a rural character and be compatible with surrounding area.

Commented [ES3]: Mecklenburg County has a noise ordinance <https://www.mecknc.gov/CountyManagersOffice/BOCC/Ordinances/Noise.pdf>

Commented [JS4R3]: Noted

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7. Events may take place inside a building, tent, ~~or~~ outdoors. Catered activities and receptions may take place in tents or buildings.
8. Entrance drives, internal drives, parking and service areas may be gravel, crushed stone, or other suitable material approved by the Planning Director. These areas shall be well maintained and kept free of potholes, weeds, etc. The initial 50 feet of driveway from the public roadway connection shall be paved with concrete or asphalt.
9. That there will be a separation of no less than:
 - a. Parking areas shall be located one hundred (100) feet from arterial roads and thoroughfares, and fifty (50) feet from adjacent properties. Parking areas will be visually buffered from arterial roads, thoroughfares and adjoining properties.
 - b. Event areas shall be visually buffered and located sixty (60) feet from any property boundary located in a residential district or developed for residential or mixed~~-~~use purposes.
 - c. Any newly constructed accessory structure such as barns, gazebos and Agriculture or Farm related structures shall be located at a minimum of sixty (60) feet from any property boundary located in a residential district or developed for residential or mixed~~-~~use purposes.
 - d. As each property is unique, the Town Board may modify the buffers for a Banquet Facility based on particular topographical issues and uses of the property. For instance, additional buffer requirements may be appropriate for event areas and/or reduction in buffer area may be appropriate for farming or pasture areas.
10. Applicant shall have adequate off-street parking to accommodate the maximum number of attendees.
11. The method for providing potable water and a system of sanitary sewage collection and disposal for the maximum number of attendees shall be provided.
11. Mobile food/beverage vehicles are allowed on the premises with the following conditions:
 - a. The mobile food/beverage vehicles must cater to the guests of invitation only events, for a time period limited to the event, and are not open to public use.
 - b. The mobile food/beverage vehicles must park in a designated spot, indicated on the special use plan. This area will be screened from public view and adjacent land owners, by an opaque screen.
 - c. No more than three mobile food/beverage vehicles allowed at one time.
 - d. No trucks will be stored overnight on the property.

9.60 Off-site Catering Services in an Agritourism Catering Facility

Off-site catering services in an Agritourism Catering Facility are permitted in the Rural Zoning District subject to a Special Use Permit according to the procedures of Article 11.4.10. [Any Agritourism Catering Facility classified as a bona fide farm pursuant to G.S. 160D-903 shall be exempt from the Special Use Permit requirement.](#)

1. The facility shall be located on a lot of at least twenty (20) acres in size.
2. A principal residence shall be located on site.
3. There shall be no more than twelve (12) employees' present and performing activities for the off-site catering services at any time, excluding on-site resident family members of the facility owner employed in the catering operation. As used in this section 9.60, employees who are present and performing activities for both on-site and off-site catering services shall count towards the twelve (12) employee limit. The permit shall specify the number of employees permitted at the facility at the same time.

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4. That facility shall have adequate off-street parking for the permitted number of employees and for the vehicles used for off-site catering services. In order to accommodate employees, off-site catering vehicles and visiting clients of the catering operation, there shall be a minimum of 1.5 spaces for each permitted employee and off-site catering service vehicle. As used in this section 9.60, vehicles used for both on-site and off-site catering services are included and subject to these regulations. Such parking shall have a visually opaque buffer at least thirty-five feet in width along the adjacent boundary or a structural screen such as a fence that is augmented with vegetation.
5. There shall be no outside storage or evidence of personal property, materials and equipment used for off-site catering services visible from adjoining residences or streets. As used in this section 9.60, personal property, materials and equipment used for both on-site and off-site catering services are included and subject to these regulations.
6. If any portion of the facility utilized by the off-site catering services is located within the on-site principal residence, such portion shall occupy no more than twenty-five percent (25%) of the total finished square footage of such principal residence. The total square footage of the facility used for off-site catering services may not exceed fifty (50%) of the total finished square footage of such principal residence. As used in this section 9.60, portions of the facility used for both on-site and off-site catering services are included and subject to these regulations.
7. The lot containing the facility shall have (i) a minimum of thirty feet (30') of frontage on a public road, (ii) a thirty foot (30') wide exclusive easement to a public road or (iii) a shared exclusive easement, of a minimum of 40' in width, for use by no more than three adjoining properties at the time of the issuance of a permit.
8. Entrance drives, internal drives, parking and service areas may be gravel, crushed stone, or other suitable material approved by the Planning Director. These areas shall be well-maintained and kept free of potholes, weeds, etc. The initial fifty feet (50') of driveway from the public roadway connection shall be paved with concrete or asphalt.

9.61 Par 3 and / or Golf Driving Range

Par 3 and golf driving ranges are permitted in the Rural Zoning District subject to a Special Use Permit according to the procedures of Article 11.4.10.

The Town Board shall issue a Special Use Permit for the use in the Rural District if, but not unless the evidence presented at the Special Use Permit hearing establishes:

1. That the proposed use will not endanger the public health and safety, substantially reduce the value of nearby property; and
2. Par 3 courses shall not be lit. Outdoor lighting associated with driving ranges in the Rural district shall be designed as follows:
 - a. Facility lighting may include floodlights but must be shielded and shall be oriented and directed in such a way as to not produce glare at any off-site location.
 - b. Maximum light fixture height shall be 40 feet.
 - c. Maximum lighting level is 15 foot-candles measured at grade.
 - d. If free standing lighting is proposed, photometric lighting plans shall be submitted at special use permit application. A maximum of .5 foot-candles at any location on any non-residential property and .1 foot-candles at any location on any residential property, as measurable from any orientation of the measuring device shall be met.
 - e. Lighting shall be extinguished at 11 pm.

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- f. Upon review of the photometric plan, the Town Board may modify the above lighting standards provided the spirit of the ordinance, reducing glare and off-site light trespass is maintained.
- 3. Vehicular access to the use will be provided only by way of a Boulevard or Major Thoroughfare.
- 4. A par 3 golf course or driving range must be located on a property at least 20 acres in size.
- 5. No multi-level buildings or tee boxes are permitted.
- 6. Hours of operation shall be no earlier than 6 am and no later than 11 pm.
- 7. Existing vegetation within 50 feet of the fronting thoroughfare and residential property lines shall remain undisturbed. If no vegetation exists along the property line, an opaque buffer shall be planted per Article 7.65.3. If there is no existing vegetation along the street, the required second row of street trees will be planted using large maturing evergreen trees to maintain an intermittent screen.
 - a. As each property is unique, the Town Board may modify the buffers for a golf facility based on particular topographical issues and uses of the property. For instance, additional buffer requirements may be appropriate for active commercial areas, while a reduction in buffer area may be appropriate for open natural areas.
- 8. At no time shall golf balls be permitted to cross on to adjacent property or onto the public street. If course or tee orientation makes it possible for balls to leave the site through standard operating use, netting, buffers, screening or other barrier shall be installed to prohibit off site encroachment. If netting is required, it shall be located behind a vegetative buffer, screening if from any property line.
- 9. Only accessory retail and commercial uses meant to serve patrons of the golf facility are permitted, such as snack shops and pro shops. No principle use restaurants or retail establishments meant to serve the general public are permitted.

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Article 10: Signs

10.1 Purpose

The purpose of this section is:

- .1 To maintain public safety and traffic safety by ensuring that signs are properly designed, constructed, installed, and maintained;
- .2 To minimize the distractions and obstruction of view that contribute to traffic hazards and endanger public safety;
- .3 To protect existing development and promote high standards of quality in new development by encouraging appropriately designed, placed, and sized signage;
- .4 To provide an effective guide for communicating identification through signage while preventing signs from dominating the visual appearance of the areas in which they are located.

10.2 Applicability

Except as otherwise provided in this ordinance, it shall be unlawful to construct, enlarge, move or replace any sign or cause the same to be done, without first obtaining a sign permit for such sign from the Mecklenburg County Building Standards Department or designated permitting agency. In addition, a certificate of occupancy for the change in the use of property shall require compliance with Article 10, Signs.

Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign so as to render it in violation of this ordinance. A legal non-conforming off-premise advertising sign that changes from utilizing external illumination to internal illumination or self-luminous or from a static copy to changeable message copy shall be considered a change of nature and is in violation of this ordinance.

10.3 General Provisions

The following provisions shall apply to all signs.

- .1 Construction Standards. All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building Code.
- .2 Electrical Standards. All illuminated signs shall be installed in accordance with the applicable provisions of the North Carolina State Electrical Code and all detached signs shall be powered by an underground electrical source.
 - a) Sign lighting must comply with Article 8.26.3 (e-g).
- .3 Maintenance of Signs. All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance.
- .4 Content. Content of message, commercial or non-commercial, is not regulated by this ordinance.
- .5 No sign shall be placed so as to obstruct the clear sight triangle at a street intersection (Section 8.9).

10.4 District Classification

For purposes of this Article, zoning districts are classified as follows:

Rural District (R)	Residential
Transitional Residential (TR)	Residential
General Residential (GR)	Residential
Neighborhood Residential (NR)	Residential
Manufactured Home Overlay (MH-O)	Residential
Rural Traditional Neighborhood Development District (TND-R)	Mixed Use
Urban Traditional Neighborhood Development District (TND-U)	Mixed Use
Neighborhood Center (NC)	Mixed Use
Town Center (TC)	Mixed Use
Campus Institutional (CI)	Mixed Use
Highway Commercial (HC)	Commercial
Vehicle Sales (VS)	Commercial
Corporate Business (CB)	Commercial
Special Purpose (SP)	Commercial

10.5 Sign Types

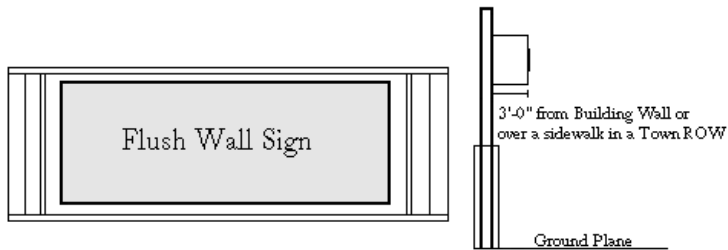
Sign types are defined as follows:

.1 Attached Wall Mounted Signs

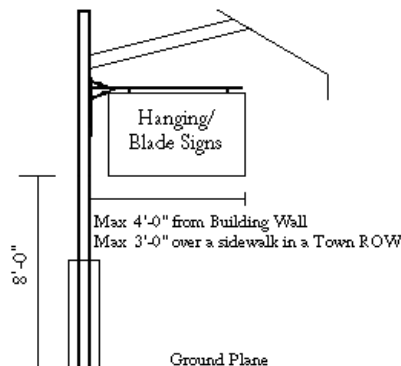
One or a combination of the wall sign types [in this Section 10.5.1](#) below may be used on a building. Wall sign area is the total of the square footage of all [signs from this Section 10.5.1](#) wall signs associated with a business or structure. All attached wall mounted signs in all districts must be located below the parapet, and in no instance may a sign extend above the parapet. Any attached wall mounted signs that project more than 18" shall have a ground clearance of 8'.

All signage [from this Section 10.5.1](#) (wall, hanging/blade, awning/canopy, and/or marquee signs) and each of the sign faces that is directed or oriented towards a single elevation will be accumulated and counted towards that elevation (i.e. *if the text of the signs are seen and directed towards the front of the building, then that signage will be counted towards the total amount allowed (per district) for that individual front*). In no instance shall the accumulated amount of signage exceed the maximum allowable square footage per that district as indicated in section 10.7.1, except as permitted in Section 10.11.

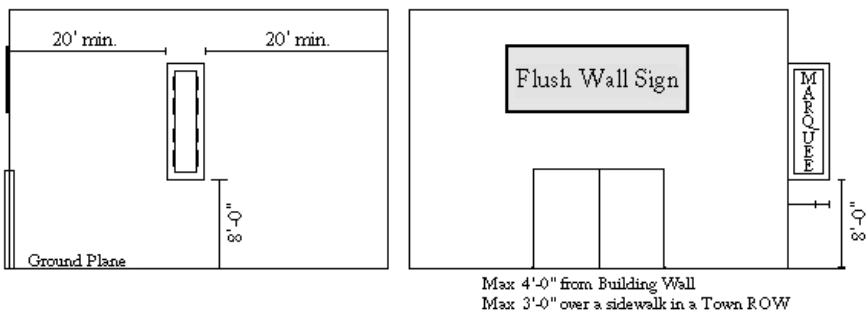
- a) A flush wall sign is mounted or applied directly to the building wall, generally on the fascia. A flush wall sign may project no more than 3 feet from the building wall [or](#) over a sidewalk in a [town maintained](#) Town-maintained right-of-way.



- b) A hanging sign or blade sign is a wall sign. A hanging sign is suspended from a simple bracket attached to a building wall and [must have at least](#) requires 8 or more feet of vertical clearance from the ground. It is most appropriately used along pedestrian-oriented streets to identify attached or closely spaced shops, restaurants, and service businesses. Only one hanging or blade sign is permitted per building or business bay (in a multi-tenant building). The sign face area does not include the area of the bracket. A hanging or blade sign may project no more than 4 feet from the building wall. It may project up to 3 feet over a sidewalk in a [town maintained](#) Town-maintained right-of-way. The overall area of a hanging or blade sign can be no more than 8 square feet.

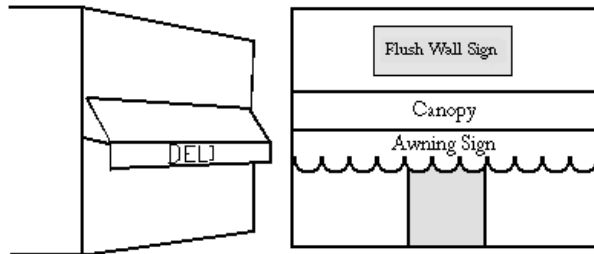


- c) A marquee sign is a wall sign. A marquee sign is only allowed in the commercial districts and when the size of the minimum building size is at least 15,000 square feet. The marquee sign may project no more than 4 feet from the building wall. It may project up to 3 feet over a sidewalk in a town maintained town-maintained right-of-way. Only one hanging/blade or marquee sign is permitted per street front. A marquee sign must be located a minimum 20' from any corner of a building, and requires 8 or more feet of vertical clearance from the ground and/or sidewalk. The overall area of a marquee sign can be no more than 32 square feet.



- d) A canopy or awning sign is a wall sign. A canopy or awning sign is a sign copy applied directly onto a canopy or awning and shall comply with Section 8.26. All canopy or awning area that is internally lit shall be counted as sign face area. External wall packs and floodlights shall not be used to light canopies or awnings.

Commented [JG1]: Reference Check



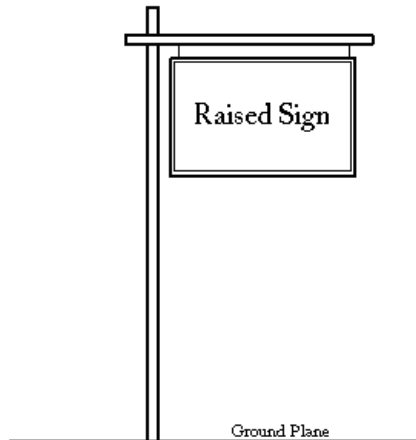
.2 Detached Ground Mounted Signs

Ground mounted signs are defined as follows:

- a) A monument sign is mounted generally flush with the ground plane. It may not be mounted on a pole or pylon, nor raised by mounting on a man-made berm, wall, or similar structure. Supporting elements (including bases) may not exceed three feet in height and are included in measurement of sign height. Supporting elements (including bases) shall be constructed with materials that are architecturally compatible with the principle structure.



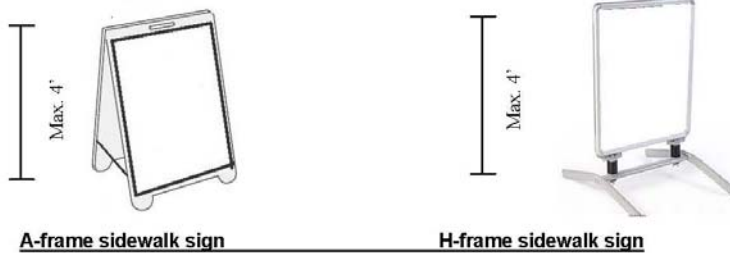
- b) A raised sign may hang from a pole and beam frame as illustrated below; or be placed within a frame mounted on up to two supporting poles.



- c) All ground-mounted signs shall be a minimum of 5' behind the existing and future public right of way and meet any additional setback required to maintain a clear sight triangle at street or driveway intersections. Extreme site conditions may be considered by the administrator in determining setbacks for future right-of-ways.

3. Sidewalk Signs

Sidewalk signs are double-sided, portable signs that are not secured to the ground, used as a temporary marketing tool for attracting passersby to a commercial establishment. Sidewalk Signs, including any base, may not exceed four feet in height per below illustration. Further, sidewalk signs shall not be placed in a way that violates the Americans with Disabilities Act (ADA).



10.6 Sign Measurement

- .1 Sign Face Area: the area within a single, continuous perimeter enclosing the characters, lettering, logos, illustrations, and ornamentation, together with any material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed.
- .2 Sign Height: the distance from the ground plane beneath the sign to the highest point of the sign's frame. Ornamentation atop signs, such as small caps and spires, are not included in the height measurement.

10.7 Permanent Signs Requiring a Permit

10.7.1 On-Premise Signs are allowed, as indicated in the chart below

CIVIC BUILDINGS IN ANY DISTRICT Wall Mounted Sign 10% of any wall face area fronting a street or approved alternate frontage, up to a maximum of 128 square feet Ground Mounted Sign Maximum Number: 1 per street front Maximum Area: 32 square feet Maximum Height: 8 feet Not permitted for zero setback buildings Changeable copy¹ shall not exceed 50% of the allowable sign face area for either wall or ground mounted signs	ANY BUILDING TYPE IN A MIXED-USE DISTRICT EXCEPT A DETACHED HOUSE (NC, TC, CI, TND-U, TND-R) Wall Mounted Sign 10% of any wall face area fronting a street or approved alternate frontage, up to a maximum of 128 square feet Ground Mounted Sign Maximum Number: 1 per street front Maximum Area: 32 square feet Maximum Height: 8 feet Not permitted for zero setback buildings Changeable copy¹ shall not exceed 25% of the allowable sign face area for either wall or ground mounted signs
ANY BUILDING TYPE IN A COMMERCIAL DISTRICT EXCEPT DETACHED HOUSE (HC, CB, SP, VS) Wall Mounted Sign 10% of any wall face area fronting a street or approved alternate frontage, up to a maximum of 128 square feet. However, in the CB and SP zone, any building over 100,000 sq. ft. may have wall sign(s) not to exceed 384 square feet. In addition, one Secondary Business Identification Sign (defined in Article 12) is permitted for each secondary business, up to a maximum combined area of 64 square feet for all secondary business identification signs. Notwithstanding the above, the total area of all wall-mounted signs shall not exceed 10% of the applicable wall face area. Ground Mounted Sign Maximum Number: 1 per street front Maximum Area: 32 square feet Maximum Height: 8 feet Not permitted for zero setback buildings Changeable copy¹ shall not exceed 25% of the allowable sign face area for either wall or ground mounted signs	MIXED USE BUILDINGS WHERE PERMITTED IN RESIDENTIAL DISTRICTS (NR) Wall Mounted Sign 1 sign per business bay², up to a maximum of 12 square feet per bay; the sign area for any mixed-use structure shall not exceed 5% of any wall face area fronting a street or approved alternate frontage Ground Mounted Sign Maximum Number: 1 per building street front Maximum Area: 12 square feet Maximum Height: 6 feet Type permitted: pole and beam or framed only, as identified in 10.5.2 b). Illumination permitted: Down lighting or indirect lighting (no internal illumination) Changeable copy shall not exceed 25% of the allowable sign face area for either wall or ground mounted signs
DIRECTORY SIGN Maximum Number: 1 per street front; maximum 3 signs; 1000-foot separation. Maximum Area: 96 square feet per sign Maximum Height of ground mounted signs: 12' (includes shopping centers, office complexes, schools, large-scale religious institutions, institutional or business campuses, and similar large complexes which have a variety of tenants or uses) No individual tenant ground mounted signs are permitted	PLANNED DEVELOPMENT ENTRANCE SIGN Maximum Number: 1 per street front; 2 sign faces may be used with a wall, fence, or other architectural entrance feature Total Maximum Area: 24 square feet Maximum Height: 8 feet (permitted for all-residential, mixed use, and non-residential projects of 10 acres or more) Limited to name and/or logo

Commented [JS2]: Buildings can front alternatives to streets per Section 8.1 such as open space

For buildings in all-residential, mixed use and non-residential projects, 25% of the allowable wall mounted signage of one street fronting [or approved alternate frontage](#) wall face per individually constructed tenant space (up to 32 sq. ft.) may be transferred to one wall face that does not front a public street, but which fronts a parking area and contains pedestrian entry.

¹ Changeable copy that is internally illuminated or self-luminous shall meet the following standards:

- (a) Maximum brightness shall be 5,000 nits during daylight hours (dawn to dusk) and 150 nits during nighttime hours. The applicant or sign manufacturer must provide either written certification from the manufacturer that the light intensity has been factory-programmed not to exceed above listed light levels or provide an isolux lighting plan certified by an electrical engineer.
- (b) Message may change a maximum of twenty-four (24) times per 24-hour period. Change of message shall not occur within any ~~no less than every~~ thirty (30) minutes ~~timespan from the last change of message.~~

² A business bay in a mixed-use building is the width of the first floor which is used for any single business, extended from the front of the building to the back of the building.

Commented [JG3]: No less than every 30 minutes sounds like the message change shall occur at least every 30 minutes, which is in contradiction to a message only being able to change 24 times in 24 hours.

10.7.2 Permanent Off-Premise Signs Limited to Non-Commercial Public Service Directional Signs

For the purpose of directing the public-at-large to non-commercial community facilities of general interest, permanent off-premise directional signs may be erected in addition to signs otherwise permitted in ~~this Article~~ ~~Chapter~~ ~~these regulations.~~

.1 Non-Commercial Public Service Directional Signs are permitted subject to the following standards:

- a) The community facility is open to the general public and operated by a non-commercial civic, charitable, religious, community, or similar organization.
- b) No more than 2 directional signs shall be erected for each facility.
- c) Signs may not exceed 4 square feet in area or 5 feet in height. However, signs for public parks without access on a major or minor thoroughfare are permitted a sign up to 32 square feet with up to 50% changeable copy.
- d) Signs may be placed no more than one mile from the subject property.
- e) Along state roads, such signs shall be located outside of the right-of-way or farther than 11 feet from the edge of any public street, whichever distance from edge of pavement is greater; signs shall not violate the sight distance triangle requirements of this ~~Chapter~~ ~~ordinance.~~
- f) Along ~~town-maintained~~ ~~town-maintained~~ roads, such signs shall be located at least 11 feet from the edge of pavement and ~~shall not violate~~ ~~respect~~ the sight distance triangle ~~requirements of Article 8~~ ~~this Chapter.~~
- g) No sign shall be placed on private property without the written consent of the property owner on the permit application.
- h) Every Non-Commercial Public Service Directional Sign shall be separated by a distance of 400 feet from any other such sign on the same side of the street, and by a distance of 200 feet from any other such sign on the opposite side of a street.

10.8 Temporary Signs Requiring a Permit

The following temporary signs shall ~~require a permit, be allowed~~ subject to the standards below, in lieu of on-site real estate or construction signs.

.1 Temporary Planned Development Signs, provided:

- a) Only one primary sign and two secondary signs shall be allowed per street front of development.
- b) The maximum sign face area of a primary sign shall not exceed 32 square feet; height of ground-mounted signs shall not exceed 6 feet.
- c) The maximum sign face area of secondary signs shall not exceed 12 square feet; height of ground-mounted signs shall not exceed 6 feet.
- d) Only one permit shall be required for all temporary planned development signs for each planned development. Permits shall be valid until a project is completed or ~~for a period of one two years~~, whichever comes first. Completion shall be evidenced by the issuance of all certificates of occupancy for a development by the Building Standards Department. If a project is not completed in ~~one two~~ years, a new permit must be obtained. However, in no instance shall more than 5 permits be issued for a development. Additional permits shall not allow secondary signs. All secondary signs shall be removed when the first permit issued expires.
- e) Temporary directional signs within a planned development, but not visible from the road(s) fronting the overall development, shall be permitted so long as such signs do not exceed 12 square feet in sign area, 6 feet in height, and are removed upon completion of the portion of the project to which the signs are giving direction.

10.9 Temporary Off-Premise Signs Requiring Approval

The following temporary off-premise signs are permitted, ~~pending Town approval~~, subject to the standards below.

- .1 Temporary off-premise signs or banners for special community events, open to the general public and sponsored by non-commercial civic, charitable, community, or similar organizations, provided:
 - a) At least five working days before signs are to be posted, the designated representative of the sponsoring group shall provide a sign installation and removal plan for review by the Planning Director, who shall grant written permission for signs to be posted if the standards below are met.
 - b) Signs or banners shall be located outside of the public right-of-way or farther than 11 feet from the edge of any public street, whichever distance from edge of pavement is greater; ~~signs shall not violate the sight distance triangle requirements of this Chapter~~ signs shall respect the sight distance triangle.
 - c) Signs or banners may be posted up to 14 days before the event and must be removed within 7 days following the event.
 - d) Every temporary off-premise sign or banner shall be separated by a distance of 400 feet from any other such temporary off-premise sign on the same side of a street, and by a distance of 200 feet from any other sign on the opposite side of a street.
 - e) Nothing in this provision shall be construed to authorize the posting of such signs or banners upon trees, utility poles, traffic control signs, lights or devices in any place or manner prohibited by the provisions herein, nor on private property without written consent of the owner.
- .2 Temporary cross-street banners for community events as may be approved by the Town Manager and installed by town personnel, according to policies established by the Town Board.

Commented [JG4]: I changed to one year based on below statute. It says development approvals expire after 1 year. Says that local regulation may provide for approvals of shorter duration for temporary signs. Last sentence says that local regulation may also approve longer duration for specified types of development approvals. Because the statute species 1 year and specifically says shorter duration for temporary signs, I think it is best to keep it at 1 year.

160D-403(c)- Unless a different period is specified by this Chapter or other specific applicable law, including for a development agreement, a development approval issued pursuant to this Chapter expires one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. Local development regulations may provide for development approvals of shorter duration for temporary land uses, special events, temporary signs, and similar development. Local development regulations may also provide for development approvals of longer duration for specified types of development approvals

10.10 Signs Permitted without a Permit

The following types of signs are exempt from permit requirements and allowed in all zones, but shall be in conformance with all other requirements of this ordinance.

- .1 Memorial signs, plaques, or grave markers.
- .2 Public interest signs.
- .3 Public information kiosks on public or private property, subject to design approval by the Board of Commissioners and written permission of the owner of property upon which the kiosk is to be placed. The text shall not be visible from adjacent properties and/or public streets.
- .4 On premise directional and instructional signs not exceeding 6 square feet in area, unless such sign is a monument sign, in which case it may not exceed 9 square feet. Maximum height: 4 feet.
- .5 Identification signs not exceeding 1 1/2 square feet in area, which indicates the name and/or address of the occupant. Maximum height: 4 feet.
- .6 Window signs with a total copy area not exceeding 50 percent of the window or glass door on which the sign(s) are located.
- .7 Incidental signs.
- .8 Flags. A flag that meets the criteria of a sign shall mean a piece of durable fabric no greater than 24 feet in height and 20 square feet in area, and no more than one (1) per lot, on which is displayed the logo of a corporation, election or campaign (subject to 10.10.9 below), association, or other entity. Corporate logo flags for large regional corporations or headquarters may be allowed additional height and area through a Master Signage Program. (For non-commercial flags see Article 8.18).
- .9 Campaign or Election signs provided that:
 - a) Individual signs shall not exceed 16 square feet in area or 6 feet in height if located on private property, and 6 square feet in area and 3 ½ feet in height if located in a right-of-way.
 - b) No signs shall be permitted in the right-of-way of a fully controlled access highway.
 - c) Signs shall be no closer than 3 feet from the edge of pavement of the road, and shall not obscure motorists' visibility at an intersection.
 - d) Permission shall be obtained from any property owner fronting the right-of-way where a sign is erected.
 - e) ~~If erected in the right-of-way, signs may be erected no earlier than 30 days prior to the beginning date of "one-stop" early voting (or the third Thursday prior to the election date) and shall be~~
 - c) ~~All signs shall be removed within 10 days after the election or primary for which they were made.~~ Any political sign that remains in a right-of-way of streets located within the corporate limits of the Town and maintained by the Town more than 30 days after the end of the period prescribed herein is to be deemed unlawfully placed and abandoned property, and a person may remove and dispose of such political sign without penalty.
 - f) If erected on the owner's private property, signs may be erected no earlier than 90 days prior to the beginning date of "one-stop" early voting and shall be removed within 10 days after the election or primary for which they were made.
- .10 Real estate signs, other than the temporary signs described in Section 10.8.
 - a) Signs advertising a single-family home or lot, a duplex, triplex, or quadraplex, or an individual unit within an attached housing development shall not exceed 6 square feet, with a maximum

Commented [JG5]: 136-32(f) says our ordinance should include this language-

(f) Application Within Municipalities. – Pursuant to Article 8 of Chapter 160A of the General Statutes, a city may by ordinance prohibit or regulate the placement of political signs on rights-of-way of streets located within the corporate limits of a municipality and maintained by the municipality. Any such ordinance shall provide that any political sign that remains in a right-of-way of streets located within the corporate limits of a municipality and maintained by the municipality more than 30 days after the end of the period prescribed in the ordinance is to be deemed unlawfully placed and abandoned property, and a person may remove and dispose of such political sign without penalty.

ARTICLE 10 (3/4/21)

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height of 4 feet. Rider signs not exceeding a total of 2 square feet in sign face area shall be permitted in addition to the 6 square feet. ~~Maximum height: 4 feet.~~

- b) Signs advertising all other uses shall not exceed one square foot for every 5 linear feet of frontage of the advertised property, up to a maximum sign face area of 32 square feet and maximum height of 6 feet.
- c) Only one sign per street front of the advertised property shall be erected.
- d) Properties having a continuous frontage in excess of 850 linear feet may be allowed an additional sign so long as such sign is no closer than 850 feet from another real estate sign on the property.
- e) Signs shall not be illuminated.
- f) Signs shall be removed within 7 days after the sale is closed or rent or lease transaction is finalized.

.11 Holiday decorations without a commercial message provided:

- a) Such displays do not extend into the public right-of-way.
- b) Decorations shall be installed no more than ninetythree (9030) days before the event; and removed no more than ~~tenfourteen (104)~~ days after the event.

.12 Construction signs, other than Temporary Planned Development Signs described in; Section 10.8, provided:

- a) Signs located on single-family lots or duplex, triplex, or quadraplex lots shall not exceed 6 square feet in area with a maximum height of 4 feet. Rider signs not exceeding 2 square feet in area shall be permitted in addition to the 6 square feet. ~~Maximum height: 4 feet.~~
- b) Signs for all other uses shall not exceed one square foot for every 5 linear feet of frontage of property under construction, up to a maximum sign face area of 32 square feet and a maximum height of 6 feet.
- c) Signs are confined to the site of construction.
- d) Only one sign per street front of the property under construction shall be erected.
- e) Signs shall not be illuminated.
- f) Signs shall be removed within 7 days after the completion of a project.

.13 Temporary farm products signs provided:

- a) Signs are located on the premises where the products are sold in conjunction with a bona fide farm use.
- b) Signs shall not exceed 32 square feet in area or 6 feet in height.
- c) Only one sign shall be erected.
- d) Signs shall be removed within 7 days of the termination of sale activities.

.14 Temporary special event signs or banners for religious, charitable, civic, fraternal, or similar organizations, provided:

- a) No more than one sign per street front shall be permitted per event.
- b) Signs shall be located on the property on which the event will occur.
- c) Signs shall not exceed 32 square feet in area or 6 feet in height.
- d) Signs shall be erected no sooner than 14 days before and removed 7 days after the event.

.15 Temporary banners in commercial and ~~mixed-use~~mixed-use districts, provided:

- a) Only one banner per establishment shall be allowed at a time.
- b) All banners shall be attached in total to a building wall or permanent canopy extending from a building.
- c) No paper banners shall be allowed.

Commented [JG6]: Probably want to keep the length of time allowed the same as election so there is no preference given to one or the other. From sog article "If the additional signage is permitted during campaign season, then what is the justification to prohibit a resident from posting a temporary sign during the Easter season, or the summer solstice, or at the start of the school year"

ARTICLE 10 [\(3/4/21\)](#)

SIGNS

- d) Banners shall be erected for a period not to exceed 2 weeks.
- e) No more than 6 such signs per establishment shall be erected within a calendar year.
- f) No banner shall extend above the second occupiable floor level of a building.
- g) In addition to the banners above, Grand Openings and Going Out-of-Business banners are allowed provided that:
 - i. Banners shall be erected for a period not to exceed 30 calendar days.
 - ii. Total number of banners shall not exceed two (2) per property.
 - iii. Banners shall be subject to b, c & f above.
 - iv. One additional temporary ground-mounted sign shall be erected for a Grand-Opening for a period not to exceed 10 calendar days.
 - v. Temporary ground-mounted sign shall be a maximum 6 feet in height and 24 sq. ft. in area.
 - vi. Temporary ground-mounted sign shall be located outside of the right-of-way and sight triangle.
 - vii. Temporary ground-mounted sign shall be exempt from Article 10.12.3.

.16 Public service and advertising signs in association with athletic fields.

Signs may be attached to the interior face of any fence that encloses or partially encloses an athletic playing field upon the property of a school or public park subject to the following conditions:

- a) No sign face area shall be visible from any public street nor from any abutting property in a residential or mixed-use district.
- b) No sign shall extend above the top of the enclosing fence.
- c) The property owner or an authorized representative shall provide the town with a signed statement granting permission for signs to be displayed and assuming responsibility for management of the signs as well as the appropriate removal and disposal of damaged or obsolete signs.

.17 Temporary Special Occasion Flag.

Flag of durable fabric, unrestricted as to size, on which is displayed the emblem of a nation, state, city, or fraternal, religious, or civic organization, provided:

- a) Flag shall be displayed only on the property on which the event is held or the occasion is celebrated.
- b) Flag shall be flown, mounted or displayed no sooner than 7 days prior to the event or occasion, and shall be removed within 7 days following the conclusion of the event or occasion.

.18 Sidewalk Signs.

Sidewalk signs such as easel or A-frame signs located near the main entrance to a non-residential use are allowed subject to the following:

- a) One sidewalk sign per tenant is allowed provided it is located within 5 feet of the public entry to the building.
- b) The sign location shall not interfere with pedestrian or vehicular circulation or obstruct the clear sight triangle at a street intersection ([Section 8.9](#)). There shall be a minimum sidewalk clearance of 5 feet.
- c) The sign shall not exceed 8 square feet in area and 4 feet in height.
- d) The sign may have changeable copy such as chalkboard, whiteboard, and cork.

.19 Fence Wraps.

d) Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from this Chapter until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. No fence wrap affixed pursuant to this section may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

Commented [JG7]: 160D-908 includes this language. Because our ordinance says that any signs not expressly permitted are prohibited, I think we need to add this as an exception to comply with 160D-908.

10.11 Master Signage Programs

Master signage programs establish two alternatives in providing latitude to develop appropriate signage designs for new or existing areas with special unifying features. The alternatives are the Special Sign Districts and the Planned Development Flexibility option. Special Sign Districts require approval by the Board of Commissioners following review and recommendation by the Huntersville Planning Board.

10.11.1 Special Sign Districts

For the purpose of establishing, enhancing, preserving, and developing the character, quality, and property values of areas of unique character and special development potential, districts in which signs are regulated by special provisions may be established subject to the following conditions:

- .1 As a prerequisite to the establishment of such a special sign district, it must be determined that the modified rules established for said district shall:
 - a) Preserve and enhance the special character of the particular area; and
 - b) Not contravene the intent of this ordinance; and
 - c) Cause no disturbance to neighboring property lying outside the proposed district.
- .2 Without changing the basic structure of this ordinance, the modified rules for a special sign district may impose sign regulations which provide greater latitude or more stringent limitations than those provided elsewhere in this ordinance.
- .3 The special sign district constitutes an overlay district and shall conform to the procedures of Article 11 for purposes of adoption and administration. Districts for which special sign regulations may be imposed include, but shall not be limited to the Town Center District, the Neighborhood Center District, the TND-U and TND-R districts, ~~and any future Historic District Overlay(s).~~

10.11.2 Planned Development Flexibility Option

For the purpose of providing flexibility and incentives for coordinated, well-designed sign systems for large-scale development, special provisions varying the standards of this ordinance may be approved by the Zoning Administrator, subject to the following:

- .1 The development is: a planned residential, nonresidential, or mixed-use development, 10 acres or greater in size; a hospital or other large-scale institutional complex; a large-scale cultural, civic or recreational facility; or a similar large-scale development.
- .2 A Master Sign Program that includes the following information in booklet form is submitted:
 - a) Detailed designs of all proposed signs including the size, height, copy, materials, and colors of such signs.
 - b) Proposed number and location of signs.
 - c) Sign Illumination Plans.
 - d) Plans for landscaping or architectural features to be used in conjunction with such plans.
- .3 The proposed signs meet the following criteria:
 - a) All signs are coordinated in terms of design features.
 - b) The maximum amount of allowable wall mounted signage per individually constructed tenant space -of one non-street fronting wall shall not exceed 25% of the area of the street fronting sign, up to a maximum of 32 square feet. This 25% increase may only be used on one non-street fronting wall.
 - c) Marquee and Hanging/Blade Signs may be increased by 25%, however they may project no more than 4 feet from the building wall, and no more than 3 feet over a sidewalk in a town-maintained right-of-way.
 - d) The maximum size of detached signs is not increased by more than 25%.

- e) The number of detached signs along a street frontage does not exceed 3.
- f) The maximum height of a detached sign does not exceed 12 feet.
- g) Multi-information directional signs are no greater than 16 square feet and are located in the interior of a development.

10.12 Prohibited Signs

The following signs are prohibited in all zoning districts:

- .1 Signs extending into the public right-of-way other than those permanent signs approved by the Town Manager of Huntersville along town-maintained streets and the North Carolina Department of Transportation along State System Streets.
- .2 Roof signs.
- .3 Portable signs (with the exception of sidewalk signs in accordance with Article 10.10.18).
- .4 Flashing, fluttering, swinging, or rotating signs with the exception of time and/or temperature signs.
- .5 Signs that are similar in color, design, and appearance to traffic control signs.
- .6 Vehicular signs as defined in Article 12 of the [Zoning Ordinance](#).
- .7 Off-premise signs, including Outdoor Advertising Signs. ~~See Sections 10.7.2 and 10.9, special exceptions for certain non-commercial signs.~~ No internally illuminated or self-luminous off-premise sign is permitted. [See Sections 10.7.2 and 10.9 for special exceptions for certain non-commercial signs.](#)
- .8 Obsolete signs: signs that do not comply with the provisions of this ordinance and identify or advertise a use ~~or the~~ operation of which has ceased for one year or more.
- .9 Other signs not expressly allowed by this ordinance.
- .10 Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of controlled routes and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with the operation of a motor vehicle are prohibited.

[.11 Signs advertising or otherwise promoting the existence of a temporary health care structure.](#)

~~.12 Nothing in this subsection should be interpreted to conflict with N.C.G.S. § 136-131.2.~~

Commented [JG8]: From 160D-915(g): No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

10.13 Application and Issuance of Sign Permits**10.13.1 -Application.**

Applications for permits shall contain or have attached the following information:

- .1 The street name and street number of the building, structure or lot on which a sign is to be placed.
- .2 Names, addresses, and telephone numbers of the applicant, owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the licensed contractor erecting or affixing the sign.
- .3 If the applicant is not the owner or lessee of the lot on which the sign will be located, written permission from the property owner or a designated representative stating agreement that the sign may be erected on the parcel for which the permit has been applied shall be required.
- .4 A site or plat plan of the property involved, showing accurate placement of the proposed sign, intended use(s) of the property, and zoning district designation.
- .5 Two (2) blueprints or inked, scaled drawings of the plans and specifications of the sign to be erected or affixed as deemed necessary by the Zoning Administrator. Such plans may include but shall not be limited to details of dimensions, materials, copy, and size of the proposed sign. For wall signs, dimensions of the building wall on which the sign is to be affixed and the location and size of existing wall signs shall also be included.
- .6 Locations of addresses. No permit for a sign shall be issued unless a street address has been assigned according to the requirements of the Town of Huntersville or the Mecklenburg County Street Address Ordinance, whichever is applicable.
- .7 Other information as the Zoning Administrator may require to determine full compliance with this and other applicable codes.

10.13.2 -Issuance of Permit.

Upon the filing of an application for a sign permit, the Zoning Administrator shall examine the plans and specifications, and, as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. If the proposed sign is in compliance with all the requirements of this ordinance and other applicable codes, a permit will be issued. Any permit issued in accordance with this section shall automatically become null and void unless the work for which it was issued has visibly commenced within 6 months of the date of issuance or if the work authorized by the permit is suspended or abandoned for one year.

10.13.3 -Fees.

To obtain a sign permit, all fees, in accordance with the requirements of the permitting agency, shall be paid.

10.13.4 -Construction Inspection.

The permit holder shall notify the Building Standards Department upon completion of construction and installation of any sign for which a permit is required.

10.14- Enforcement**10.14.1 -Inspections and Investigations**

- .1 The Zoning Administrator or other agents of the Town of Huntersville will periodically inspect signs in order to determine whether there are violations of this Ordinance.
- .2 The Town of Huntersville or the Zoning Administrator, acting on behalf of the town, shall have the power to conduct such investigations as may reasonably be deemed necessary to carry out enforcement duties prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting signs. No person shall refuse entry or access to any authorized representative of the town or of the Zoning Administrator who requests entry for purposes of inspection, and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out his official duties.
- .3 The Zoning Administrator or other authorized agent of the town may require written statements, or the filing of reports with respect to pertinent questions relating to signs.

10.14.2 -Enforcement Methods

A violation of this article is a violation of the Zoning Ordinance, and is subject to the enforcement procedures and penalties of Section 11.2 of these regulations.

10.14.3 -Removal and Disposal of Signs in the Right-Of-Way

Subject to N.C.G.S. § 136-131.1, ~~t~~The Zoning Administrator or other agents of the Town of Huntersville may remove any illegal sign placed on public property or within any right-of-way of any public or private street.

ARTICLE 11: ADMINISTRATION

11.1 -Zoning Administration

.1 -Zoning Administrator

Primary responsibility for administering and enforcing this ordinance may be assigned to one (1) or more individuals by the Town Manager. The person or persons to whom these functions are assigned shall be referred to in this ordinance as the "Zoning Administrator". The term "staff" or "Planning staff" is sometimes used interchangeably with the term "Zoning Administrator." Any function or responsibility assigned by this ordinance to the Administrator may be delegated by such person to another employee or agent acting under the Administrator's control or at his direction, unless such delegation is prohibited by the Town Manager.

No staff member, including the Zoning Administrator, shall make a final decision on an administrative decision pursuant to this ordinance where the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. If a staff member has a conflict of interest under this section, the administrative decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by Zoning Administrator.

.2 -Intent and Applicability

The Zoning Administrator shall enforce, conduct reviews, ensure zoning compliance, and manage the development approval procedures set forth in this article for the Town of Huntersville.

- a) A building permit and a certificate of occupancy are required for uses permitted by right, under prescribed conditions, or subject to an approved conditional zoning district or special use permit, and all uses and structures accessory thereto.
- b) A certificate of occupancy is required for changes in the use of property.

Zoning compliance, under these regulations, is required for the issuance of building permits, certificates of occupancy, sign permits, and zoning use permits.

.3 Building Permit

No development shall occur except pursuant to a building permit, when one is required. A building permit is generally required for the activities below. Other building activities may also require a permit.

- a) The addition, repair, or replacement of load bearing structures.
- b) The installation, extension, or general repair of any plumbing system or a An addition or change in the design of plumbing.
- c) The addition, replacement, or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment.
- d) The addition of roofing.
- e) Commercial work of any value.
- f) Work on single-family residential or farm buildings exceeding \$5,000.
- g) The following work, even if not in excess of \$5,000:

Commented [ES1]: Edit suggested pursuant to 160D-1110(a)(2):

(a) person shall commence or proceed with any of the following without first securing all permits required by the State Building Code and any other State or local laws applicable to any of the following activities:

(2) The installation, extension, or general repair of any plumbing system except that in any one- or two-family dwelling unit a permit is not required for the connection of a water heater that is being replaced if (i) the work is performed by a person licensed under G.S. 87-21 who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, and (ii) the energy use rate or thermal input is not greater than that of the water heater that is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the State Building Code

Commented [ES2]: No edit required because of the qualifier "generally required" being included in the ordinance language.

However, be aware of the exception in 160D-1110(a)(4):

The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit a permit is not required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced if all of the following requirements are met:

- a. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.
- b. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.
- c. The work is performed by a person licensed under G.S. 87-43.
- d. The repair or replacement installation meets the current edition of the State Building Code, including the State Electrical Code.

- construction of deck, fireplace, pier, or storage building;
- installation or replacement of insulation, wood stove, or hot water heater;
- moving a building;
- demolition of a building.

11.4 -Certificate of Occupancy

A certificate of occupancy must be issued prior to the occupation, ~~or use, or change in use~~ of any land, building, or structure, ~~and prior to a change in the use of any land, building, or structure~~, except for land used for agricultural purposes.

11.2 -Enforcement

1. Administration and Enforcement Procedures

If an application for a ~~b~~Building ~~p~~Permit, ~~or c~~Certificate of ~~o~~Occupancy, ~~or any other development approval subject to an administrative determination~~ is denied because of non-compliance with these regulations, the Zoning Administrator shall provide written notification of the denial and of the reasons ~~for the denial~~therefore. The term “administrative determination” may be used interchangeably with the term “administrative decision.”

Planning staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and according to the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

When any work or activity has been undertaken in violation of this ordinance, any State law delegated to the local government for enforcement, or the terms of a development approval, the Zoning Administrator may cause a written Notice of Violation to be issued. The Notice of Violation shall be delivered to the holder of the development approval and the landowner of the property involved (if the landowner is not the holder of the development approval). Delivery shall be accomplished by personal delivery, electronic delivery, or first-class mail.

The Zoning Administrator may also issue a Stop Work Order and/or revoke any permit issued by the Zoning Administrator pursuant to Section 11.2.3.

2. Right ~~to~~ Appeal Administrative Decisions

If a request for a zoning compliance permit is disapproved or if a ruling of the Zoning Administrator is questioned, aAny person who has standing or the local government (used interchangeably with the “Town”) aggrieved party, may appeal such rulingan administrative decision to the Huntersville Board of Adjustment (the “Board of Adjustment”) as provided in Section 11.3.2. Appeals of administrative decisions made to the Board of Adjustment must be filed within 30 days from receipt of the written notice of the determination. In the absence of evidence to the contrary, written notice of the determination sent by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service. An appeal to the Board of Adjustment, lawfully and completely filed within 30 working days of the date of the decision, shall stay enforcement action and penalties until a hearing has been held and a decision rendered by the Board of Adjustment.

Commented [ES3]: Builds in catchall for other administrative decisions as described below.

Commented [ES4]: Add definition of administrative decision to definition section consistent with 160D-102(1):

Commented [ES5]: 160D-403(e).

Commented [ES6]: 160D-404(a). We reference notice of violation in several of the enforcement remedies below. It is important to align our notice process with that of the statute. NOV's are administrative and can be appealed in the manner provided for in 11.2.2 below/160D-405

Commented [ES7]: 160D-405(b). You must have standing to appeal an administrative decision.

Commented [ES8]: The time for appealing an administrative decision in the current ordinance language is incorrect. See 160D-405(d).

Need to update Notice of Appeal form to reflect 30 days from receipt. Not 30 days from issuance:
<https://huntersville.org/DocumentCenter/View/2925/Notice-of-Appeal-Application-PDF>

Need to update appeal brochure found here to reflect 30 days from receipt, not 30 days from issuance.
<https://huntersville.org/DocumentCenter/View/844/Appeals-Process-Brochure-PDF>

11.3 addresses receipt by party with standing vs. receipt by other person and constructive notice.

Commented [ES9]: Removed language in this section on stays as they are addressed more fully and accurately in the edits to 11.3.2. Avoids duplication and contradiction.

3. **Enforcement Remedies and Penalties for Violation**

~~In case any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this ordinance, an action for injunction, mandamus, or other appropriate action or proceeding to prevent such violation may be instituted by the Zoning Administrator or other enforcement agent(s) authority designated by the Board of Commissioners as enforcement agent(s) for this ordinance may enforce any development regulation set forth by this ordinance using any one, all, or a combination of the following enforcement remedies: Penalties and remedies are as follows:~~

- (a) **Criminal.** Any person, firm, or corporation convicted of violating the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed five hundred dollars (\$500) and/or imprisoned for a period not to exceed ~~thirty (30)~~ twenty (20) days. Each day of violation shall be considered a separate offense, provided that the violation of this ordinance is not corrected within thirty (30) days after notice of said violation is given.
- (b) **Equitable Remedy.** The Zoning Administrator may apply to a court of competent jurisdiction for any appropriate equitable remedy to enforce the provisions of this ordinance. It is not a defense to the Zoning Administrator's application for equitable relief that there are other remedies provided under general law or this ordinance.
- (c) **Injunction.** Enforcement of the provisions of this ordinance may also be achieved by injunction. When a violation occurs, the Zoning Administrator may, either before or after the institution of other authorized action, apply to the appropriate division of the General Court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.
- (d) **Order of Abatement.** In addition to an injunction, the Zoning Administrator may apply for and the court may enter into an order of abatement as part of the judgment in the case. An order of abatement may direct any of the following actions:
 - Buildings or other structures on the property be closed, demolished, or removed;
 - Fixtures, furniture or other moveable property be moved or removed entirely;
 - Improvements, alterations, modifications, or repairs be made; or
 - Any other action be taken that is necessary to bring the property into compliance with this ordinance.
- (e) **Execution of Court Decisions.** If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt. The Zoning Administrator may execute the order of abatement and will have a lien on the property in the nature of a mechanic or materialman's lien for the cost of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and by posting a bond for compliance with the order. The bond must be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter was heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.
- (f) **Stop Work Order Issuance and Revocation of Development Approvals ~~Permits.~~**
 - i. **Stop Work Order.** Whenever ~~any work or activity subject to regulation pursuant to this ordinance or any State law delegated to the Town for enforcement purposes, -is undertaken in substantial violation any state or local law or in a manner that endangers life or property building, structure or part thereof is being constructed, demolished, renovated, altered, or repaired in substantial violation of any applicable provision of this ordinance,~~ the Zoning Administrator may order the specific part of the work that is in violation, ~~(or~~

Commented [ES10]: "[A]ny development regulation" adopted pursuant to 160D can be enforced by the enumerated remedies in 160A-175.

In "addition to other remedies," 160D-404(c)(1) further allows appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises.

However, the way the ordinance is currently written, it reads as if the enumerated remedies in the ordinance at subsection 11.3 are only available when "a structure is erected, constructed, reconstructed, altered, repaired converted, or maintained in violation of the ordinance."

Therefore, I have removed that language and aligned it with the statute. Better not to try to list out specific activities in case one is missed.

Commented [ES11]: I believe the limit for a class three misdemeanor is now 20 days pursuant to 15A-1340.23.

would be when the work is completed) or that presents such a hazard, to be immediately stopped. The stop work order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the specific reasons for cessation, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. Violation of a stop work order shall constitute a Class 1 misdemeanor. action(s) necessary to lawfully resume work.

Commented [ES12]: I aligned the wording for Stop Work Orders (SWOs) with 160D-404(b). It broadens the language for which a SWO can be issued to "any work or activity" subject to regulation vs. the items specifically listed by current ordinance language. I prefer aligning with the statutory language rather than listing specific actions as something may be left out. It also more accurately states the specific triggering requirements for a SWO to be issued ("substantial violation" or "endangers life or property").

ii. Revocation of Development Approvals. The Zoning Administrator may revoke any permit-development approval (e.g., building permit, certificate of occupancy, etc.) by providing written notification to the permit holder stating the reason(s) for the revocation when violations of this ordinance have occurred. Development approvals issued by the governing board may be revoked in the same manner in which they were approved, including any notice and hearing. Development approvals may be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of this ordinance or any State law delegated to the local government for enforcement purposes; or for false statements or representations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. Permits may be revoked when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this ordinance, or a permit has been mistakenly issued in violation of this ordinance.

Commented [ES13]: I aligned this section with 160D-403(f). It is important to use the term "development approval" vs. listing out specific approvals in case one is missed. We aligned the ordinance with that term in Article 2 and will add a definition in the definition section. Moreover, it is important to indicate that all development approvals issued by the local government unit (not just those issued by the zoning administrator/staff) can be revoked, but must be revoked in the same manner in which they were approved.

(e)(g) Civil Penalty. In addition to the other remedies cited in this ordinance for the enforcement of its provisions, and pursuant to NC General Statute 160A-175, the regulations and standards of this ordinance may be enforced through the issuance of civil penalties by the Zoning Administrator.

Subsequent citations for the same violation may be issued by the Zoning Administrator if the offender does not pay the citation (except as otherwise provided in a warning citations situation) after it has been issued unless the offender has sought an appeal to the decision of the Zoning Administrator through the Board of Adjustment. Once the ten-day warning period has expired, each day which the violation continues shall subject the violator to additional citations to be issued by the Zoning Administrator.

The following penalties are hereby established:

Warning Citation	Correct Violation Within 10 Days
First Citation	\$50.00
Second Citation for Same Offense	\$100.00
Third and Subsequent Citations for Same Offense	\$500.00

If the offender fails to pay the civil penalties within three (3) ten(10) days after having been cited, the Town may recover the penalties in a civil action in the nature of debt.

Commented [ES14]: Three days may be too short. Consider expanding to 7-10. 10 is used in Article 7.

11.3 -Appeals and Variances**.1 Board of Adjustment**

a) Establishment.

The Board of Adjustment of the Town of Huntersville (~~the “Board of Adjustment”~~) shall consist of seven regular members and three alternate members. The regular membership shall consist of six members who reside within the corporate limits, appointed by the Town Board, plus one extraterritorial member. ~~(The number of regular members appointed who reside in the extraterritorial zoning jurisdiction shall at a minimum meet the requirements of N.C.G.S. 160DA-30762 for proportional representation, but shall in no instance be less than one).~~ The alternate membership shall consist of at least two members who reside within the corporate limits, with the remaining alternate member residing in either the corporate limits or the extraterritorial jurisdiction of Huntersville.

b) Members ~~f~~From Within the Town Limits.

Each member and alternate shall be appointed by the Town Board for a term of three years. The terms of membership shall be staggered; therefore, in appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the Town Board may appoint certain members for less than three years to the end that thereafter the terms of all members shall not expire at the same time. The expiration date for each term shall be the 30th day of June of the year in which said term is to expire and the term of office of the succeeding member shall begin on the 1st day of July. If the original members are appointed such that their terms of office begin prior to a July 1 date, such terms of original members shall be extended by the period of time between their appointment and June 30th of the year of their appointment, it being the intent of this proviso that original members shall serve terms of one, two, or three years plus a period of time between their initial appointments and June 30th of the year of their initial appointments. For purposes of this section, original appointments refer to members and alternates appointed upon first establishment of the Board of Adjustment, and ~~also~~ to members and alternates appointed to newly created seats upon any expansion of the Board of Adjustment.

c) Extraterritorial Members.

In addition to the members and alternates herein above provided for, members of the Board of Adjustment shall be appointed from the area within the extraterritorial jurisdiction of the Town of Huntersville, pursuant to the appointment process prescribed in N.C.G.S. 160DA-30762. Members so appointed shall have all of the obligations and duties of the other members of the Board of Adjustment, including rights to vote on all matters coming before the Board. Each extraterritorial member shall be appointed for a period of three years. Expiration dates for each term, initially and thereafter, shall be the 30th day of June of the year in which said term is to expire and the term of office of the succeeding member shall begin on the 1st day of July; provided further that if the original members are appointed such that their terms of office begin prior to a July 1 date, such terms of original members shall be extended by the period of time between their appointment and June 30 of the year of their appointment. Eligibility for reappointment shall be determined by the procedures and policies established by the appointing body.

d) Term Limits and Service Limits

Members and alternates shall be limited to serving two (2) consecutive terms; however, a member or alternate may be reappointed to the Board of Adjustment after remaining off of the Board for at least one (1) year. Time spent as an alternate member shall not count in determining whether an alternate is eligible for appointment as a regular member. Additionally, appointment to a vacant position as an alternate or regular member to fill an unexpired term shall not be counted in determining eligibility for appointment or reappointment. ~~No~~ person shall be eligible for

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ADMINISTRATION

appointment as a regular or alternate member if such person is serving on any other board or commission appointed by the Board of Commissioners, unless such other service is in an ex officio capacity. These terms limits and service limits shall apply to both members and alternates residing in the corporate limits and within the extraterritorial jurisdiction of the Town of Huntersville. ~~Notwithstanding the foregoing, the Board of Commissioners shall have the discretion to waive these term limits and service limits for a particular position on the Board of Adjustment when there are no other members of the public willing to serve in the position, or in other appropriate circumstances as determined by the Board of Commissioners.~~

e) Proceedings

1) Meetings. All meetings of the Board of Adjustment shall be held at a regular place and shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact. Final disposition of appeals or variances shall be recorded in the minutes, indicating the reasons of the Board therefore, all of which shall become a part of the public record.

2) Quorum Required. No final action shall be taken on any matter unless a quorum is present. A quorum is the ~~greater of the~~ majority of the members of the Board or, for ~~appeal and~~ variance actions (which require the concurring vote of 4/5ths of the Board), 4/5ths of the membership.

f) Powers and Duties. The Board of Adjustment shall have the following powers and duties:

1) Administrative Review. To hear and decide appeals according to the procedures of this section, where it is alleged there is an error in any order, decision, determination, or interpretation made by the Zoning Administrator or designated administrative official~~er~~ in the enforcement of this ordinance.

2) Variances. To ~~hear and decide applications for authorize upon appeal in specific cases~~ variances from the terms of this ordinance according to the standards and procedures herein so that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done. Appropriate conditions, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed by the Board.

3) Density Averaging Certificates. To hear and decide ~~upon the approval of applications for~~ density averaging certificates for paired-parcel averaged-density development, acting as the Watershed Review Board, to ensure both parcels considered together meet the standards of the ordinance and that potential owners have notice of how the watershed regulations were applied to the parcel pair.

.2 Appeals and Variances

a) Petition to Board of Adjustment for Appeal or Variance.

1) ~~An appeal of an administrative decision may be initiated by any aggrieved party or person with standing or by any officer or the Board of the Town of Huntersville the local government.~~

2) A petition for variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

b) Appeals. The Board of Adjustment shall hear and decide appeals ~~of administrative decisions of administrative officials charged with enforcement of the zoning and subdivision or unified development ordinances~~ and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

1) Any person who has standing under G.S. 160~~DA-1402393~~(cd), or the Town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a Notice of Appeal with the

Commented [ES15]: 160D-406(i). Appeals do NOT require a 4/5th vote.

Commented [ES16]: Make sure that the variance application language here:
<https://www.huntersville.org/DocumentCenter/View/995/Variance-Application-PDF> is consistent with 160D-705(d)

Also make sure that the variance brochure language is also updated as necessary.

<https://www.huntersville.org/DocumentCenter/View/996/Variance-Brochure-PDF>

160D-705(d)

Variances. – When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

- (1) Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as is not a self-created hardship.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved

Commented [ES17]: 160D-405(b)

- ~~Town Clerk~~ to the Board of Adjustment. The Notice of Appeal shall state the grounds for the appeal.
- 2) The official who made the decision shall give written notice of the determination to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
 - 3) The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
 - 4) ~~It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision.~~
 - 45) The official who made the decision shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the ~~decision~~action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner. ~~The record may be provided in written or electronic form.~~
 - 56) ~~Timely~~ appeals of a notice of violation or other ~~enforcement order~~ administrative decision ~~shall stay~~ enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with N.C.G.S. § 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom. After notice of the appeal has been filed, if unless the official who made the decision certifies to the Board of Adjustment ~~after notice of appeal has been filed that~~ because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. ~~In that case, the~~ enforcement proceedings shall not be stayed except by a restraining order, ~~which may be~~ granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a ~~development approval~~ permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for ~~permits or permissions~~ development approvals to use ~~thesueh~~ property; in these situations, the appellant or local government may request and the Board of Adjustment may grant a stay of a final decision of ~~permit applications or building permits~~ development approval applications, including building permits affected by the issue being appealed.
 - 67) Subject to the provisions of subdivision (6) of this subsection, the Board of Adjustment shall hear and decide the appeal within a reasonable time.
 - 78) ~~The applicant, the local government, and any person with standing to appeal shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board of Adjustment.~~ The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board of Adjustment shall continue the hearing.
 - 89) The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the official who made the decision.

Commented [ES18]: Janet indicated that she does not receive the Notices of Appeal. I assume this should be Clerk to the Board of Adjustment.

Commented [ES19]: 160D-403(b) indicates that posting of signs regarding administrative decisions is not mandatory unless the ordinance requires it.

Commented [ES20]: 160D-406(c)

Commented [ES21]: 160D-405(f), SL 2020-25

Commented [ES22]: 160D-406(d)

ARTICLE 11 (3-9-2021)

ADMINISTRATION

- 9) When hearing an appeal pursuant to N.C.G.S. § 160DA-947400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in N.C.G.S. § 160DA-1402393(jk).
- c) Standards for Granting an Appeal.
- 1) The Board of Adjustment shall reverse or modify the order, decision, determination, or interpretation under appeal only upon finding an error in the application of these regulations on the part of the officer rendering the order, decision, determination, or interpretation.
 - 2) In modifying the order, decision, determination, or interpretation, the Board of Adjustment shall have all the powers of the officialer from whom the appeal is taken.
- d) Filing a Variance Petition.
- A petition for variance, in the form prescribed by the Board of Adjustment, shall be filed with the Town Planning Director Clerk to the Board of Adjustment or designated administrator, accompanied by a non-refundable filing fee as established by the Town Board and a list of adjoining properties including tax parcel numbers and the name and address of each owner.
- e) Standards for Granting a Variance. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:
- 1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a persona with a disability.
 - 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
- f) No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.
- g) Notice and Hearing.
- 1) The Board of Adjustment shall, in accordance with rules adopted by it for such purpose, hold public hearings on any appeal or variance petition which comes before it.
 - 2) Notice of Hearing. – Notice of Hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning or subdivision unified development ordinance. In the absence of evidence to the contrary, the Town may rely on the County tax listing to determine owners of property entitled to mailed

Commented [ES23]: 160D-705(d)(2)

notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a Notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The Board of Adjustment may continue an evidentiary hearing that has been convened without further advertisement.

Commented [ES24]: 160D-406(b)

h) Action by the Board of Adjustment.

- 1) The concurring vote of four-fifths (4/5ths) of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

- 2) A member of the Board shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

Commented [ES25]: 160D-109(f)

- 3) Quasi-Judicial Decisions. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair, or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board, or such other office or official as the ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

- 4) Oaths. The Chair of the Board or any member acting as Chair and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

Commented [ES26]: 160D-406(f)

- 5) Subpoenas. The Board of Adjustment through the Chair, or in the Chair's absence anyone acting as Chair, may subpoena witnesses and compel the production of evidence. To request the issuance of a subpoena, the applicant, local government, and any persons with standing under G.S. 160DA-1402393(c) may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

Commented [ES27]: 160D-406(g)

i) Effect of Grant of Variance or Reversal or Modification of Administrative Decision.

After the Board of Adjustment approves a variance, or reverses or modifies an order, decision, determination, or interpretation of an administrative official~~er~~, the appellant or petitioner shall be responsible for obtaining a building permit and/or certificate of occupancy, as applicable, in order to proceed with the development of the subject property. All orders, decisions, determinations, and interpretations made by administrative official~~ers~~ under those procedures shall be consistent with the variance, reversal, or modification granted to the appellant or petitioner by the Board of Adjustment.

j) Rehearing.

The Board of Adjustment shall refuse to hear an appeal or variance petition which has been previously denied unless it finds that there have been substantial changes in the conditions or circumstances relating to the matter.

k) Appeal from Board of Adjustment.

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160DA-1402393. A petition for review shall be filed with the Clerk of Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subsection 11.3.2(h)(3). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

3. Standards for Granting an Administrative Waiver

a) Purpose and Intent

The Zoning Administrator (which term shall include an administrative official~~er~~ designated by the Town Manager to perform these functions) is authorized to grant an administrative waiver of minor deviations from measurable and quantifiable standards of this ordinance subject to the following limitations:

- 1) The standard for which the waiver can be granted must be a quantifiable and/or measurable standard set forth in the ordinance. Such standards may include, but are not necessarily limited to, height requirements and limitation, yard requirements, parking requirements, screening or buffer requirements, planting requirements, ratio requirements, density requirements, spacing requirements, signage requirements and other similar measurable and quantifiable standards.
- 2) The Zoning Administrator shall grant such waiver only after the requesting party has demonstrated that such minor deviation was a result of an unintended error or unique conditions of the property, does not and will not violated the spirit and harmony of the ordinance, and does not and will not adversely affect the rights of other property owners in any material manner.
- 3) The minor administrative waiver may not deviate by more than three percent (3%) any of the standards for which the waiver is given.

b) Construction. The authority given to the Zoning Administrator to grant such waivers shall be construed to be permissive and not mandatory and the Zoning Administrator may decline to make such waiver, and instead, require that the applicant seek a variance from the Board of Adjustment. The Zoning Administrator may not grant any waiver affecting the use or zoning classification; however, this shall not be construed as limiting the zoning Administrator's duties and rights under the ordinance, and whose decisions are appealable to the Board of Adjustment.

11.4 -Amendment Process**.1 Purpose and Authority**

- a) The purpose of this article is to provide a means for amending the text of these regulations and the classification of any parcel of land identified on the Official Zoning Map. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in response to changed conditions or changes in public policy.
- b) Upon compliance with the provisions of this article, the Town Board shall have the authority to amend or repeal the text of these regulations or the classification of any parcel of land indicated on the Official Zoning Map.

.2 Planning Board

- a) Establishment. The Planning Board of the Town of Huntersville shall consist of nine (9) members of whom at least seven (7) members shall reside within the corporate limits, appointed by the Town Board, plus extraterritorial members determined as follows: the number of members appointed who reside in the extraterritorial zoning jurisdiction shall at a minimum meet the requirements of N.C.G.S. [§ 160DA-30762](#) for proportional representation, but shall in no instance be less than one (1).
- b) Membership.
 - 1) Members ~~From~~ Within the Town Limits.

Each member shall be appointed by the Town Board for a term of three years. The terms of membership shall be staggered; therefore, in appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the Town Board may appoint certain members for less than three years to the end that thereafter the terms of all members shall not expire at the same time. The expiration date for each term shall be the 30th day of June of the year in which said term is to expire and the term of office of the succeeding member shall begin on the 1st day of July. If the original members are appointed such that their terms of office begin prior to a July 1 date, such terms of original members shall be extended by the period of time between their appointment and June 30th of the year of their appointment, it being the intent of this proviso that original members shall serve terms of one, two, or three years plus a period of time between their initial appointments and June 30th of the year of their initial appointments. For purposes of this section, original appointments refer to members appointed upon first establishment of the Planning Board; and also to members appointed to newly created seats upon any expansion of the Planning Board.
 - 2) Extraterritorial Members.

In addition to the members hereinabove provided for, members of the Planning Board shall be appointed from the area within the extraterritorial jurisdiction of the Town of Huntersville, pursuant to the appointment process prescribed in N.C.G.S. [160DA-307362](#). Members so appointed shall have all of the obligations and duties of the other members of the Planning Board, including rights to vote on all matters coming before the Board. Each extraterritorial member shall be appointed for a period of three years. Expiration dates for each term, initially and thereafter, shall be the 30th day of June of the year in which said term is to expire and the term of office of the succeeding member shall begin on the 1st day of July; provided further that if the original members are appointed such that their terms of office begin prior to a July 1 date, such terms of original members shall be extended by the period of time between their appointment and June 30th of the year of their appointment. –Eligibility for reappointment shall be determined by the procedures and policies established by the appointing body.
 - 3) -Term Limits and Service Limits
Members shall be limited to serving two (2) consecutive terms, however a member may be reappointed to the [Planning Board](#) ~~of Adjustment~~ after remaining off of the Board for at least one (1) year. Appointment to a vacant position to fill an unexpired term shall not be counted

in determining eligibility for appointment or reappointment. No person shall be eligible for appointment as a member if such person is serving on any other board or commission appointed by the Board of Commissioners, unless such other service is in an ex officio capacity. These terms limits and service limits shall apply to members residing in the corporate limits and to those residing within the extraterritorial jurisdiction of the Town of Huntersville. Notwithstanding the foregoing, the Board of Commissioners shall have the discretion to waive these term limits and service limits for a particular position on the Planning Board when there are no other members of the public willing to serve in the position, or in other appropriate circumstances as determined by the Board of Commissioners.

c) Meetings.

Meetings shall be held on a monthly basis unless otherwise determined by the Board. The Chairman of the Board, or in his absence the vice chairman, may call a special meeting of the Board at any time by giving each member 24 hours' notice. Special meetings shall also be scheduled upon request by a simple majority of board members. A quorum of the Board shall consist of a simple majority of the appointed members, and a quorum shall be in attendance before any action of an official nature can be taken.

d) Powers and Duties.

- 1) The Planning Board shall serve as the advisory board on all requests for changes in the zoning ~~regulations~~laws and ordinances of the Town of Huntersville (the "Town"). As such, and pursuant to any authorities set forth in the zoning ordinance, the Planning Board shall hear all requests for zoning changes or other zoning action and shall, upon such hearings, make a recommendation to the Town Board as to any requested changes or action regarding this ordinance. Hearings on zoning petitions may, by joint decision of the Town Board and the Planning Board, be held at joint meetings, or may be held separately. The Planning Board is hereby empowered to set procedures for the filing of zoning petitions so long as said procedures do not conflict with or are not in derogation of the then existing ~~regulations~~laws and ordinances of the Town of Huntersville.
- 2) The Planning Board shall review and make recommendations on applications for approval of subdivisions pursuant to the Subdivision Ordinance of the Town of Huntersville, and shall make such recommendations as may be permitted by said subdivision ordinance and as the Planning Board deems to be in the best interest of the Town.
- 3) The Planning Board is empowered to make recommendations to the Town Board or other governmental agencies consistent with the Planning Board's charged obligation to provide for proper planning for the future growth of the Town of Huntersville and its environs.

.3 Initiation

- a) Any amendment to the zoning ordinance text or zoning map, except for the classification of property to a conditional zoning district or MH Overlay, may be initiated:
 - 1) by the Town Board or the Planning Board on its own resolution;
 - 2) by the property owner(s), upon filing an official petition, submitting the fee established by the Town Board, and providing a list of adjoining properties including tax parcel numbers and the name and address of each owner, provided in digital form if possible;
 - 3) by someone other than the property (if not a request to down-zone property) owner following:
 - (a) filing of an official petition and submission of the established fee by the initiating party; and in addition, for a map amendment, providing a list of adjoining properties including tax parcel numbers and the name and address of each owner, or, for a text amendment, submitting the prepared text and rationale for seeking the amendment;
 - (b) preliminary evaluation by the Planning Board to evaluate consistency of the proposal with the objectives and policies of plans adopted by the Town of Huntersville; and

Commented [ES28]: Down-zoning cannot be initiated by anyone other than all of the property owners or the local government pursuant to 160D-601(d).

Add definition to definition section.

Down-zoning means a zoning ordinance that affects an area of land in one of the following ways:

- (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

- (c) determination by the Town Board whether the petition should be granted a public hearing or rejected.
- b) An amendment for the reclassification of property to a conditional zoning district or a MH Overlay district, may be initiated only by the owners of all of the property to be included in the district and shall be accompanied by an official petition, the established fee, and documentation as required by paragraph 1) below and as may be required by paragraph 2), below.
 - 1) A petition requesting the reclassification of property to a conditional zoning district or overlay district must be accompanied by a site plan, drawn to scale, and any necessary supporting text, which shall include all data specified in paragraphs (a) through (n) below that are applicable to the project. Where the type of use or scale of proposal makes providing any of the following items unnecessary or impractical, the Planning Director may waive individual items.
 - (a) A boundary survey and vicinity map showing the property's total acreage, zoning classification(s), general location in relation to major streets, railroads, and/or waterways, date, and north arrow;
 - (b) Existing topography on the site and within 300 feet of the boundary of the site; and the general nature of the proposed topography at four-foot contour intervals or less;
 - (c) All existing easements, reservations, rights-of-way, and any other restrictions on the use of the land;
 - (d) Number and general location of proposed structures;
 - (e) Proposed use of all land and structures, including the number of residential units or the total square footage of any nonresidential development;
 - (f) All yards, buffers, screening, and landscaping required by these regulations;
 - (g) Any screening, buffers, and landscaping proposed over and above that required by these regulations, as well as proposed treatment of any existing natural features;
 - (h) All existing and proposed points of access to public streets; the location of proposed new streets;
 - (i) Delineation of areas within the regulatory floodplain as shown on the Official Floodway Maps for Mecklenburg County;
 - (j) Proposed number and location of signs;
 - (k) Proposed phasing, if any, and approximate completion time for the project;
 - (l) The location of existing and proposed storm drainage patterns and facilities intended to serve the development;
 - (m) Traffic, parking, and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets, existing and proposed;
 - (n) A listing of adjoining properties including tax parcel numbers and the name and address of each owner, provided in digital form if possible.
 - 2) In the course of evaluating the proposed use, the Planning Director, Planning Board or Town Board of Commissioners may request additional information from the petitioner. Information requested may include the following:
 - (a) The location of significant trees on the petitioned property;
 - (b) Scale of buildings relative to adjoining properties, including sight lines;
 - (c) Height of structures;
 - (d) Exterior features of proposed development;

- (e) Any other information needed to demonstrate compliance with these regulations.
- 3) The site plan, building elevations, perspectives, sections, and any supporting text shall constitute part of the petition for all purposes under these regulations.
- c) The Planning Department shall determine the number of copies of each petition and other required documentation to be submitted by the petitioner so that copies may be circulated to all appropriate agencies for review and comment. A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition for a rezoning to a special or conditional use district, or a conditional district, or other small-scale rezoning.
- d) Before a public hearing may be held on a petition for a conditional zoning, the petitioner must file in the Office of the ~~Town Clerk~~ Planning Department a written report of at least one community meeting held by the petitioner. Notice of such a meeting shall be given to all of the following, using the parcel ownership information listed in the current Mecklenburg County tax records:
 - 1) Owner of each property petitioned for rezoning
 - 2) Owner of each abutting property
 - 3) Owner of each property within 250 feet of the petitioned property
 - 4) Owner of each property directly across a street, easement, or right-of-way, public or private, from the petitioned property
 - 5) Owner of each property across a street, easement, or right-of-way, and within 250 feet of the right-of-way boundary opposite the petitioned property
 - 6) Contact person for each neighborhood association, property owner association, and homeowner association registered with the Town Planning Department that has jurisdiction over property within 2,000 feet of any portion of the rezoning site (distance scaled on a Town of Huntersville or Mecklenburg County official map). If fewer than two registered associations are identified within 2,000 feet of the rezoning site, it is the responsibility of the petitioner to identify and include unregistered associations or associations beyond 2,000 feet of the site, such that no fewer than two neighborhood, property owner, or homeowner associations are notified of the community meeting.
 - 7) The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a copy of any materials presented at the meeting, a summary of issues discussed at the meeting, including changes suggested by the participants and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this paragraph, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this paragraph shall be considered by the Town Board but shall not be subject to judicial review.

.4 Withdrawal or Amendment of Petition

- a) A petition filed according to this section may be withdrawn by the petitioner at any time up to ~~adoption of a resolution by the Town Board scheduling~~ the date of the public hearing on the petition.
- b) ~~If the petitioner wishes to withdraw the petition after adoption of a resolution scheduling the public hearing is scheduled, the petitioner may file a request to withdraw with the Town Clerk. On the date scheduled for the hearing, the Town Board may approve the request for withdrawal if it finds that there are substantial circumstances favoring the withdrawal and that the withdrawal will not be detrimental to the interests of citizens affected by the petition.~~

Commented [JS29]: This section not needed based on changes to a) above.

- c) Once the petition has been filed, the petitioner shall not be allowed to amend it except by request to the Planning Director no later than three weeks prior to the scheduled public hearing date. No changes to the petition shall be accepted in the intervening weeks prior to the public hearing. No changes to the petition shall be made at the hearing, although potential changes proposed by the petitioner, Planning Board, Town Board, and other interested parties may be presented at the hearing and considered by the Planning Board and Town Board during their deliberations.
- d) If the Town Board deems any requested amendment to be a substantial change to the petition prior to a final decision, which does not result in an intensification of the petition, it shall defer action on the petition for 30 days to allow interested parties the opportunity to comment on the amendment to the petition.
- e) If the Town Board deems any requested amendment to be an intensification of the petition, it shall call a new public hearing as required by North Carolina General Statutes.
- e)f) Once a development approval is issued, modifications to the development approval must be reviewed and approved in the same manner in which it the approval was originally made, including any necessary notice and public hearing. However, minor modifications to development approvals as defined by Article 12 of this ordinance may be approved by staff.

Commented [ES30]: Are the requested amendments contemplated by these subsections (d and e) those that are requested after the public hearing, but before the final action? Or before the public hearing? I think we should clarify

Commented [ES31]: See 160D 108.1(c) regarding site-specific vesting plans; 160D-403, 160D-703(b) regarding conditional districts, and 160D-705(c) regarding special use permits (which we treat as site-specific vesting in Article 2). The definition of minor modifications must comply with these statutory sections when we add it to Article 12. If preferred, we can put in specific sections (i.e. Article 2 for site-specific vesting plans using the wording from 160D-108.1.) However, I think makes sense here even if add in specific sections (see SUP section below)

.5 Citizen Comments

If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the Town Clerk at least two business days prior to the proposed vote on such change, the Town Clerk shall deliver such written statement to the Town Board of Commissioners. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-601, 388, the Town Clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

.6 Hearing

- a) Notice of public hearings required under these regulations shall be in accordance with the North Carolina General Statutes.
- b) Conduct of Public Hearing.
 - 1) No amendment shall be adopted until after the Town Board and Planning Board have held a public hearing on the proposed amendment.
 - 2) The hearing shall be conducted in accordance with rules and procedures established by the Mayor and Town Board.
 - 3) When presenting a petition for the reclassification of property to a general district, the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development site design, except for those which would apply to any use or development site design permitted in the requested district.

.7 Recommendation and Decision

- a) The Town Board may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the Town Board holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing.
- b) No proposed amendment shall be approved unless it is first submitted to the Planning Board for a recommendation. The Planning Board may defer action on a request one time for one of the following reasons: the public hearing remains open; ordinance required information is not completed; the petitioner agrees and/or requests a deferral. Further, the Planning Board may defer action on a request one additional time not limited to the reasons listed above, provided the

Planning Board state the reason for deferral and it be related to address ordinance standards. If the Planning Board does not make a written recommendation to approve, approve with conditions, deny, or recommend Town Board defer a decision on the proposed amendment, then the Planning Board shall be considered to have recommended deferral for additional deliberation. The petition, along with the recommendation of the Planning Board, shall be placed on the agenda of the Town Board at its next regular zoning meeting.

In making its written recommendation, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the adopted Huntersville Community Plan and other adopted long-range plans that are applicable. The Planning Board shall provide a written recommendation to the Town Board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Board.

- c) The Town Board, after receiving the recommendation of the Planning Board, shall within a reasonable time either reject the proposed amendment or approve the proposed amendment, with or without modifications. Property petitioned to be rezoned to a conditional zoning district may only be rezoned in response to and consistent with the petition of the owners of all of the property to be included in the district; therefore, modifications to such petitions must be found to be consistent with the petition of all owners of property within the petitioned area prior to the Board's decision. When adopting or rejecting any zoning amendment, the Town Board shall adopt a statement describing whether its action is consistent or inconsistent with adopted Huntersville Community Plan and other adopted long-range plans that are applicable and explaining why the board considers the action taken to be reasonable ness of the proposed rezoning including why the action is and in the public interest. That statement is not subject to judicial review.
- d) In considering any petition to reclassify property, the Planning Board in its recommendation and the Town Board in its decision shall take into consideration any identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.
- e) In considering any petition to reclassify property, the Planning Board in its recommendation and the Town Board in its decision should consider:
 - 1) Whether the proposed reclassification is consistent with the overall character of existing development in the immediate vicinity of the subject property;
 - 2) The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, transit service, parks and recreational facilities, police and fire protection, hospitals and medical services, schools, storm water drainage systems, water supplies, and wastewater and refuse disposal; and
 - 3) Whether the proposed reclassification will adversely affect a known archaeological, environmental, historical, or cultural resource.
- f) When considering a petition to reclassify property to a general district, the Planning Board and the Town Board shall not evaluate the petition based on any specific proposal for the use of the property or design of the site.
- g) In approving an amendment to reclassify property to a general district, or with the consent of the petitioner in the reclassification to a conditional zoning district, or MH Overlay district, the Town Board may change the existing classification of the property, or any part of the property covered by the petition, to the classification requested or to a classification or classifications between the existing and requested classifications, or to any higher classification in the hierarchy of zoning districts established in Section 3.1.1 of these regulations.
- h) In approving a petition to reclassify property to a conditional zoning district, specific conditions applicable to the conditional district may be proposed by the petitioner or the town or its agencies,

Commented [ES32]: Statement should be made regardless of if approving or denying. See 160D-605(a)-(b)

but only those conditions mutually approved by the town and the petitioner may be incorporated into the zoning regulations or permit requirements. Conditions and site-specific standards imposed in a conditional **zoning** district shall be limited to those that address the conformance of the development and use of the site to **T**own ordinances, the officially adopted Huntersville Community Plan, other applicable adopted long-range plans and those that address the impacts reasonably expected to be generated by the development or use of the site.

- i) The Town Board may modify any proposed text amendment upon adoption of an ordinance enacting the amendment, without the withdrawal or modification of the petition or further public hearings.
- j) An approved conditional zoning district petition and all conditions which may be attached to the approval are binding on the property. All subsequent development and use of the property must be in conformance with the conditional zoning district petition and all plans, specifications, and conditions established.
- k) In approving a conditional zoning district, the Town Board may modify standards established in the zoning or subdivision ordinance provided the spirit of the regulations are maintained.
- l) A conditional zoning district petition may be considered simultaneously with a subdivision sketch plan provided all submission and procedural requirements have been met.
- m) A Town Board member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. Members of appointed boards providing advice to the Town Board shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

.8 Effect of Denial of Petition

- a) A petition for the reclassification of property that has been denied in whole or in part, or approved to a classification other than the one originally requested, shall not be re-submitted within one year of the date of the Town Board's action on the original petition, unless a petitioner applies for a district which is "lower" in the Hierarchy of Zoning Districts in Section 3.1.1.
- b) The Town Board may allow re-submission of a petition within the one-year restricted period if it determines that, since the date of action on the prior petition, one of the following criteria has been met:
 - 1) There has been a similar change in the zoning district classification of an adjacent property; or
 - 2) The Town Board has adopted a new or amended plan for the area that changes public policy regarding how the property affected by the amendment should be developed; or
 - 3) Construction or expansion of a road, water line, sewer line, or other infrastructure has occurred or is to occur in such a time frame as to serve the property and comfortably accommodate the intensity of development allowed under the proposed classification; or
 - 4) There has been a substantial change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on a new petition; this shall not include a change in the ownership of the subject property nor, in the case of a petition for reclassification to a conditional or parallel conditional zoning district, or MH Overlay district, a change in the scale or features of the development proposed in the prior petition.
- c) Any petition allowed by the Town Board under subsection (2) above must be reviewed and approved in accordance with the procedures and standards of Section 11.4, Amendment Process, of these regulations.

.9 When Development Not Begun Within 3 Years

It is intended that property shall be reclassified to a conditional zoning district or a MH Overlay district only in light of firm development plans for the property. Therefore, ~~two~~^{three} years after the date of approval of any petition for a conditional zoning district, or MH Overlay district, the Planning Board shall examine the progress made toward developing the property in accordance with the approved petition and any conditions attached thereto. If the Planning Board determines that construction has not commenced in furtherance of the approved petition and conditions, the Planning Board may, at its discretion, initiate a rezoning to the general zoning district consistent with the most detailed plan adopted for the area which includes the property, according to the procedures of Section 11.4, Amendment Process.

Commented [ES33]: Since we aligned Article 2 with the statute and made site-specific vesting plans 2 years, we should change this section to two years as well.

.10 Special Use Permit

- a) **Purpose.** This section provides the standards and procedures for locating uses that may be compatible with the purpose and intent of a given zoning district, but nonetheless have the potential for substantial impacts on the surrounding area, including uses permitted in the same zoning district. In order to ensure that these uses would be compatible with surrounding development, consistent with the most detailed plan for the area, and in keeping with the purposes of the district in which they are proposed to be placed, they are not allowed to be established as a matter of right. They may be established only after a review of the specific proposal and approval of a special use permit.
- b) **Application.** A request for a special use permit will be considered only if requested by the owner of the property in question or an authorized agent of the property owner. Applications for all special use permits or amendments to any approved special use permit must be filed in the office of the Planning Department, accompanied by a fee established by the Town Board, and must include documentation as required by paragraph 1), below and as may be required by paragraph 2), below.
 - 1) A petition requesting a special use permit must be accompanied by a site plan, drawn to scale, and any necessary supporting text, which shall include all data specified in paragraphs (a) through (m) below that are applicable to the project. Where the type of use or scale of proposal makes providing any of the following items unnecessary or impractical, the Planning Director may waive individual items.
 - (a) A boundary survey and vicinity map showing the property's total acreage, zoning classification(s), general location in relation to major streets, railroads, and/or waterways, date, and north arrow;
 - (b) Existing topography and the general nature of the proposed topography at four-foot contour intervals or less;
 - (c) All existing easements, reservations, rights-of-way, and any other restrictions on the use of the land;
 - (d) Number and general location of proposed structures;
 - (e) Proposed use of all land and structures, including the number of residential units or the total square footage of any nonresidential development;
 - (f) All yards, buffers, screening, and landscaping required by these regulations;
 - (g) Any proposed screening, buffers, and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;
 - (h) All existing and proposed points of access to public streets; the location of proposed new streets;
 - (i) Delineation of areas within the regulatory flood plain as shown on the Official Floodway Maps for Mecklenburg County;
 - (j) Proposed number and location of signs;

- (k) Proposed phasing, if any, and approximate completion time for the project;
 - (l) The location of existing and proposed storm drainage patterns and facilities intended to serve the proposed development, for evaluation by the Town Engineer or their designee;
 - (m) Traffic, parking, and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets, existing and proposed;
 - (n) A listing of adjoining properties including tax parcel numbers and the name and address of each owner, provided in digital form if possible.
- 2) In the course of evaluating the proposed use, the Planning Director, Planning Board or Town Board of Commissioners may request additional information from the petitioner. Such requests shall stay consideration of the special use permit by the Planning Board or Town Board. Information requested may include the following:
- (a) The location of significant trees on the petitioned property;
 - (b) Scale of buildings relative to adjoining properties, including sight lines;
 - (c) Height of structures;
 - (d) Exterior features of proposed development;
 - (e) Any other information needed to demonstrate compliance with these regulations.
- 3) The site plan, building elevations, perspectives, sections, and any supporting text shall constitute part of the special use permit application for all purposes under these regulations.
- c) The Planning Department shall determine the number of copies of each petition and accompanying documentation to be submitted by the petitioner so that copies may be circulated to all appropriate agencies for review and comment.
- d) Withdrawal or Amendment of Special Use Permit Application. An application for a Special Use Permit may be withdrawn or amended in the same manner as a proposed amendment to the zoning map, following the procedures of Section 11.4.4.
- e) Hearing.
- 1) A Special Use Permit hearing will be conducted as a quasi-judicial hearing before the Town Board.
 - 2) The applicant has the burden of producing competent, material, and substantial evidence establishing that:
 - The proposed special use will comply with all of the lot, size, yard, and other standards which this ordinance applies to all uses permitted in the zoning district in which the property is located; and
 - The proposed special use will comply with all general and specific standards required by the appropriate section of this ordinance for the issuance of a special use permit for this use.
- f) Recommendation and Decision.
- 1) In considering an application for a special use permit, the Planning Board in an advisory capacity and the Town Board, in a decision making capacity, shall consider, evaluate and may attach reasonable and appropriate conditions and safeguards to the location, nature, and extent of the proposed use and its relation to surrounding property, for the purpose of ensuring that the conditions of permit approval will be complied with and any potentially injurious effect of the special use on adjoining properties, the character of the neighborhood, or the health, safety, and general welfare of the community will be minimized.
 - 2) Any such conditions may relate to parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, intensity of site development, the timing of

development, and other matters the Town Board may find appropriate or the applicant may propose. The applicant will have a reasonable opportunity to consider and respond to any additional conditions or requirements prior to final action by the Town Board.

- g) Effect of Approval. An approved application for a special use permit and all conditions which may be attached to the approval are binding on the property. All subsequent development and use of the property must be in conformance with the special use permit and all plans, specifications, and conditions unless terminated by procedures established below.
- h) Effect of Denial.
- 1) If an application for a special use permit is denied by the Town Board, a reapplication for that special use on that property may not be instituted within one year of the date of denial.
 - 2) The Town Board may allow re-submission of the application within the one-year restricted period if it determines that, since the date of action on the prior application, one of the following criteria has been met:
 - The Town Board has adopted a new or amended plan for the area that changes public policy regarding how the subject property and/or the general area affected by the special use permit should be developed; -or
 - Construction or expansion of a road, water line, sewer line, or other infrastructure has occurred or is to occur in such a time frame as to serve the property and comfortably accommodate the type and intensity of development which would be allowed under the proposed special use permit; -or
 - There has been a substantial change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on resubmission of a special use permit application for the property; this shall not include a change in the ownership of the subject property nor a change in the scale or features of the development proposed in the prior application.
- i) Amendment to an Approved Special Use Permit.
- 1) The owner of property which is subject to an approved special use permit may petition for an amendment of the special use permit and accompanying conditions by following the procedures applicable to initiation of new special use permits. However, minor modifications as defined in Article 12, which do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively.
 - 2) Evidence presented at the hearing on the proposed amendment will be limited to the effect of the proposal on the original special use permit, any plans or conditions which were a part of the original special use permit, and the present standards and requirements in this zoning ordinance.
- j) Appeals. Any petition for review by the superior court shall be filed with the clerk of superior court by the later of within 30 days after days after a written copy of the decision of the Town Board is filed in the office of the Planning Department is effective or is delivered to the applicant, landowner, and every aggrieved party any person who has filed a written request for such copy with the clerk at the time of the hearing of the case prior to the date the decision becomes effective, whichever is later.
- k) Recognition of Previously Approved Conditional Use Permits. Conditional Use Permits which have been previously granted by the Board of Commissioners of the Town of Huntersville and Special Use Permits previously granted by the Mecklenburg County Board of Commissioners will be recognized for building permit and other administrative purposes for three years after the effective date of this ordinance. If after three years construction of the development has not begun or there is no valid building permit in effect for the property, the conditional or special use permit will be considered null and void. If a use approved as a conditional use or special use becomes non-conforming and discontinues operation for six consecutive months, or is displaced

Commented [ES34]: 160D-705(c)

Commented [ES35]: 160D-1405(d)

Commented [ES36]: 160D-406(j)

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by structural damage as described in Section 11.5.2, the use may not be resumed nor a building permit issued without approval of the appropriate zoning classification and special use permit required under the provisions of this ordinance.

11.5 Nonconformities**.1 Purpose and Applicability**

The purpose of this article is to regulate and limit the continued existence of uses and structures that were established prior to the effective date of these regulations and that do not conform to these regulations. Any nonconformity created by a change in the text of these regulations or by the reclassification of property shall be regulated by the provisions of this chapter. The "effective date" referenced below shall be the date the text of these regulations or the Zoning Map is amended to render a particular use, structure, or lot nonconforming. Many nonconformities may continue, but the provisions of this chapter are designed to curtail substantial investment in nonconformities, and to bring about their eventual improvement or elimination.

.2 Nonconforming Uses

- a) Nonconforming uses of land or structures, and nonconforming structures that contain nonconforming uses, may continue only in accordance with the provisions of this section.
- b) Normal repair and maintenance may be performed to allow the continuation of a nonconforming use; this shall include the replacement of a manufactured home with another manufactured home of same or greater width.
- c) A nonconforming use shall not be expanded, nor shall a nonconforming use be enlarged by additions to the structure in which the nonconforming use is located or through the occupation of additional lands.
- d) Notwithstanding c) above, any structure, other than a manufactured home, used for single-family residential purposes may be enlarged or replaced with a similar structure so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. Construction of accessory structures shall also be permitted for nonconforming single-family uses.
- e) A nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. For example, a nonconforming use can utilize a storage area for office space. However, a nonconforming use may not be extended to additional buildings.
- f) A structure in which a nonconforming use is located shall not be moved unless the use thereafter shall conform to the standards of the zoning district(s) to which it is moved.
- g) A nonconforming use shall not be changed to any other use unless the new use conforms to the standards of the zoning district in which it is located. Once a nonconforming use is changed to a conforming use, the nonconforming use shall not be re-established.
- h) Where a nonconforming use is discontinued or abandoned for six consecutive months, or displaced for any period of time due to structural damage exceeding the limits under subsection i) below, then the use shall not be re-established or resumed, and any subsequent use of the land or structure shall conform to the requirements of these regulations.
- i) Where a structure in which a nonconforming use is located is destroyed or damaged so that more than 25 percent of the value of such structure remains, then the structure may be repaired or restored for the previously established nonconforming use if a building permit for the repair or restoration is issued within six months of the date of the damage. Where a structure in which a nonconforming use is located is destroyed or damaged so that no more than 25 percent of its value remains, then the structure may be repaired or restored only for uses which conform to the standards of these regulations for the zoning district in which it is located. The

extent of damage or destruction shall be determined by comparing the estimated cost of repair or restoration with the value prior to any damage.

.3 Nonconforming Structures

- a) A nonconforming structure, devoted to a use permitted in the zoning district in which it is located, may continue only in accordance with the provisions of this section.
- b) Normal repair and maintenance may be performed to allow the continuation of a nonconforming structure; this shall include the replacement of a manufactured home with another manufactured home of same or greater width.
- c) Any nonconforming structure may be enlarged if the expansion meets the criteria of Section 2.3 of this ordinance.
- d) A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located.
- e) A nonconforming structure, destroyed or damaged so that more than 25 percent of the value of such structure remains, may be repaired or restored if a building permit for the repair or restoration is issued within six months of the date of the damage. A nonconforming structure, destroyed or damaged so that no more than 25 percent of its value remains, may be repaired or restored only if the structure conforms to the standards of these regulations for the zoning district in which it is located. The extent of damage or destruction shall be determined by comparing the estimated cost of repair or restoration with the value.

.4 Nonconforming Accessory Uses/Structures

- a) No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, discontinuance, damage, or destruction unless such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located.
- b) A nonconforming accessory use or accessory structure may be expanded only if the nonconforming features of that use or structure are not expanded so as to increase the degree of nonconformity.
- c) Where an accessory structure containing a nonconforming use is destroyed or damaged so that more than 25 percent of its value remains, then the structure may be repaired or restored for the previously established nonconforming use within six months of the date of the damage. Where an accessory structure containing a nonconforming use is destroyed or damaged so that no more than 25 percent of its value remains, then the structure may be repaired or restored only for uses which conform to the standards of these regulations for the zoning district in which it is located.
- d) Where a nonconforming accessory structure is destroyed or damaged so that more than 25 percent of its value remains, then the structure may be repaired or restored within six months of the date of the damage. Where a nonconforming accessory structure is destroyed or damaged so that no more than 25 percent of its value remains, then the structure may be repaired or restored only if the structure conforms to the standards of these regulations for the zoning district in which it is located.

.5 Nonconforming Vacant Lots

- a) Except as provided below in paragraph b), a nonconforming vacant lot may be used for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the

use meets to the extent practicable all limitations and minimum requirements of this ordinance for the zoning district in which the lot is located.

- b) A vacant lot, nonconforming as to size and/or width, shall not be used if it could be combined with an adjoining vacant lot owned by the same person on or after the effective date of these regulations in order to create a single lot. If the combination of any number of contiguous lots results in the creation of single lots that are more than one-and-one half (~~1.5-1/2~~) times the width or area required in the zoning district, then the single lots may be divided into lots of no less than $\frac{3}{4}$ of the required width or area, as determined by the Planning Director, without being further classified as nonconforming.
- c) Where an existing mobile home park or manufactured home park does not meet the standards of these regulations, a mobile or manufactured home unit may be placed or replaced on an existing lot according to the criteria of Section 3.3.2 d), 4).

.6 Non-Conforming Landscaping and Screening

- a) If there is a change of use or an expansion to the heated square footage of an existing structure that results in an expansion to the footprint of the building, the lot shall fully comply with all landscaping requirements of Article 7, Part A of this ordinance.
- b) Expansions to the parking and loading areas shall comply with the following:
 - 1) An increase of the total area equal to or less than 40% shall be required to comply with internal and perimeter landscaping requirements. Buffer yard widths shall be reserved, but plantings are not required.
 - 2) An increase of the total area greater than 40% shall be required to comply with all applicable requirements of Article 7, Part A of this ordinance.

11.6 Zoning Compliance**.1 Zoning Compliance**

- a. ~~a)~~ A completed application form for a Zoning Permit shall be submitted by filing a copy of the application in the office of the ~~appropriate~~ Zoning Administrator.
- b. ~~b)~~ The Administrator shall approve the Zoning Permit unless he finds, after reviewing the application and consulting with the applicant that:
- 1) ~~1)~~ the requested Permit is not within his jurisdiction according to the Permitted Uses; or
 - 2) ~~2)~~ the application is incomplete; or
 - 3) ~~3)~~ if completed as proposed in the application, the development will not comply with one (1) or more requirements of this ~~o~~Ordinance (not including those requirements for which a variance has been granted); or
 - 4) ~~4)~~ if required under Article 13, no Determination of Adequacy has been issued by the Zoning Administrator; or
 - 5) ~~5)~~ if required under Article 14, no Traffic Impact Assessment has been approved by the Town.

.2 Site Plans; Adequate Public Facilities; and Traffic Impact Assessment

- a. Site plans shall be required from applicants prior to issuance of any ~~p~~Permit (building, zoning, special use permit, variance) if deemed necessary by the Zoning Administrator to determine zoning compliance. If required by Articles ~~13 or~~ 14, an ~~Adequate Public Facilities Determination of Adequacy and~~ Traffic Impact ~~Analysis~~ ~~assessment~~ shall be submitted with the residential or nonresidential site plan.
- b) Residential Site Plan Requirements.
1. Sketch site plans shall be drawn with as true an approximate scale as possible, which reviewing agents can determine that all requirements of the Ordinance are met.
 2. Applicant will be required to sign the zoning form as being a true reflection of what is existing and what is being proposed.
 3. Unless otherwise determined by the Zoning Administrator, the following minimum information shall be included on the site:
 - (a) lot/parcel dimensions;
 - (b) zoning designation;
 - (c) all property line setback/build-to-line requirements;
 - (d) all existing physical features (structures, buildings, streets, roads, etc.);
 - (e) location and dimensions of proposed construction;
 - (f) location and dimensions- of driveway and- type of surface material;
 - (g) any additional information as required by the reviewing agents.
- c) Non-Residential Site Plan Requirements.

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1. A site plan for all non-residential development shall be submitted to the Zoning Administrator for review prior to issuance of required building permits.
2. All nonresidential site plans shall be submitted at a scale determined by the Zoning Administrator in order to determine zoning compliance.
3. Site plan review fees will be charged as reflected in the adopted Fee Schedule.
4. Unless otherwise determined by the Zoning Administrator, site plans shall show the following minimum information:
 - (a) site data - including vicinity sketch, north arrow, engineering scale ratio, acreage, title of development, date of plan, gross floor area of all buildings, name and address of owner/developer and person or firm preparing the plan;
 - (b) zoning setback/build-to lines;
 - (c) location(s) and dimension(s) of all vehicular entrances, exits, drives, and fire lanes;
 - (d) location, arrangement and dimension of all automobile parking spaces, width of aisles, width of bays, angle of parking and number of spaces;
 - (e) location, arrangement and dimension of all truck unloading docks, ramps and spaces;
 - (f) refuse collection (dumpster) container space(s) location;
 - (g) location(s) of all building(s) with exterior dimensions;
 - (h) location and dimensions of all fences, walls, docks, ramps, pools, patios, and surfaces areas;
 - (i) location of water tap(s) denoting size(s) of line(s) or well area;
 - (j) location of sewer tap(s) denoting size(s) of line(s) and pole(s);
 - (k) location of electrical service connection(s), meter(s) and pole(s);
 - (l) existing and proposed fire hydrant location(s);
 - (m) location and dimension of all easements and right-of-ways as determined by NC Department of Transportation;
 - (n) location(s) and size(s) of all public utility lines (water, sewer and storm sewer) within all adjacent public right-of-ways and easements;
 - (o) curb and gutter alignment, including street widening and storm drainage, if necessary shall be required;
 - (p) screening/landscaping plan shall be required showing plants with common names, sizes and numbers of plants and trees;
 - (q) sight distance triangle (10' x 70') shall be indicated at the intersection of all public right-of-way lines and 10' x 35' at the intersection of a right-of-way and driveway;

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(r) any additional information as may be required by the reviewing agents.

.3 Authorizing Use or Occupancy Before Completion of Development Under Zoning Permit.

- a) In cases when, because of weather conditions or other factors beyond the control of the Zoning Permit recipient (exclusive of financial hardship), it would be unreasonable to require the Zoning Permit recipient to comply with all of the requirements of this Ordinance prior to commencing the intended use of the property or occupying any buildings, the Administrator may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this ~~o~~Ordinance are concerned) if the permit recipient is issued a temporary certificate of occupancy.

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ARTICLE 12: DEFINITIONS AND RULES OF CONSTRUCTION

12.1 Rules of Construction

For the purposes of these regulations, the following rules of construction apply.

- .1 These regulations will be construed to achieve the purposes for which they are adopted. Interpretations shall be guided by statements of intent.
- .2 In the event of any conflict in standards applying to a project, the standard more consistent with the Plan shall apply.
- .3 The words "shall", "must", and "will" are mandatory in nature, implying an obligation or duty to comply with the particular provision.
- .4 The word "may" is permissive in nature except when used in the negative.
- .5 The word "should", whether used in the positive or the negative, is a suggested guideline.
- .6 References to "days" will always be construed to be working days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.
- .7 For purposes of interpreting this Ordinance, certain words, concepts, and ideas are defined below. Except as defined herein, all other words used in this Ordinance shall have their everyday dictionary definition.
- .8 Whenever a conflict exists between the text of this ordinance and any graphic representation herein, the text shall prevail.

12.2 Definitions

Words and terms in the Huntersville Zoning Ordinance are defined in the sections which follow. The definitions are divided into three sections. As captioned, Section 12.2.1 provides the general zoning definitions that apply to this ordinance. The definitions of Section 12.2.2 provide special definitions applicable to the sign regulations of Article 10. Section 12.2.3 sets out special definitions applicable to the Mountain Island Lake Watershed Overlay District. For the purposes of these regulations, the following words and terms have the meanings specified in this [Article section](#).

12.2.1 General Definitions

Abandon. To cease the regular use or maintenance of a lot, building, or [structure](#).

Commented [JG1]: Should we add a time period of abandonment?

Abutting. Having common property boundaries or lot lines which are not separated by a street, alley, or other vehicular right-of-way such as a railroad. [For the purpose of sending notices required by N.C.G.S. § 160D-602, properties are "abutting" even if separated by a street, railroad, or other transportation corridor.](#)

Commented [JG2]: 160D-602(a)

Accessory structure or use. A use or structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. In no event shall "accessory use" or "accessory structure" be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located. The total square footage of all accessory structure(s) shall not exceed the total square footage of heated area located on the first floor of the principal structure.

Adjacent. Either abutting or being directly across a street.

Adjusted Tract Acreage (ATA). The net useable land area of a proposed development site [as](#) determined by deducting specific percentages of various categories of constrained land from the gross tract area. This process [is](#) further described in Article 3 under the Rural and Transitional zoning districts.

Administrative decision. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Ordinance. These are sometimes referred to as ministerial decisions or administrative determinations.

Adult Establishment. Any principal or accessory structure or use of land which meets the definition of adult establishment as set forth in North Carolina General Statute Section 14-202.10. Adult Establishment does not include, but excluding Massage Therapy, as defined later in the Article in Section 121 of these regulations. Notwithstanding the definition of “adult bookstore” provided in G.S. 14-202.10(1), for purposes of this ordinance “adult bookstore” means a retail establishment:

- .1 which receives a majority of its gross income during any calendar month from the sale or rental of (i) “publications” which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities”, as defined in G.S. 14-202.10(10), or “specified anatomical areas”, as defined in G.S., 14-202.10(10); and/or (ii) merchandise that are “sexually oriented devices”, as defined in G.S. 14-202.10(9); or
- .2 having a preponderance of its publications and/or merchandise (i) “publications” which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities”, as defined in G.S. 14-202.10(10), or “specified anatomical areas”, as defined in G.S., 14-202.10(11); and/or (ii) merchandise that are “sexually oriented devices”, as defined in G.S. 14-202.10(9).

As used in this definition, “publications” include books, magazines, other periodicals, movies, video-tapes, and other products offered in photographic, electronic, magnetic, digital or other imaging medium.

Agricultural industry. Commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial plant production (not retail nurseries), commercial fish or poultry hatcheries, other forms of agriculture as defined in N.C.G.S. 106-581.1, and other similar activities.

Agritourism. Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.”

Agritourism Catering Facility. Buildings, improvements and facilities used in connection with an operation providing event-based food services for both (1) on-site agritourism facilities (whether indoors or outdoors) used for public or private events, including but not limited to weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting; and (2) subject to Section 9.60, off-site public and private events. Personal property and equipment utilized exclusively in providing on-site catering services to agritourism facilities shall be exempt from regulation in the extraterritorial zoning jurisdiction. In order to qualify under this definition, an Agritourism Catering Facility must be located on property designated and used for bona fide farm purposes as contemplated by N.C.G.S. § 160D-90353A-340(b).

Airport. A facility intended and used as the place where one or more fixed-wing or rotary-wing aircraft is regularly stored, maintained, or repaired while not in flight, including an area that the aircraft may use to take off and land.

Airport uses. Fixed and rotary wing aircraft operations together with retail sales and service operations related to public, private, or general aviation, including aircraft sales, repair and storage, commercial shipping and storage, restaurants, and other uses designed to serve aviation passengers and industry.

Amendment. Any change by the Town Board to the text of these regulations or the official zoning maps.

Amusement, commercial outdoor. Any business establishment which is primarily engaged in providing an amusement activity such as a miniature golf course, skateboard course, water slide, mechanical ride, par 3 golf course, golf driving range, go-cart or motorcycle course, fish ranch, or similar activity to the general public, but does not include outdoor motion picture theaters.

Amusement, commercial indoor. Any business establishment which is primarily engaged in providing an amusement activity such as a video arcade, billiard parlor, skating rink or similar activity as a principal use to the general public, but does not include indoor motion picture theaters.

Arena. A structure or facility designed and intended to be used primarily for athletic events and containing seating for spectators of those events, but not including a raceway or drag strip.

Automotive repair. A building and its premises used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work. Minor repairs shall be limited to battery and tire changes, light and fuse replacement, wiper blade changes and similar activities. Also referred to as vehicle repair.

Automotive service station. Any premises where gasoline and other petroleum products are sold and light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning may be conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body work are conducted. Also referred to as retail sale of gasoline.

Bed and Breakfast Inn. A use that takes place within a building that, prior to such an establishment, was a single family detached residence, that consists of renting from one to six dwelling rooms on a daily basis to tourists, vacationers, and business travelers, where the breakfast meal only is provided and is available only to guests. The homeowner shall reside on site and employment shall not exceed two full time employees in addition to the owner(s).

Beneficial Landfill. Permitted by with conditions in all districts (9.44). The purpose of a beneficial fill site is to allow the land to be recontoured for the purpose of improving land use potential or for other beneficial reuse as defined by the North Carolina Solid Waste Management Rules, 15A NCAC 02U .0103+3B and by Chapter 130A of the North Carolina General Statutes; involves no excavation and accepts only fill material consisting of inert debris or used asphalt or a combination of inert debris and used asphalt. Provided, however, that excavation, grading and fill activity shall not be considered a beneficial fill site within this definition if such activity (1) is confined within the boundaries of a parcel of property or development project and involves uncontaminated soil, gravel or rock originating on such property or development project, or (2) is conducted pursuant to a valid preliminary subdivision plan or final subdivision plat, a residential building permit, a commercial building permit, or any preliminary permit issued pursuant to a pending application for such a plan or permit, and involves only uncontaminated soil, gravel or rock.

Berm. A raised earth mound, which is planted with ornamental vegetation.

Board of Adjustment. The Zoning Board of Adjustment of the Town of Huntersville.

Boarding house. A dwelling unit with up to six rooms for rent to boarders, or designed and intended to be rented to boarders, but which rooms individually or collectively do not constitute separate dwelling units. No separate cooking facilities will be provided for any boarder.

Buffer. (See also Screening.) A strip of land with natural or planted vegetation, located between a structure or use and a side or rear property line, intended to spatially separate and visually obstruct the view of two adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

Build-to line. A line extending through a lot which is generally parallel to the front property line and marks the location from which the principle vertical plane of the front building elevation, exclusive of porches, bay windows and similar appurtenances, must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

Building. ~~Any structure used or intended for supporting or sheltering any use or occupancy. A temporary or permanent structure having a roof supported by columns or walls and which can be used for the shelter, housing, or enclosure of persons, animals, or goods.~~

Commented [JG3]: 160D-706 and building code

Building face. The dominant structural feature of the elevation of any side of a building. For example, the building face of a two-story dwelling with one-story porch is the two-story elevation of the structure.

Building lines. Lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections therefrom, parallel to front, side, and rear lot lines, and referred to as front, side, and rear building lines, respectively.

Building site. (See also Development.) An area of land, or property where development is undertaken.

Bus stop shelter/ Transit Shelter. A freestanding structure less than 100 square feet, located on a bus transit route, which is designed to accommodate embarking and disembarking bus transit passengers.

Caliper. The size of a tree's trunk diameter as measured six (6) inches above the ground for trees four (4) inches or less, and as measured twelve (12) inches above the ground for trees larger than four (4) inches. This measurement of caliper is used to determine if *newly planted* trees meet the requirements of this ordinance.

Canopy. The uppermost spreading branchy layer of a tree.

Canopy tree. A deciduous tree with height at maturity greater than 35 feet which produces significant shade due to the size and shape of its canopy.

Catchment Area. The area surrounding a rapid transit station location that is within convenient walking distance of the transit stop or boarding platform. New development in a catchment area is subject to specific standards and development intensities associated with "transit oriented development" (TOD) zoning districts. When used in conjunction with a specified measurement of distance (usually ½ mile or ¼ mile), that distance is measured by computing actual walking distance along existing or proposed streets and/or pedestrian walkways.

Champion tree. A classification the state and federal forestry agencies use to define the largest trees of a specific species.

Change of Use. The change in the use of a structure or land, for which a certificate of occupancy is required. Change of use shall include a change from one use to another use in the list(s) of permitted uses, and shall also include a change from one use to another use within any broad category of uses, such as from one use listed in the commercial use category to another use listed in the commercial use category, as herein defined.

Civic, social service, or fraternal organization facility. A building or meeting facility, which is restricted to members and guests of members of a non-profit association or corporation, including accessory uses such as recreational facilities, banquet facilities, and overnight lodging for members, but not including the sale of goods or services to the public on the premises on a regular basis, or commercial outdoor recreational or entertainment activities involving the use of animals or firearms.

Clear cutting. The large-scale indiscriminate removal of trees, shrubs, and undergrowth with the intention of preparing real property for non-agricultural development purposes.

Clinic, medical, dental, or optical. A use or structure intended or used primarily for the testing and treatment of human physical or mental disorders.

Clinic, veterinary. A use or structure intended or used primarily for the testing and treatment of the physical disorders of animals; not principally used for the overnight boarding or grooming of well animals; not permitting outdoor cages, pens, or runs for the confinement of animals unless expressly permitted in the district; and not used for the training of animals.

Commencement of construction. The first placement of permanent evidence of a structure on a site pursuant to a duly issued building permit, such as the pouring of slabs or footings or any work beyond the stage of excavation, including the relocation of a structure. "Commencement of construction" does not

include the installation of streets or walkways; nor the excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of temporary buildings, such as garages, sheds, or trailers, not part of the main structure nor occupied as dwelling units.

Commercial communication tower. A tower facility, either roof or ground mounted, that includes, but is not limited to, radio and television transmission towers or similar utilities, microwave towers, and cellular telephone communication towers and similar structures for wireless communication. This term shall not include radio transmission facilities for use by ham radio operators or two-way local radio facilities for business or governmental purposes.

Commercial use. A category of uses that includes retail establishments, offices, professional and personal services, light manufacturing and assembly, branch banks, financial services, health care services, indoor motion picture theatres, conference centers, laboratories and associated research facilities whose products or waste products entail no special environmental handling requirements, studios, broadcast facilities (excluding towers), inns, theatres, restaurants without drive-through windows, bars, and day care facility as a principle use. Each use permitted in the commercial use category shall also meet any applicable conditions set out in Article 9, Conditions for Certain Uses. Excluded from the commercial use category are adult uses; vehicle, boat, or manufactured home sales, service, and repair; drive-through windows as a principal or accessory use; wholesale sales; heavy manufacturing; outdoor storage; outside commercial kennels, and other uses that, by their nature or service characteristics are auto dependent, have potential for environment degradation, or are otherwise incompatible with nearby residential use.

Comprehensive Plan. A comprehensive plan that has been officially adopted by the governing board pursuant to G.S. 160D-501

Comprehensive Transportation Plan (CTP). The set of maps and accompanying data adopted and maintained by the Charlotte Regional Transportation Planning Organization and its successor organizations that identify the region's aspirations for a long range surface transportation system. The CTP includes maps for Highway, Transit & Freight Rail, Bicycle, and Pedestrian systems and is not financially constrained. The CTP Highway Map is the successor to the Thoroughfare Plan; roadways identified are synonymous with the term "thoroughfare."

Conditional zoning district. A zoning district in which the development and the use of the property included in the district is subject to the predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. ~~CAs permitted by SB 1288, a conditional zoning shall not require the issuance of a conditional use or special use permit or permitting process apart from the establishment of the district and its application to particular properties.~~

Congregate housing. Dependent or independent living facilities for the elderly; dormitories, orphanages, and similar uses, but not including group homes.

Conservation Easement. A conservation agreement as defined by N.C.G.S. 121-35(1) in the form of an easement.

Conservation Subdivision. A tract of land 40 acres or more that is subdivided into single family building lots at a gross density not exceeding 1 dwelling unit per 20 acres, where no new streets are created through the development process and use of the land is restricted by an irrevocable conservation easement held by a conservation organization authorized by ~~U.S.C. 170(h); 2055(a) and by~~ N.C.G.S. 121-35(1)4 et seq. The Conservation Subdivision is permitted only in the Rural and Transitional District and permits only residential home sites, Riding Academies/Commercial Stables according to Section 9.33, and customary rural land uses that are compatible with land conservation.

Conventional Subdivision. A subdivision which complies with the standard lot dimensions of Section 60 of the Huntersville Zoning Ordinance and the development standards found in Sections 7.000 and 8.000 of the Subdivision Ordinance.

Commented [JG4]: Requested addition from Article 3 comment

Commented [JS5]: Definition no longer needed

Construction and Demolition (C&D) Debris. Solid waste or debris resulting solely from construction, remodeling, repair or demolition operations on pavement, buildings, or other structures. (Inert debris, land clearing debris, and yard trash are separately defined herein.)

Construction and Demolition (C&D) Landfill. A facility for the land disposal of construction and demolition (C&D) debris, and wastes acceptable for disposal in a LCID Landfill; it is designed to meet the minimum standards of the State of North Carolina by utilizing acceptable landfill engineering technology.

Correctional Facility. A publicly or privately owned building(s), and all accessory uses and structures, used to confine, house, and supervise persons held in lawful custody including those who are serving terms of imprisonment for violations of criminal laws or who are awaiting trial for alleged violations of criminal laws, but not including temporary holding facilities that are accessory to a police station.

Country Inn Development. A rural development with up to two main inns and up to eight residential rental cottages accessed by private drive located on parcels of land 20 acres and larger that consists of no more than twenty-four (24) rooms for rental and or owner/staff occupancy where on a daily basis, breakfast, lunch and dinner is provided and is available only to overnight guests and special events guests. The owner/operator shall reside on site.

Critical root zone (CRZ). A circular region measured outward from the tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The critical root zone is one foot of radial distance for each inch of the tree DBH, with a minimum of eight (8) feet.

Cultural facility. An indoor or outdoor theater, auditorium, or other building or structure designed, intended, or used primarily for musical, dance, dramatic, or other live performances, or a museum or gallery operated primarily for the display, rather than the sale, of works of art.

Dangerous to others. Within the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is prima facie evidence of dangerousness to others.

Day care center. Day care, as a principal use or an accessory use, provided on a less than 24-hour basis for either children or adults, according to the following limiting definitions.

Child day care center. An individual, agency, or organization providing supervision or care on a regular basis for children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult; usually serving more than 10 children at a time; not an accessory to residential use.

Adult day care center. An individual, agency, or organization providing supervision or care on a regular basis for more than 6 adults in a place other than their usual place of abode, on less than a 24-hour basis.

Day care home (small, accessory use). Day care provided on a less than 24-hour basis for either children or adults, according to the following limiting definitions.

Child Day Care Home (small, accessory use). Supervision or care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for up to 6 children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

Adult Day Care Home (small, accessory use). Care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for up to 6 adults who do not reside in the dwelling.

Deciduous. Shrubs and trees that lose their leaves annually.

Deck. A platform that is open and either freestanding or attached to a building, supported by pillars or posts.

Dependent living facility. Nursing homes, rest homes, and homes for the aged facilities, which are designed for persons who need a wide range of health and support services, such as medical, nursing, and personal services care, central dining facilities, and transportation services.

Density, gross residential. The number of residential dwelling units per acre of land, determined by dividing the number of dwelling units by the total number of acres in the parcel to be developed.

Developer. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property. ~~Any person seeking approval under these regulations for any form of development.~~

Commented [JG6]: 160D-102(11)

Development. The carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, or the subdividing of land into two or more parcels.

- .1 Except as provided in subsection (c) hereof, for the purposes of these regulations, the following activities or uses shall be considered "development":
 - (a) The reconstruction, alteration of the size, or material change in the external appearance of a structure on land or water;
 - (b) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land;
 - (c) Alteration of the shore or bank of a pond, lake, river, or other waterway;
 - (d) Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land;
 - (e) Clearing of land, including clearing or removal of vegetation and including any significant disturbance of vegetation or soil manipulation; or
 - (f) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.
 - (g) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
 - (h) The excavation, grading, filling, clearing, or alteration of land.
 - (i) The subdivision of land as defined in G.S. 160D-802.
 - (j) The initiation or substantial change in the use of land or the intensity of use of land.
- .2 "Development" includes all other activity customarily associated with it. When appropriate to the context "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity when part of other operations or activities are not development. Reference to particular operations is not intended to limit the generality of this definition.
- .3 For the purposes of these regulations the following operations or uses shall not be considered "development"; some may, however, require a building permit:
 - (a) Work involving the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the color or decoration of the exterior of the structure or interior alterations that do not change the use for which the structure was constructed;
 - (b) Work involving the maintenance or replacement of existing landscaped areas and existing rights-of-way;
 - (c) A change in use of land or structure from a use within a specified category of use to another use in the same category;

Commented [JG7]: 160D-102(12)

- (d) A change in the ownership or form of ownership of any parcel or structure;
- (e) The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land unless otherwise specifically required bylaw; or
- (f) The clearing of survey cuts or other paths of less than four feet in width.

Development Approval. An administrative or quasi-judicial approval made pursuant to this Ordinance that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Ordinance, including plat approvals, permits issued, development agreements entered into, and building permits issued.

Development Permit. See Development Approval.

Diameter at breast height (DBH). The caliper of an existing semi-mature or mature tree measured at 4½ feet above the existing ground on the uphill side of the tree.

Dormitory. A building containing bathroom facilities available for common use by the residents of the building, which is occupied or intended to be occupied as the dwelling for more than six persons who are not related by blood, marriage, or adoption but who are enrolled in, affiliated with, or employed by the same educational, religious, or health institution. "Dormitory" shall not include a boarding house, motel, hotel, group home, or health institution.

Down Zoning. Down-zoning means a zoning ordinance that affects an area of land in one of the following ways:

- (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

Drip line. An imaginary vertical line extending from the outer most portion of the tree canopy to the ground that defines the exterior limits of the tree canopy.

Drive-through service window. A customer service facility located within the principal structure as an accessory to an office or retail establishment which is intended to enable the customer to transact business with a sales or service representative located within the principal structure without exiting the motor vehicle. It is presumed that the motor vehicle exits the premises immediately upon the transaction of business.

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. A room or combination of rooms designed for year-round habitation, containing a bathroom and kitchen facilities, and designed for or used as a permanent residence by at least one family.

Accessory dwelling. A dwelling unit which is located on the same lot as a detached or attached single family house, has a first floor area no greater than 650 square feet or 50% of the first floor area of the principal dwelling (whichever is greater), is owned by the owner of the principal dwelling unit but occupied by another. If the principal dwelling is a group home, use of an accessory dwelling shall not increase the number of residents otherwise permitted in a single group home.

Apartment house. Two or more dwelling units placed one on top of another and/or side by side and sharing common walls and common floors and ceilings, and which are located on a single lot of record.

Attached house. Rowhouse, townhouse, duplex, triplex, or quadriplex houses, generally developed side by side where land is sold with the dwelling unit. Attached dwellings on individually deeded lots are excluded from the definition of (apartment) multi-family dwellings.

Commented [JG8]: 160D-102(13) and requested to be added by Article 2 comment

Commented [JG9]: 160D-706 and building code

Detached house. A dwelling unit that is developed with no parti-walls and with open yards on at least three sides, including modular homes, but not including manufactured homes, mobile homes, or recreational or motor vehicles.

Duplex house. Two dwelling units, including modular homes, placed one on top of another or attached side by side and sharing one or more common walls.

Multi-family home. A dwelling or group of dwellings on one lot, containing separate living units for three or more families.

Single-family home. An attached or detached dwelling unit located on an individual lot designed for and occupied exclusively by one family.

Easement-access lot. A lot of one (1) acre or more in area, created **through a division of land not subject to the subdivision ordinance**, for which access is provided by a private and exclusive recorded easement at least 15 feet in width connecting said lot to a public street. A driveway accessible by emergency equipment must be located on the access easement.

Elementary and secondary schools. Publicly -owned or privately-owned pre-schools, elementary schools, middle schools, junior high schools, and high schools; but not including institutions, the primary function of which is child day care.

Esplanade. A wide pedestrian walk, formal in design, which runs parallel to a waterfront. An esplanade may be made of pavers, asphalt, crushed gravel, grass, concrete, or other dust-free material.

Essential Services. Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam or water, the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services. Radio transmission facilities for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not essential services, provided no transmitter or antenna tower exceeds 180 feet in height. Essential Services are divided into three classes:

- Class 1 Transmission lines (above and below ground) including electrical, natural gas, and water/wastewater distribution lines; pumping stations, lift stations, and telephone switching facilities (up to 200 square feet).
- Class 2 Elevated water storage tanks; package treatment plants; telephone switching facilities (over 200 square feet), substations, or other similar facilities used in connection with telephone, electric, steam, and water facilities; raw water treatment facilities.
- Class 3 Generation, production, or treatment facilities such as power plants, sewage treatment plants, and landfills.

Existing tree canopy. Tree canopy that has existed for at least 2 years prior to development

Exterior features. The architectural style, general design, and general arrangement of the exterior of a structure, including the kind, texture, and color of building materials, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures, and including the landscaping and natural features of the parcel containing the structure.

Façade. The principal vertical surface of a building which is set along a frontage line. The elevation of a façade is the vertical surface area. Façades are subject to visual definition by building height, setback or build to lines, (a line prescribed for the full width of the façade above which the façade sets back; the location of a recess line is determined by the desired height to width ratio of the enfronting space or by a desired compatibility with existing buildings), and transition lines (a line prescribed for the full width of the façade expressed by a variation of material or by a limited projection such as a cornice or balcony).

Facility Operator. The entity responsible for the day-to-day operation and maintenance of the Alternative Wind Energy Facility.

Facility Owner. The entity or entities having controlling or majority equity interest in the Alternative Wind Energy Facility, including their respective successors and assigns.

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Family. An individual, or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit; or a group of not more than six persons not related by blood, marriage, or adoption living together as a single housekeeping unit, as in a group home.

Family Care Home: A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities. Persons with disabilities shall mean a person with a temporary or permanent physical, emotional, or mental disability, including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)(b). A residential home with support and supervisory personnel by an agency, organization, or individual that provides room and board, personal care and habilitation services in a family environment for not more than 6 persons with disabilities as defined by GS § 168-21 and GS § 168-22. Family care homes are permitted in any district which allows residential use, however, no new family care home is permitted within a one half mile radius of an existing family care home. ~~This definition does not include shelter for persons who are dangerous to others as defined in G.S., Sec. 122C-3(11) b, as amended, or active substance abusers.~~

Commented [JG10]: 160D-907

Farm, bona fide. Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. Activities incident to the farm include existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation. For purposes of this section, "when performed on the farm" in G.S. 106-581.1(6) includes the farm within the Town and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this section, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. ~~Any tract of land containing at least three acres which is used for dairying or for the raising of agricultural products, forest products, livestock or poultry, and which may include facilities for the sale of such products from the premises where produced. The definition of "farm" and "bona fide farm" shall not include agricultural industries. Additionally, any tract of land qualified to be a bona fide farm as above defined and which is located within the corporate limits of the Town and is in a Rural or Transitional Residential district may conduct educational programs or activities limited to farming technique, animal husbandry and seasonal farming activities.~~

Commented [JG11]: 160D-903

Farmhouse Cluster. A rural subdivision for up to six house lots accessed by private drive; permitted only in the Rural and Transitional District.

Financial institution. A use or structure where financial, pecuniary, fiscal, or monetary services are made available to the public, including but not limited to depository institutions (i.e. banks, credit unions, savings and loans, etc.), non-depository credit institutions (i.e. credit agencies, loan brokers, etc.), holding companies (but not predominantly operating companies), other investment companies, brokers and dealers in securities and commodities contracts, and security and commodity exchanges.

Flag lot. A lot of one (1) acre or more in area, created **through a division of land not subject to the subdivision ordinance**, for which access is provided by a narrow projection of the lot at least 15 feet in width connecting said lot to a public street. A driveway accessible by emergency equipment must be located on the lot projection.

Flood. A temporary rise in stream flow or stage that results in water over topping its banks and inundating areas adjacent to the watercourse.

Floodway. That portion of the channel and flood plain of a stream designated to provide passage for the Regulatory Flood without increasing the elevation of that flood at any point by more than one foot.

Floodway encroachment lines. The outer boundaries of the floodway.

Floodway fringe. The land area located between the encroachment lines of the floodway district and maximum elevation subject to inundation by the base flood as defined in Chapter 9 of the Town of Huntersville Code of Ordinances (*Floods*).

Flood protection elevation. The elevation shown on the Flood Area Map and to which structures and uses allowed under these regulations are to be elevated or flood proofed.

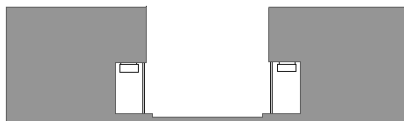
Floor. The top surface of an enclosed area in a building (including the basement) such as the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction.

Floor area. The sum of the gross horizontal areas of each floor of the principal building, and any accessory buildings or structures, measured from outside of the exterior walls or from the center line of party walls. The term does not include any area used exclusively for the surface or structured parking of vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawl space.

Floor area ratio (FAR). The total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.

Frontage. The lot boundary which coincides with a public thoroughfare or space. The façade of a structure facing the street. There are seven ways in which a building may address the street:

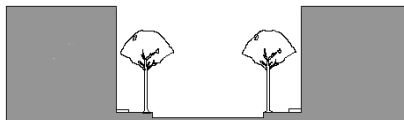
Arcade: A covered passage with shops on one or both sides. Generally, the façade overlaps the sidewalk while the shopfront remains setback. Sidewalk is fully covered with overhang.



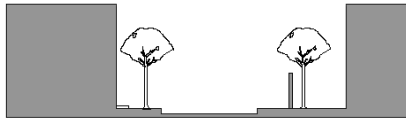
Shopfront: A business or retail use where the façade is aligned directly on the frontage line with the entrance at grade; typical of sidewalk retail. Shopfronts often have awnings or a colonnade. A transition line should separate the signage from the façade below.



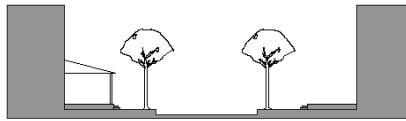
Stoop: The façade is aligned directly on the frontage line with the first floor elevated to secure privacy at window height. This type is suitable for residential uses such as rowhouses and apartment buildings. An easement may be necessary to accommodate an encroaching stoop.



Forecourt: The façade sets back and is replaced by a low wall at the frontage line. The forecourt is suitable for gardens and car drop offs. It should be used sparingly and in conjunction with a shopfront or stoop. Trees within the forecourt should be placed to have their canopies overhanging the sidewalks.

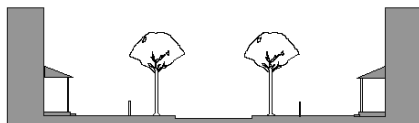


Dooryard: The façade is set back from the frontage line with an elevated garden or terrace between. This type effectively removes the front yard from the sidewalk and reinforces privacy. A roofed and elevated terrace is especially suitable for restaurants and cafes.

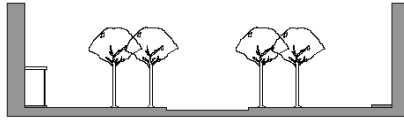


Porch and Fence. The façade is set back substantially from the frontage line with an encroaching porch. The porch should be within conversational distance of the sidewalk. The fence at the frontage line establishes the demarcation of private from public use. The fence row may be designated by a vegetative hedge or structural material, but should not be less than 2 feet nor more than 5 feet in height.

Commented [JS12]: Consistent with Section 8.11.2



Front lawn. The façade is set back substantially from the frontage line. The front lawn should be visually continuous with adjacent yards and should be unfenced. The large setback provides a good buffer from heavy traffic volumes and is an appropriate design in areas where large lot single family homes are placed along a Residential Collector Street



Frontage Buildout. The portion of lot frontage which has a building or wall running parallel to it.

Full Cutoff Light Fixture. A luminaire light distribution where no light is emitted above the horizontal, and where the intensity at 80 degrees from nadir is no greater than 100 candela per 1000 lamp lumens.

Glare. The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility.

Government Building. A building, use, or facility serving as a governmental agency office, police station, fire station, library, post office, or similar facility, but not including a vehicle storage yard, correctional facility, sanitary landfill, solid waste transfer or disposal facility, wastewater treatment facility, educational or health institution, university, group home, trucking facilities and commercial driver license facilities (CDL), or housing for persons who are participating in work release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

Grade. The elevation of the land or land level at a specific point.

Green Zone: The space between the sidewalk and the back of curb or back of swale and sidewalk where no curb and gutter is present, typically a planting strip or hardscaped amenity zone, which serves as a buffer between pedestrians and vehicles. The Green Zone includes street trees and landscaping and often includes street furnishings and utilities. This is also referred to as Street Yard and Street Tree Planting Easement.

Halfway House. A facility providing sheltered services and/or rehabilitation for up to 6 unrelated residents (not including staff or supervisors) that is not otherwise classified as a family care home. Examples may include but are not limited to persons who are recovering from substance abuse and/or are on probation, parole or are initially placed in-lieu of more restrictive custodial confinement (such as a pretrial release program), and juveniles in order to help them readjust and transition back into mainstream society. This definition does not include persons who are dangerous to others [as defined in G.S. 122C-3\(11\)\(b\)](#).

Hazardous materials treatment facility. A building, structure or use of land devoted, or intended to be devoted, primarily to changing by any method, technique or process, including incineration or neutralization, the physical, chemical, or biological character of any hazardous material regulated by the Federal Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.), and the "North Carolina Solid Waste Management Act", as amended (Article [9,13B](#); G.S.130A-290 et seq-[166-16](#)), so as to neutralize such material or render it nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in bulk. Such a use may also contain temporary storage facilities normally associated with these operations and of sufficient size to conduct a commercially feasible operation. However, under no circumstances is a hazardous materials treatment facility to be construed to be any of the following:

- .1 A facility which manufactures hazardous materials from component nonhazardous materials;
- .2 A facility or location for the long term or perpetual storage of hazardous materials;- or
- .3 A facility for the treatment of hazardous materials which is clearly subordinate, incidental and related to the principal structure, building or use of land and is located on the same lot as the principal structure, building or use.

Heavy Manufacturing. The assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant

impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare, or health and safety hazards; or that otherwise do not constitute "light manufacturing"; or any use where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing exceeds 25 percent of the floor area of all buildings on the lot.

Heliport. A facility or structure that is intended or used for the landing and take-off of rotary-wing aircraft, including the regular repair, fueling, or maintenance of such aircraft, or the sale of goods or materials to users of such aircraft.

Helistop. A facility or structure that is intended or used for the landing and take-off of rotary-wing aircraft, but not including the regular repair, fueling, or maintenance of such aircraft, or the sale of goods or materials to users of such aircraft.

Heritage tree. A tree that is listed in the North Carolina Big Trees List, the *American Forest Association's Champion Tree* list, the Mecklenburg County Treasure Tree List or any tree that would meet 80% of the points of a tree on North Carolina's Big Tree List.

Home Occupations. A business, profession, occupation, or trade which is conducted within a residential building or accessory structure for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use of the building.

Horse Farm. Any tract of land of three or more acres which is principally used for the breeding, training, riding, and/or maintenance of horses, and those uses which are accessory thereto, including up to one dwelling unit per each five acres and facilities for the sale of horses raised or maintained on the immediate premises.

Hospital. A health care facility the purpose of which is to provide for care, treatment, testing for physical, emotional, or mental injury, illness, or disability, and overnight boarding of patients, either on a for-profit or not-for-profit basis; but not including group homes.

Hotel. A building containing more than four individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services, and all of whose rooms open onto heated corridors that are internal to the building.

Impervious ground cover. Any structure or ground cover consisting of asphalt, concrete, stone, brick, terrazzo, roofing, ceramic tile or any other natural or man-made material that prevents the absorption of surface water into the soil.

Independent Living Facility. Congregate living facilities, such as rest homes and homes for the aged, which are designed for older persons or disabled persons who do not require health and support services, such as medical and nursing care, central dining, and transportation service, located on the site. Each living unit may be self-contained and is physically accessible to older or disabled persons. Distinguished from apartment building(s) by the provision of some communal services.

Indoor Recreation. Public or private health or exercise clubs, tennis or other racquet courts, swimming pools, YMCA's, YWCA's or similar uses which are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. "Indoor recreation" structures may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

Inert debris. Solid waste consisting solely of material that is virtually inert, that is likely to retain its physical and chemical structure under expected conditions of disposal, and that will not pose a threat to groundwater standards. Inert debris includes material such as concrete, brick, concrete block, uncontaminated soil, rock and gravel. Inert debris does not include manufactured products, appliances, and the like.

Inn. A building containing fewer than 30 individual rooms for the purpose of providing overnight lodging, food and drink to the general public for compensation, and which has common facilities for reservations, cleaning services, combined utilities, on-site management and reception.

Interconnected. Refers to streets which provide through access to other streets; interconnected street systems may be either rectilinear or curvilinear. See illustrations, Article 5, Streets.

Internet Sweepstakes. A principal business where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Internet Sweepstakes do not include any lottery approved by the State of North Carolina.

Jail. A building, and all accessory uses and structures, used to confine, house, and supervise persons who are serving terms of imprisonment for violations of criminal laws or who are awaiting trial for alleged violations of criminal laws, but not including temporary holding facilities that are accessory to a police station and not including any housing or other facilities for persons who are participating in work-release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

Junk yard. A parcel of land on which waste material or inoperative vehicles and other machinery are collected, stored, salvaged, or sold.

Kennel, commercial. A use or structure intended and used for the breeding or accommodation of small domestic animals for sale or for the training or overnight boarding of animals for persons other than the owner of the lot, but not including a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals.

Kennel, private. A structure used for the outdoor accommodation of small domestic animals and not operated on a commercial basis.

Land Clearing and Inert Debris (LCID) Landfill. A facility for the land disposal of land clearing debris and inert debris, as defined herein. It is designed to meet standards of the State of North Carolina by utilizing acceptable technology for landfilling land clearing and inert debris. A clean fill operation which is conducted to improve or recontour land, using only soil, is not construed to be such a landfill.

On-site LCID landfill. A LCID landfill which is located within the confines of property being developed or in use, and used only for the disposal of acceptable materials which are generated on the property being developed or used; a disposal site that is clearly an accessory use to the development activity.

Off-site LCID landfill. A LCID landfill which is itself the principal use of a property and is used for the disposal of acceptable materials, some or all of which are generated off the site of the property being used for the landfill.

Land Clearing Debris. Waste that is generated solely through land clearing activities; such waste includes stumps, trees, limbs, brush, grass, and other naturally occurring vegetative matter.

Land Development Standards Manual. The most recent edition of the Town of Huntersville Engineering Standards and Procedures Manual which sets forth standard details for the design and construction of various aspects of development.

Land disturbing activity. Any use of land by any person that results in a change in the natural cover or topography or that may contribute to sedimentation or soil compaction that affects the critical root zone.

Landscape architect. A registered landscape architect licensed by the State of North Carolina.

Landscaping. The installation and maintenance, usually of a combination of trees, shrubs, plant materials, or other ground cover, including grass, mulch, decorative stone and similar materials, but excluding bare soil, uncultivated vegetation, impervious pavement materials, and gravel.

Large-Lot Subdivision. A major residential subdivision in which all residential lots are a minimum of $\frac{3}{4}$ acre in size.

Large Maturing Tree. A tree whose height is greater than 35 feet at maturity and meets the specification of "American Standards for Nursery Stock" published by the American Association of Nurserymen. See also canopy tree.

Light Manufacturing. The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place; where such processes are housed entirely within a building; or where the area occupied by outdoor storage of goods and materials used in such processes does not exceed 25 percent of the floor area of all buildings on the property.

Light Trespass. Any form of artificial illumination emanating from a light fixture or illuminated sign that penetrates other property and creates a nuisance.

Lot. A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such accessways, parking area, yards, and open spaces required in these regulations.

Lot of Record. A lot described by plat or by metes and bounds which has been recorded in the office of the Register of Deeds.

Lot Types.

Corner Lot. A lot located at the intersection of two or more streets, or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than 135°.

Interior Lot. A lot other than a corner lot with frontage on only one street.

Through Lot. A lot other than a corner lot with frontage on more than one street.

Reverse Frontage Lot. Any lot oriented to an abutting street in such a way that the intersection of the front building line, extended, and the street right of way line form an interior angle of less than 45 degrees is defined as having reverse frontage relative to said street.

Lot Width.

Lot width shall be determined based on the applicable definition below:

- .1 The distance between the side lot lines measured along a minimum setback line established under the standards of the 1991 Huntersville Zoning Ordinance, the Mecklenburg County Zoning Ordinance, the provisions of Article 8.1, paragraph 1., or prior legally controlling regulations; or
- .2 The distance between the side lot lines measured along a build-to line established under the standards of the 1996 Huntersville Zoning Ordinance; or
- .3 Along the turnaround portion of a cul-de-sac, the distance between the side lot lines measured along a building frontage line established by legal subdivision plat or by actual building placement; or
- .4 If no setback is required for a lot according to this ordinance, and neither setback nor build-to line has been established on a previously recorded plat, lot width is the distance measured between the side lot lines along the street right of way.

Maintained Easement. A recorded right of way made of crushed gravel, pavement, or graded and cleared of brush, so as to permit access by vehicles.

Manufactured Home. A dwelling unit, other than a modular home, [that is a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification](#)

required by the Secretary of HUD and complies with the standards established under the Act fabricated in an off-site manufacturing facility for installation or assembly on the building site, which is at least eight feet in width and at least 32 feet in length, which bears a seal certifying that it was built to the standard adopted pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. Sec 5401 et seq., which is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles.

Commented [JG13]: 160D-102(23) and 143-145(7)

Manufactured Home Park or Rental Community. Any parcel of land under single ownership where land is rented, and utilities are provided for the installation or placement of manufactured homes.

Manufactured Home Subdivision. Any parcel of land which is subdivided, with utilities extended for the installation or placement of manufactured homes.

Marina, Commercial. A facility for the wet storage, launching and mooring of boats, together with all accessory structures and uses. The dry storage of boats is permitted as accessory to commercial marinas in the Highway Commercial District only, where outdoor storage shall adhere to the conditions of Section 9.26, and indoor storage shall adhere to a permitted building type.

Marine Railway. a line of track running from the shoreline into a body of water to provide a runway for a wheeled or other apparatus to lower a boat into the water.

Massage therapy. Health massage or bodywork therapy, performed by a practitioner credentialed in one of the following ways:

- .1 having a diploma or certificate from an institute or school of health massage, which has been accredited by either the American Massage Therapists Association, the National Therapists Association, or from an accredited college or university school of education for massage therapy; or
- .2 providing verification and documentation of at least 500 hours of experience in the practice of health massage/bodywork therapy and three letters of reference from state licensed health care professionals or licensed therapists on their professional letterhead.

Massing. The shape and form a building or assemblage of buildings assumes through architectural design. There are eleven elements which affect the creation of public space and the relationship between one building and another. A specific project should consider, but may not need to incorporate, all eleven elements.

Building silhouette: pitch and scale of a roof lines.



Spacing between building façades: setbacks or notches between primary façades which frames a structure.



Setback from property line: building setback and/or primary façade setback from property line.



Proportion of windows, bays, and doorways: vertical or horizontal elements tied together in bands across façade lengths.



Proportion of primary façade: size of façades in area and height to width ratios.



Location and treatment of entryway: important visual commonalities between structures.



Exterior materials used: similar materials and treatment add to compatibility of building(s).



Building scale: building height and configuration.



Landscaping: ties together buildings and defines space.



Shadow patterns that form decorative features: the light and dark surfaces from materials used and projections from window bays and setbacks.



Proportion of solids to voids: the perceived permeability of a building façade that is created by the ratio of windows and doors to solid walls.

Mean Sea Level. The National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on the Flood Insurance Rate Maps for Mecklenburg County are referenced.

Mechanical and utility equipment. Equipment including, but not limited to, heating and cooling units, ventilation, utility meters, junction boxes, transformers and generators.

Mid-block private alleyway with courtyard. An area enclosed on at least two sides by the vertical rise of building walls with a private vehicular or pedestrian passageway for access to the public street. This form may be used for vehicular parking that meets, but does not exceed, the needs of residential and/or non-residential uses that front upon it. The alleyway may be either linear or circuitous in nature. The alleyway with courtyard shall be of a unified design, constructed of hard-surfaced paving materials and optional landscaping to create an urban setting supportive of pedestrian use as well as optional vehicular parking. Hard-surfaced paving materials include paving blocks, stone, brick, and either concrete or asphalt that has been scored, colored, or otherwise configured to resemble pavers, stone, or brick.

Minor Modification to development approvals. Minor modifications that may be reviewed and approved by the Zoning Administrator or designated administrative official as provided for in these regulations.

Minor Modification, Special Use Permit. Minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development permitted that may be reviewed and approved by the Zoning Administrator or designated administrative official.

Minor Modification, Conditional Zoning District. Minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted that may be reviewed and approved by the Zoning Administrator or designated administrative official.

Mixed Use. The combination of both commercial and residential uses within a single building of two or more stories, wherein at least 50% of the heated floor area contains residential dwelling unit(s).

Mixed Use Building. The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% of the habitable area of the building shall be in residential use, the remainder shall be in commercial use. However, when an existing residential building is redeveloped to a mixed-use, at least 40% of the habitable area shall be in residential use.

Mixed Use Node. A pedestrian-oriented development consisting of a major subdivision and or a combination of major subdivisions that meet the following criteria; not less than 50 acres and not more

Commented [JG14]: We should add specifics/limitations to modification in the actual article.

Commented [ES15R14]: Agreed that would likely be helpful to add to Article 11.

Commented [ES16]: For minor modifications to site-specific vesting plans authorized by 160D-108.1(c), the ordinance must define what constitutes a minor modification. We either need to add something to Section 2 to address or add something here, such as a specific definition for Minor Modification, Site-Specific Vesting Plan... I built in language for administrative approval in Section 2 but did not define them. If we don't define, we can't use the authority in 160D-108.1(c).

Commented [JS17R16]: Minor modifications of sketch plans defined under staff authority in the Subdivision Ordinance, 3.100. Conditional district rezoning plans typically state flexibility desired on the plan.

Commented [JG18]: 160D-705(c)

Commented [JG19]: 160D-703(b)

Commented [JG20]: Requested addition from article 3 comment

than 100 acres, located at the intersection of two major thoroughfares (existing or proposed) as designated on the Thoroughfare Plan containing a combination of commercial uses in excess of 100,000 square feet and residential uses which will occupy at least 50% of the land area of the node.

Mobile Home. A movable or transportable dwelling unit, other than a modular home or manufactured home, of at least 8 feet in width and at least 32 feet in length, constructed to be transported on its own chassis and including one or more components for transporting the unit.

Mobile Home Park. Any site or parcel of land under single ownership where land is rented and utilities are provided for the installation or placement of mobile homes.

Mobile Home Subdivision. Any parcel of land which is subdivided, with utilities extended for the installation or placement of mobile homes.

Modular Home. A dwelling unit which is constructed in compliance with the State Building Code and composed of components substantially assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Mooring or Float. An object or structure secured in the water, such as by cables, lines, chains, or anchors, and intended or used for securing one or more boats in the water.

Motel. A building containing more than four individual rooms for the purpose of providing overnight lodging to the general public for compensation, and which has common facilities for reservations, cleaning services, combined utilities, on-site management and reception, and some or all of whose rooms open directly on a parking area.

Multiple Building Site. A group of two or more nonresidential buildings established on a single development tract, having unified design of buildings and coordinated organization of open space, parking, and service areas.

Nadir. lowest point on the fixture.

Neighborhood Gasoline Station. A building and use for the sale of gasoline primarily to non-commercial vehicle operators, having no more than two pumping canopies, and providing only minor automotive repairs.

Neighborhood Recreation. Public or private neighborhood, tennis, or other courts, swimming pools or similar indoor and/or outdoor uses that are operated on a fee or membership basis primarily for the use of persons who reside in the neighborhood that the facility is located. "Neighborhood Recreation" structures shall include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

Nightclub. Any commercial establishment serving alcoholic beverages and/or providing entertainment for patrons, including bars, lounges, taverns, cabarets, and similar establishments.

Nonconforming Structure. Any structure, lawfully existing on the effective date of these regulations or on the effective date of any subsequent amendments to these regulations or the zoning maps which render such structure nonconforming, which does not comply with all of the standards and regulations of this ordinance or any amendments thereto, whichever may be applicable.

Nonconforming Use. Any use, lawfully being made of any land, building or structure on the effective date of these regulations or on the effective date of any subsequent amendments to these regulations or the zoning maps which render such use nonconforming, which does not comply with all of the regulations of this ordinance or any amendments thereto, whichever may be applicable.

Nonconforming Vacant Lot. Any lot of record which does not meet the minimum area or width requirements established in these regulations or any amendment thereto, whichever may be applicable.

Nursing home, rest home, or home for the aged. A facility or housing development in which an agency, organization, or individual provides care for 3 or more sick, handicapped, and/or aged persons, not related by blood or marriage to the operator. Such congregate care facilities are classified as "dependent living facilities" or "independent living facilities" depending upon the degree of support services on site.

Commented [JG21]: 160D-102(23) says the definition of manufactured home and mobile home are the same.

Off-street parking. Parking which occurs on a lot and not on a street or other public right of way.

Office. A use or structure in which business or professional services are conducted or rendered.

Open Space. Any area which is not divided into private or civic building lots, streets, rights-of-way, parking, or easements for purposes other than open space conservation. ~~Unless~~ unless specifically allowed by this ordinance in the Farmhouse Cluster, Conservation Subdivisions, and Minor Subdivisions. Reference Article 7.11 Urban, Agricultural, Common, Natural and Recreational Open Space for specific qualitative criteria.

Outdoor lighting. Any light source that is installed or mounted outside of an enclosed building, but not including street lights installed or maintained along public or private streets.

Outdoor recreation. Public or private golf courses, country clubs, swimming pools, tennis courts, ball fields and ball courts which are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. "Outdoor recreation" shall include any accessory uses, such as snack bars, pro shops, and club houses which are designed and intended primarily for the use of patrons of the principal recreational use.

Overnight camping trailer park. Any lot upon which two or more overnight camp sites and/or overnight camping trailers occupied for temporary shelter, dwelling, recreation, or vacation uses may be located on a non-profit or ~~for-profit~~for-profit basis.

Owner. ~~The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals. Any full or part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal title to the whole or to part of a structure or parcel of land.~~

Commented [JG22]: 160D-102(18)

Parallel conditional zoning district. A conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general use district having a parallel designation or name. ~~As permitted by SB 1288,~~ Parallel conditional zoning shall not require the issuance of a ~~conditional use or~~ special use permit or permitting process apart from the establishment of the district and its application to particular properties.

Parcel. Any quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries. It may be established as distinct from other parcels which are designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

Park. Any land owned by the public and open for use by the general public for active or passive recreational purposes or as a refuge for wildlife.

Parking Lot. An area, not within a building, where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking. A parking area also includes all areas for storage and trash facilities.

Parking Zone. An area to accommodate on-street parking adjacent to uses where on-street parking provides convenience. Parking widths and layout may vary. This area may also include transit stops and provide provisions for transit pull-outs.

Participating Landowner. A landowner under lease or other property agreements with the Facility Owner or Operator pertaining to the ~~Alternative Wind Energy Facility.~~

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Pedestrian Access, Main. The principle architectural and functional means of a public ingress and egress into a building as part of normal and customary establishment operations.

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Pedestrian Access, Secondary. An ancillary architectural and functional means of public ingress and egress into a building as part of normal and customary establishment operations.

Pedestrian Oriented Development. Any development type which accommodates the needs of the pedestrian. Such development will have parking to the side or rear of a building, will mix uses and provide

them in proximity to one another, will allow the pedestrian the option of accomplishing certain trips without automobile use, and will provide a variety of interesting and detailed streetscapes which balance the need of the pedestrian and car equally.

Pedestrian Zone. The area intended for pedestrian travel. The walkway section of the pedestrian zone should be of sufficient width to allow pedestrians to walk safely and comfortably for current and future pedestrian activity.

Person. ~~An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity. An individual, corporation, governmental agency, business trust, estate trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.~~

Commented [JG23]: 160D-102(24)

Pier. A structure extending into or along the water for use as a landing place for boats or as a promenade.

Pilot plant. A building or operation in which processes planned for use in production elsewhere can be tested, but not including the production of any good on the premises primarily or customarily for sale, or for use in production operations.

Planned commercial development. Any planned project including, shopping centers, office complex, church, institutional, business campuses and similar large complexes which have a variety of tenants or uses.

Planning Board. The Town of Huntersville Planning and Zoning Board, established by ordinance in accordance with N.C.G.S. 160D-301.CGS 160A-361 and 160A-362.

Planning Jurisdiction.

~~The land located within the boundaries of the most recently adopted Huntersville Land Development Plan, and consistent generally with the Town's annexation sphere of influence, in which the Town may undertake planning and apply the development regulations authorized by this ordinance.~~

Plant Nursery. Any tract of land which is used for the growth, nurture, production, acclimation, marketing or sale (whether at wholesale or retail) of plants, flowers, fruits, vegetables, shrubbery, trees or other agricultural, ornamental or forestry products, as well as activities ancillary or incidental thereto, including, without limitation, the distribution and sale of goods and materials used in connection with those items.

Plaza. An urban open space, constructed entirely or largely of hard-surfaced paving blocks, stone, brick, or similar materials, framed on at least two sides by the vertical rise of building walls; occasionally framed by closely planted large maturing trees in lieu of buildings. May be used for occasional parking in front of a civic or public building.

Principal building or structure. A building or structure containing the principal use of the lot.

Principal use. The primary purpose or function that a lot serves or is proposed to serve.

Private courtyard. An area enclosed on at least three sides by the vertical rise of building walls providing a pedestrian open space constructed of hard-surfaced paving materials and/or landscaping. Hard-surfaced paving materials include paving blocks, stone, brick, and either concrete or asphalt that has been scored, colored, or otherwise configured to resemble pavers, stone, or brick.

~~Private Stable. An accessory use to a principal residential structure and permitted in any district which permits residential use; as an accessory use a private stable is subject to the standards of Section 74.150.~~

Commented [JS24]: No longer applicable

Project area. Any area of land and/or water, regardless of the number of individual parcels contained therein, on which development is proposed under these regulations.

Promenade. See *Esplanade*.

Proposed right-of-way line. The margin of a thoroughfare's right-of-way at its ultimate intended width, determined by (1) the thoroughfare's classification and (2) dimensional requirements or locational criteria as established in the Subdivision ordinance.

Prototype production plant. A building or operation in which goods are produced only in a quantity necessary for full investigation of the merits of a product, but not including the production of any goods on the premises primarily or customarily for sale or for use in production operations on the premises.

Pruning. The cutting off or removal of dead or living parts of a tree or shrub for the intentions of improving growth.

Public utilities. Above ground or underground publicly licensed utilities including water, sanitary sewer collection and distribution line, natural gas, cable television, storm water drainage, transit or transportation, or electrical services and any associated structures such as pumping stations, treatment plants, and transformer stations for providing to the public a utility service deemed necessary for the public health, safety, and welfare. Utility service to the public has been defined broadly to mean all consumers-industrial, commercial, or residential.

Public utility structure. An electricity or gas substation, water or wastewater pumping station, telephone repeater station or similar structure used as an intermediary switching, boosting, distribution, or transfer station for electricity, water, wastewater, cable television, or telephone services between the point of generation and the end user, or a public or private wastewater treatment plant or water treatment plant, but not including satellite dish antennae, facilities for the handling of solid waste, or radio, television, or microwave transmission or relay towers.

Quadrangle. A rectangular area, such as a courtyard, enclosed by buildings.

Quarry. An operation for the dredging, digging, extraction, mining, or quarrying of stone, sand, gravel, or minerals for commercial purposes.

Quasi-judicial decision. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations.

Reach. A longitudinal segment of a stream or river, such as the segment between two bridge crossings or the mouths of two tributaries to the stream or river.

Redevelopment. The demolition and reconstruction of a building or a portion of a building.

Reclassification of land. A change in the zoning district assigned to a lot pursuant to a public hearing before the Town Board and a subsequent decision by the Board. (Also, Rezoning).

Regulatory Flood. A flood representative of large floods reasonably characteristic of what can be expected to occur on a particular stream, with an average recurrence interval of 100 years, determined from an analysis of floods on a particular stream and other streams in the same general region.

Religious institution. A church, synagogue, temple, mosque, or other place of religious worship, including any accessory use or structure, such as a school, day care center, cemetery or dwelling, located on the same lot.

Research laboratory. A facility equipped for basic and applied research or experimental study, testing, or analysis in the natural sciences, including any educational activities associated with and accessory to such research, but not including a medical, dental, optical, or veterinary clinic, or a research facility located on the principal site of a health institution or university.

Residential cottage. A rental unit associated with Country Inn Development that consists of sleeping quarters and bathroom facilities which are typically associated with overnight stays.

Residential use. Any detached, duplex, triplex, quadraplex, attached, or multifamily dwelling, manufactured home, mobile home, group home for up to six clients, limited residence boarding house, or dormitory.

Restaurant. A building or operation, the purpose of which is to accommodate the consumption of food and beverages.

Retirement Communities. Single family and attached housing under single ownership on a parcel of land designed for active adults and independent persons over age fifty-five (55) not requiring health support services such as medical and nursing care on site. Each living unit is self-contained and is physically accessible to older and disable persons. Distinguished from apartments by the provision of some communal services.

Retail establishment. A building, property, or activity the principal use or purpose of which is the sale of goods, products, or merchandise directly to the consumer.

Riding Academy. A facility the principal use of which is the provision of lessons in horseback riding on a non-profit or for-profit basis. Permitted in the Rural and Transitional District, according to the standards of Section 9.33.

Sanitary Landfill. A solid waste disposal facility designed to meet the minimum standards of the State of North Carolina wherein refuse and other waste defined by State standards is disposed of by utilizing acceptable landfill engineering technology.

Saw-mill. A mechanized facility for cutting logs into timber for carpentry.

Screening. A fence, wall, hedge, landscaping, buffer area or any combination of these provided to create a visual separation between certain land uses. A screen may be located on the property line or elsewhere on the site, as determined by the use to be screened.

Setback, established. The distance between a street line and the front building line of a principal building or structure, as constructed, projected to the side lot lines. See also Yards.

Setback, required. The minimum distance required by this ordinance or established by recorded plat between the street right-of-way line and the front building line of a principal building or structure, projected to the side lines of the lot. For flag lots, the minimum setback shall be measured between the front property line of the buildable portion of the lot and the front building line of the principal structure, projected to the side lines of the lot.

Shared Vehicle Zone. The primary travel way for vehicles which can include a mixture of traffic (cars, trucks, buses, and bicycles).

Shielded Light Fixture. A light fixture with cutoff optics that allows no direct light emissions above a vertical cutoff angle of 90 degrees above nadir, through the light fixture's lowest light emitting part. Any structural part of the light fixture providing this cutoff angle must be permanently affixed.

Shopfront. A business or retail use with façade aligned directly on the frontage line and the entrance at grade. Found in sidewalk retail.

Shopping Center. A group of two or more retail establishments or restaurants, including all associated out parcels (whether or not they have been subdivided from the primary tract), having a unified design of buildings, coordinated parking and service areas, and developed in accordance with the requirements of the zoning district in which it is located.

Shrub. Vegetation that is planted for ornamental or screening purposes.

Sign. Any object, device, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or of any fraternal, religious or civic organization; works of art which in no way identify a product; or scoreboards located on athletic fields.

Significant tree. Any tree other than a pine tree with a caliper of 18 inches or more.

Silviculture. Science and art of cultivating forest crops based on the study of life history and general characteristics of forest trees.

Site analysis. A site plan completed by a certified landscape architect, in conjunction with a licensed land surveyor, showing the subject property including the following features: existing tree lines, all specimen and heritage trees, topography at two foot intervals, lakes, streams, floodplain, SWIM buffers, watershed buffers, historic sites, slope analysis (0%-10%, 10%-15%, 15%-25%, >25%), natural drainage patterns, soils, site connectivity and access.

Site plan. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.

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Small Maturing Trees. A tree whose height is less than 35 feet at maturity and meets the specifications of "American Standards for Nursery Stock "published by the American Association of Nurserymen.

Solar Energy Facility, Major. A solar energy facility that is not a minor solar energy facility.

Solar Energy Facility, Minor. A facility for the production of electrical energy or solar heat in which all of the following are met:

1. Is located on the power beneficiary's premises; and
2. Is intended primarily to offset part or all of the beneficiary's requirements for electricity/gas; or is any non-residential rooftop facility.
3. Is secondary to the beneficiary's use of the premises for other lawful purpose(s).

Solar Farm: See Solar Energy Facility, Major.

Solar Hot Water Heater. A solar heater(s), or solar thermal system that provides heat for water, space heating, and swimming pools by collecting the sun's energy to heat air or a fluid which ~~transfer~~^{transfers} solar heat.

Solar Panel. A device which is used to convert energy contained within the sun's rays into electricity, PV (photovoltaic) panel.

Solar Power. The conversion of solar energy into another form of energy.

Solid Waste. Any hazardous or nonhazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, agricultural, and land clearing operations. This term does not include the following:

1. Fowl and animal fecal waste;
2. Solid or dissolved material in any of the following:
 - (a) Domestic sewage, and sludge generated by the treatment thereof, in sanitary sewage disposal systems which have a design capacity of more than 3,000 gallons or which discharge effluents to the surface waters;
 - (b) Irrigation return flows; or
 - (c) Wastewater discharges, and the sludge incidental thereto and generated by the treatment thereof, which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. ~~1342~~¹³⁴² et seq.) and permits granted under G.S. 143-215.1 by the Environmental Management Commission;
3. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the North Carolina General Statutes;
4. Any radioactive material as defined by the North Carolina Radiation Protection Act (G.S. 104E-1 ~~et seq~~^{et seq} ~~through 104E-23~~); or
5. Mining refuse covered by the North Carolina Mining Act (G.S. 74-46 ~~et seq~~^{et seq} ~~through 74-68~~), and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290).

Special Use Permit. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

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Specimen tree. A tree (or group of trees) that may be considered important community assets due to their unique or noteworthy characteristics or values. A tree may be considered a specimen tree based on its size, age, rarity or special historical or ecological significance and may also meet the following criteria:

- .1 Large hardwoods (e.g. oaks, poplars, maples, etc.) and softwoods (e.g. pines sp.) in good or better condition with a DBH of 24" or greater.
- .2 Smaller understory trees (e.g. dogwoods, redbuds, sourwoods, persimmons, etc.) in good or better condition with a DBH of 12" or greater.
- .3 Lesser-sized trees of rare species or special intrinsic value as approved by staff.

Stadium. A structure or facility designed, intended, or used primarily for athletic events or other performances and containing seating for spectators of those events, but not including a raceway or drag strip.

Storm Drainage Design Manual. The most recent edition of the manual adopted by the Town Board setting forth standard details for the design and construction of storm water management systems.

Story. That part of a building or structure above ground level between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds one-third of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one-third of the area of the roof. The under roof area with dormers does not count as a story.

Street Line. The outer boundary of a street right-of-way.

Street Orientation. The direction of the architectural front façade of a building in relation to the street.

Street, Private. An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

Street, Public. A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of Huntersville or the State of North Carolina.

Street Right-of-Way. Street right-of-way shall mean any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Town of Huntersville or Mecklenburg County, if so authorized; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of Huntersville; or has otherwise been established as a public street prior to the adoption of this ordinance.

Street tree. A tree planted along a street right-of-way or public access easement, excluding alleys. The tree must be a large maturing deciduous canopy tree on the approved tree list.

Street Vista. A view framed by buildings at the termination of the axis of a thoroughfare or large neighborhood street.

Street Yard. The area of land along the front property line parallel to a right-of-way reserved for tree planting and landscaping. Also called street tree planting easement or Green Zone

Streets. The term "streets" generally represents a continuum of roadway types that vary in form and function serving a variety of access and mobility needs. The types range from "Freeway" to "Local" and are further described below:

Freeway. High volume, high speed highways with access only at interchanges. Freeways are typically constructed to Interstate Highway standards. May incorporate special management techniques and

may contain specialized accommodations for multi-occupant or transit vehicles. No parallel accommodation for non-motorized users.

~~Expressway. High volume, moderate to high speed highway. Extremely strong access controls. Access typically accommodated through interchanges or right in/right out streets. May allow directional median openings. May include specialized accommodation for multi-occupant or transit vehicles and parallel facilities adjacent to roadway for non-motorized users.~~

Boulevard. Moderate to high volume, moderate speed roadway. Includes median and may incorporate interchanges as appropriate. Access strongly controlled, typically provided at street intersections and may be directional in nature (i.e. not full movement.) Shall incorporate provisions for transit, bicycle, and pedestrian users depending on context.

Other Major Thoroughfares. Multi-lane, moderate to high volume roadway, speed limits vary according to context. Often incorporate auxiliary lanes for turning vehicles. Typically includes median, individual driveways discouraged. Shall incorporate provisions for transit, bicycle, and pedestrian users.

Minor Thoroughfares. Usually two-lane roadways with low to moderate speeds depending on context. Balance of mobility and access functions. May include transit user provisions, shall incorporate non-motorized users.

Collector. A roadway which assemble traffic from local streets, and distributes it to the nearest thoroughfare. The collector road provides direct primary access to low/medium density land uses. It is designed to carry low to moderate traffic volumes at low to moderate speeds.

Local. This is a two-lane roadway which provides access directly to adjoining low/medium density land uses. It also conducts traffic to local limited and collector streets which serve the area. The local road is designed to accommodate low volumes of traffic at low speeds.

Town Streets (Town of Huntersville classification). "Town Street" classification refers to the hierarchy of low speed, interconnected streets with pedestrian orientation of buildings and a fine-grained section which includes street tree plantings and sidewalks on either side of pavement. The required street elements can be assembled in a variety of ways depending on the fronting uses and the function/rank of the street in the hierarchy. Streets meeting the standards of Article 5 and the Engineering Standards and Procedures Manual (ESAPM) are eligible for acceptance and maintenance by the Town as public streets. Residential alleys will generally remain private.

Structure. Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building, which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and similar accessory construction.

Substantial Improvement. Any repair, reconstruction, expansion, or improvement of a structure, the cost of which exceeds 50 percent of the assessed value of a structure as determined either before the expansion or improvement begins or before the damage occurred giving rise to there pair or reconstruction. "Substantial improvement" shall not include, however, any repair or improvement required to bring the structure into compliance with existing state or Town health, sanitary, safety, or building code specifications necessary to ensure safe habitation of the structure.

Temporary Storage Container. Transportable units designed and used primarily for temporary storage of building materials, household goods, personal items and other materials for use on a limited basis on residential property.

Temporary Structure. A building placed on a lot for a specific purpose which is to be removed within a specified time period. Examples of temporary structures are monitoring stations, mobile classrooms, construction trailers and guard houses, and produce stands.

Terminated Vista. A view through or along a street, open space, or other opening which is brought to a close by a building, structure, significant natural feature, park or similar public space or feature.

Commented [JS25]: Deleted as there are no expressways in Huntersville and term expressway is not found in the the Zoning Ordinance

Textured Glass. A patterned glass which has a specific pattern or design impressed into one surface. It allows the passage of light, but varying levels of obscuration, depending on the depth and configuration of pattern.

Thoroughfare. Any street (existing or proposed) on the adopted Comprehensive Transportation Plan (CTP) Highway Map. The words thoroughfare and arterial are used synonymously and indicate streets which are designated as freeways, expressways, boulevards, other major thoroughfare or minor thoroughfare.

Threshold elements. Porches, stoops, stairs, balconies, eaves, and cornices, loggias, arcades, chimneys, doors and windows, which are placed at or near the build-to line and interface between the main body of the building and the street.

Topping. Any pruning practice that results in removal of the foliage and limbs that leads to disfigurement or abnormal shape of a tree. Also known as rounding-over, heading-back, dehorning, capping, and hat racking.

Town Attorney. The attorney for the Town of Huntersville, duly retained by the Board of Commissioners of the Town of Huntersville.

Town Manager. The Town ~~Administrator or~~ Manager of the Town of Huntersville.

Commented [JS26]: Consistent with Subdivision Ordinance

Traditional Neighborhood.

A traditional neighborhood incorporates design principles that produce compact, mixed use, pedestrian scaled communities. The following conventions are generally employed in the design of traditional neighborhoods.

1. The neighborhood is limited in area to that which can be traversed in a 10 to 15 minute walk.
2. Residences, shops, workplaces, and civic buildings are located in close proximity.
3. A well defined and detailed system of interconnected streets serves the needs of the pedestrian and the car equally, providing multiple routes to all parts of the neighborhood.
4. Physically defined open spaces in the form of plazas, squares, and parks, in addition to finely detailed public streets, provide places for formal and informal social activity and recreation.
5. Private buildings form a clear edge, delineating the private from the public realm.
6. Civic buildings reinforce the identity of the neighborhood, providing places of assembly for social, cultural, and religious activities.

Traditional neighborhoods pursue certain objectives through their design.

1. Independence of movement for the elderly and young by bringing many activities of daily living within walking distance.
2. Reduced traffic congestion and road construction costs by reducing number and length of car trips.
3. Use or preparation for future use of alternative forms of transportation by organizing appropriate building densities.
4. Improved security of public spaces organized to stimulate informal surveillance by residents and business operators.
5. Enhanced sense of community and improved security through provision of a range of housing types and workplaces in proximity to one another.
6. Accessible places for public assembly and civic engagement by identification of suitable sites for civic buildings.

Transitional Setback or Yard. That area, if any, along a thoroughfare, which lies between (a) the minimum setback or yard line for the zoning district measured from the existing street right-of-way line and (b) the minimum setback or yard line measured from the Proposed Right-of-Way Line. There will be no transitional setback or yard when the existing street right-of-way and the proposed right-of-way line are the same.

Transitional use. A permitted use or structure that, by nature, level of activity, or physical scale, acts as a transition or intermediate use between two or more incompatible uses.

Transit-Oriented Parking Lot. An area directly associated with a public transit system where motor vehicles may be stored for the purposes of temporary or daily off-street parking.

Transmittance. Percentage of normally incident visible light passing directly through the glazing.

Tree save area. Area to be preserved which equals the drip line of tree(s) plus an additional 5 feet around the entire perimeter of area.

Tree survey. A description, for the purposes of identification, of the existing trees, under story vegetation, and topographical features on a site prior to development and site design.

Turbine Blade Clearance. The distance measured from the grade at the center of the tower to the lowest point of the turbine rotor or tip of the turbine blade when it reaches its lowest elevation.

Turkey Shoot. A place or event at which contestants discharge shotguns in competition for prizes.

Uniformity ratio. The ratio of average illumination to minimum illumination.

University, college and junior college. A use, whether privately-owned or publicly-owned, providing academic education beyond the high school level.

Used asphalt. Used asphalt or used asphalt mixed with dirt, sand, gravel, rock, concrete or similar non-hazardous material.

Vested right. ~~The right to undertake and complete the development and use of the property under the terms and conditions of a development approval, including any amendments thereto, as specified in G.S. 160D-108(c) or under common law right to undertake and/or complete a development and use of property under the terms and conditions of a local government approved site plan.~~

Vocational School. A use, whether privately-owned or publicly-owned, that trains persons in specific trades or occupations such as mechanics, stenography, or similar skills.

Warehousing. The indoor storage of goods, materials, or merchandise for shipment to, or processing on, other property.

Wastewater Treatment Facility. A facility operated by a licensed utility, in compliance with all applicable state, county, and town regulations, and intended or used for the treatment and surface or subsurface disposal of wastewater and which serves more than one use or more than four dwelling units; or a facility intended or used for the treatment and subsurface disposal of wastewater which serves only one use or up to four dwelling units.

Wind Energy Facility, Major. Wind farm that is not a minor wind energy facility.

Wind Energy Facility, Minor. A facility for the production of electrical energy in which all of the following are met:

4. Is located on the power beneficiary's premises; and
5. Is intended primarily to offset part or all of the beneficiary's requirements for electricity/gas; and
6. Is secondary to the beneficiary's use of the premises for other lawful purpose(s).

Wind Farm. See Wind Energy Facility, Major.

Wind Power. The conversion of wind energy into another form of energy.

Wind Turbine, or Windmill. A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower and pad transformer.

Wind Turbine Height. The distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Wholesale Establishment. A building, property, or activity the principal use or purpose of which is the sale of goods, products, or merchandise stored on the premises to persons who are intermediaries between the producer and the consumer.

Working Day. Any day on which the offices of the Town of Huntersville are officially open, not including Saturdays, Sundays, and other holidays designated by the Town Board.

Yard, rear, required. When required by this ordinance or established through recorded plat, a minimum distance between the rear of a principal building or structure and the lot line farthest from the street fronting the lot, projected to the side lines of the lot on which the building or structure is located.

Yard, rear, established. The distance between the rear of a principal building or structure and the lot line farthest from the street fronting the lot, projected to the side lines of the lot on which the building or structure is located.

Yard, side, required. When required by this ordinance or established by recorded plat, a minimum distance between the side lot line and the side building line, extending from the established setback to the required rear yard. For buildings not set back from the street right-of-way, the side yard shall be defined as extending from the street line to the required rear yard.

Yard, side, established. The distance between the side lot line and the side building line, extending from the established setback to the established rear yard. For buildings not set back from the street right-of-way, the side yard shall be defined as extending from the street line to the established rear yard.

Yard Trash. Solid waste consisting of vegetative material resulting from landscaping and yard maintenance, such as brush, grass, tree limbs and similar material.

Zero lot line. The location of a building on a lot in such a manner that one of the building's sides rests directly on a lot line; also referred to as a sideyard house.

Zoning Administrator. The employee(s) or agent(s) designated by the Town Manager to oversee the administration and enforcement of these regulations.

12.2.2 Sign Definitions

For the regulation of signs according to this ordinance, the following words and phrases shall be defined as specified below.

Amortization. A provision requiring nonconforming signs to either become conforming or be removed within a set period of time, otherwise known as the amortization period.

Awning. A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

Building Wall. The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this ordinance, the area of a wall will be calculated for only the first three stories, or 45 feet in height of a building, whichever is less.

Canopy. A permanent structure, not enclosed and not retractable, attached or unattached to a building, for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall.

Changeable Copy. Copy that is or can be changed in the field, either manually or through mechanical means; e.g., reader boards with changeable letters.

Commercial Message. A message placed or caused to be placed before the public by a person or business enterprise directly involved in the manufacture or sale of the products, property, accommodations, services, attractions, or activities that are offered or exist for sale or for hire.

Copy. Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface area.

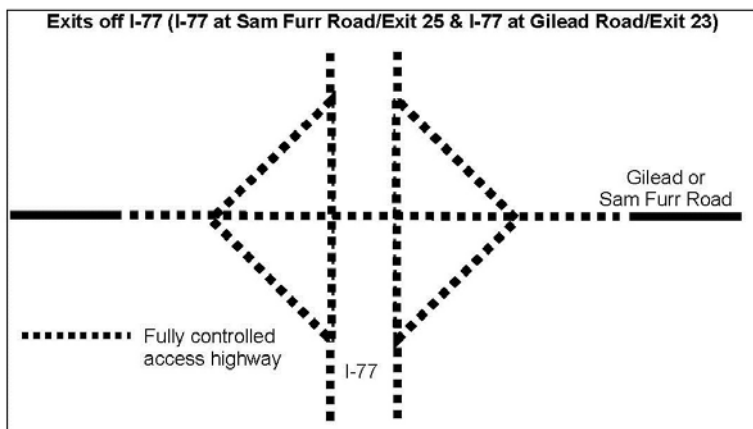
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Farm Product Sales. Seasonal sale of farm products raised on the premises where products are sold only as an accessory to an agricultural use.

Flag. A piece of durable fabric no greater than 16 square feet in area, on which is displayed the emblem of any nation, state, city, or any fraternal, religious, or civic organization, and used as a symbol. [A flag that meets the criteria of a sign shall mean a piece of durable fabric no greater than 24 feet in height and 20 square feet in area, and no more than one \(1\) per lot, on which is displayed the logo of a corporation, election or campaign \(subject to section 10.10.9\), association, or other entity.](#)

Fully Controlled Access Highway. Interstate I-77, off ramps and areas adjacent to them that are located within the length of the control access fence.



Grade. The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to the sign.

Illumination, external. A sign with external lighting fixtures that project light on the sign from above.

Illumination, internal. A sign illuminated by a light source, either incandescent, fluorescent, neon or other light that is enclosed by the sign panel(s) or within the sign (ex. LED, LCD, digital, etc).

Linear Frontage. The length of a property abutting a public right-of-way from one side lot line to another.

Logo. a business trademark or symbol.

Nit. A unit measure of brightness equal to one candela per square meter, measured perpendicular to the rays of the source. One (1) foot candle (measure of brightness equal to one lumen per square foot) is approximately equal to 10.76 nits.

Out parcel. A parcel of land associated with a shopping center or multi-tenant development, which is designated on an approved site plan as a location for a free standing structure with an intended use such as, but not limited to, banks, savings and loans, dry cleaners, service stations, offices, restaurants, retail establishments, or combination of uses thereof, and adjoins the shopping center or multi-tenant development, or the parking and service drives associated with it, on any side adjacent to a public right-of-way.

Parapet. A low wall encircling the perimeter of a flat building roof, generally used to screen roof-mounted mechanical equipment.

Planned Development. A tract of land under single, corporation, -partnership, or association ownership, planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations and according to an approved development plan.

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Premises. A parcel of real property with a separate and distinct identifying number shown on a recorded plat, record of survey, parcel map, subdivision map, or a parcel legally created or established pursuant to applicable zoning. Out parcels of shopping centers shall be considered on the premises of the shopping center for the purpose of this ordinance.

Roof Line. The highest point of a flat roof or mansard roof, and the lowest point of a pitched roof, excluding any minor projections or ornamentation.

Self-luminous sign. A sign that has the property of emitting light. This includes LED (light emitting diode) signs, LCD (liquid crystal display) signs, and other signs that display electronic images, with or without textual information. Due to the ability to change the message on these signs, they will be classified as changeable copy.

Sight Distance Triangle. The triangular area formed by the point of intersection of two street right-of-way lines and a point located along each right-of-way line at a distance of 35 feet from the point of intersection.

Sign. Any object, devise, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious, or civic organizations; works of art which in no way identify a product; or scoreboards located on athletic fields.

Sign Structure or Support. Any structure that supports or is capable of supporting a sign.

Sign Types. The following are types of signs included in this ordinance.

Banner. A sign intended to be hung, with message or symbol applied to plastic or fabric of any kind.

Bulletin Board. A sign used to announce meetings or programs to be held on the premises of a religious institution, school, auditorium, library, museum, community recreation center, or similar noncommercial place of public assembly.

Sign Types (continued).

Business Sign. A sign that directs attention to a business, to a product sold, manufactured, or assembled, or to services or entertainment offered upon the premises where the sign is displayed; but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises.

Campaign or Election Sign. A sign that advertises a candidate or issue to be voted upon on a definite election day.

Canopy and Awning Signs. A sign attached to or painted or printed onto a canopy or awning. The permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.

Construction Sign. A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.

Detached Sign. Any sign that is not affixed or attached to a building and is securely and permanently mounted in the ground. Such sign may be a ground mounted sign, or monument sign.

Directional or Instructional Sign. An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance", "Exit", "Parking", "One-Way", or similar direction or instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

Directory Sign. A sign which identifies multiple uses in a planned development on a single sign; may be used for shopping centers, shopping streets or arcades, office complexes, schools, religious institutions, institutional or business campuses, and similar large complexes which have a variety of tenants and/or uses.

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Flashing Sign. A sign that uses an intermittent or flashing light source to attract attention.

Ground Mounted Sign. A sign which extends from the ground or which has a support which places the bottom thereof less than 3 feet from the ground.

Government Sign. Any temporary or permanent sign erected and maintained for any governmental purposes.

Holiday decoration. Temporary seasonal ornamentation, in the nature of decorations, clearly incidental to and customarily associated with federal, state, local, or religious holidays and which contain no commercial message.

Identification Sign. A sign which displays only the name, address, and/or crest, insignia, trademark, occupation or profession of an occupant, or the name of any building on the premises.

Incidental Sign. A sign used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to drive-through-window menu boards; signs on automatic teller machines, gas pumps, or vending machines; or newspaper delivery boxes.

Memorial Sign or Plaque. A sign designating the name of a building and/or date of erection and other items such as architect, contractor, or others involved in the building's creation, cut into or attached to a building surface. Monument Sign. A monolithic sign in which the bottom of the sign is flush with the ground and the vertical dimension of the sign is greater than the horizontal dimension.

Nonconforming Sign. Any sign which was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of this ordinance, and which fails to conform to all applicable standards and restrictions of this ordinance.

Off-Premises Sign. A sign that directs attention to a business, commodity, or service, conducted, sold, or offered at a location other than the premises on which the sign is erected.

Sign Types (continued).

On-Premises Sign. A sign that directs attention to a business, commodity, or service, that is conducted, sold, or offered on the premises on which the sign is erected.

Outdoor Advertising Sign. A type of sign, generally, but not always, consisting of a rigidly assembled sign, display, or device, usually free standing, that is affixed to the ground or to a building, the primary purpose of which is to display advertising posters. Such signs commonly referred to as "billboards" are generally designed so that the copy or poster on the sign can be changed frequently and the advertising space is for lease.

Planned Development Sign. a sign used in conjunction with an approved planned residential, office, business, industrial, or mixed-use development.

Portable or Movable Sign. A sign that is not permanently attached to the ground, a structure, or a building, and which can easily be moved from one location or another. For example, a sign on wheels.

Projecting Sign. A sign which is affixed to a building and supported only by the wall on which it is mounted; considered a wall sign for purposes of this ordinance.

Public Interest Sign. A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as warning and no trespassing signs.

Real Estate Sign. A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

Primary Sign. The main or principal sign located on the premises.

Roof Sign. A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

Secondary Business Identification Sign. An auxiliary wall sign, the purpose of which is to identify a business which is housed in the same structure as the principal business, but which is clearly

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subordinate to, and has separate ownership, management, and operation from, the principal business which occupies the building.

Secondary Sign. A sign used in addition to a primary sign on a premises.

Sidewalk Sign. Sidewalk signs are double-sided, portable signs that are not secured to the ground, used as a temporary marketing tool for attracting passersby to a commercial establishment.

Temporary Sign. A sign which is not permanently installed in the ground or affixed to any structure or building, and which is erected for a period of time as permitted in this ordinance.

Temporary Planned Development Sign. A sign that pertains to the development of a new commercial, residential, or mixed-use development while it is under construction.

Vehicular sign. Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purposes of this ordinance, vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other business purposes.

Wall Sign. Any sign directly attached to an exterior wall of a building or dependent upon a building for its support. Signs directly painted on walls shall be considered wall signs.

Window Sign. Any sign attached to or directly applied onto a window or glass door of a building intended for viewing from the exterior of the building

12.2.3 Watershed Definitions

Water Supply Watershed Protection. Regulations embodied in the Mountain Island Lake and Lake Norman Watershed Overlay Districts pursuant to G.S. 143-214.5. For purposes of the watershed regulations, the following special definitions apply:

Agricultural Use. The use of waters for stock watering, irrigation, and other farm purposes.

Best Management Practices (BMPs). A structural or non-structural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

Non-structural BMPs. Non-engineered methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

Structural BMPs. Engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply. Structural BMPs allowed for use under the High Density Option are those which have been approved by the North Carolina Division of Water Quality and Mecklenburg County. These are wet detention ponds, extended dry detention ponds, and grass swales.

Buffer. A natural or vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized, and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Built-upon Area (B.U.). Built-upon areas shall include that portion of a development project and/or lots that are covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), etc. (NOTE: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

Critical Area. The area adjacent to a water supply intake where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area of the Mountain Island Lake

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Watershed Protection Area is divided into four sub areas as defined in Section 3.3.3. The Lake Norman Watershed within the Huntersville jurisdiction consists of a single critical area.

Density Averaging Certificate: Approval for density averaging granted by the Board of Adjustment acting as the Watershed Review Board at a Board of Adjustment meeting after it is proven by the applicant that the request meets all the requirements of Section 3.3.2-A: h) or 3.3.3-A: i) of the Huntersville Zoning Ordinance.

Discharge. The introduction, either directly or indirectly, of any man induced waste effluent into North Carolina surface waters.

Discharging Landfill. A landfill which discharges treated leachate and which requires a National Pollution Discharge Elimination System (NPDES) permit.

Existing Development. Existing development, as defined for the purpose of this section, means projects that are built or projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of the amendment incorporating Water Supply Watershed Regulations into the Huntersville Zoning Ordinance based on at least one of the following criteria:

- .1 Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
- .2 Having an outstanding valid building permit; or
- .3 Having an approved site specific or phased development plan under the provisions of Section 2.2.2.

Existing Lot (of Record). A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

Hazardous Material. Any substance listed as such in: [EPCRASARA](#) section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or [33 U.S.C. 1321](#)~~Section 311~~ of CWA (oil and hazardous substances).

Industrial Discharge. The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

- .1 wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
- .2 wastewater resulting from processes of trade or business, including wastewater from Laundromats and car washes, but not wastewater from restaurants;
- .3 storm water will not be considered to be an industrial wastewater, unless it is contaminated with industrial wastewater; or
- .4 wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

Nonconforming Lot of Record. A lot described by a plat or a deed that was recorded prior to the effective date of this ordinance (or its amendments) that does not meet the minimum lot size or other development requirements of this ordinance.

Nonresidential Development. All development other than residential development, agriculture and silviculture.

Normal Pool Elevation. The Mountain Island Lake normal pool elevation which is at contour interval 648 feet above the Mean Sea Level, as determined by United States Geological Survey (U.S.G.S.) Datum. The Lake Norman normal pool elevation, which is at contour interval 760 feet above the Mean Sea Level, as determined by United States Geological Survey (U.S.G.S.) Datum.

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Paired-parcel averaged-density development: A development proposal that includes a parcel pair meeting the standards of Huntersville Zoning Ordinance and that qualifies for local development approval under the density-averaging provision of [N.C.G.S. 143-214.5.15A NCAC 2B-0104\(u\)](#).

Parcel pair: Two noncontiguous parcels of land under the same or separate ownership, or two contiguous parcels of land under separate ownership, the development plans for which have been submitted in tandem so as to qualify for a density averaging certificate.

Perennial Stream. A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions. They are identified on United States Geological Survey Quadrangle Maps by solid blue lines.

Protected Area. The area adjoining and upstream of the Critical Areas and encompassing the remainder of the watershed where risk of water quality degradation from pollution is less than in the Critical Area. The Mountain Island Lake Protected Area is divided into three sub areas as defined in Section 3.3.3. Within Huntersville's jurisdiction the regulated watershed of Lake Norman is classified, in its entirety, as Critical Area.

Septic Tank System. A ground absorption sewage disposal system consisting of a holding or settling tank and a ground absorption field.

Subdivider. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision. A subdivision will include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development of any type (including both residential and non-residential multiple building sites and multi-site projects even if there is no division of the underlying land into separate parcels for recordation with the Register of Deeds) and also includes all divisions of land involving the dedication of a new street or a new street right-of-way or a change in existing streets; provided, however, that the following will not be included within this definition:

- .1 The combination or recombination of portions of parcels platted and recorded prior to the effective date of this ordinance, or portions of lots platted in compliance with this ordinance after its effective date, where the total number of lots is not increased and the resultant lots are equal to the standards of this ordinance and the appropriate zoning classification.
- .2 The division of land into parcels greater than 5 acres where street right-of-way dedication or reservation is not involved.
- .3 The creation of strips of land for the widening or opening of streets or the location of public utility rights-of-way.
- .4 The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where street right-of-way dedication or reservation is not involved and where the resultant lots are equal to or exceed the standards of the appropriate zoning classification.
- .5 The division of land into plots or lots for use as a cemetery.
- .6 The creation of a separate lot or property interest by a less than fee simple instrument, such as a lease, when the property interest created is divided from the original parcel for less than 10 years including option to renew.
- .7 The division of a tract or parcel into separate tracts or parcels, or the creation of interest in lots or parcels, by means of (a) a deed of trust, mortgage, or similar security interest solely for the purpose of securing any bona fide obligation(including transfers of such parcels or tracts pursuant to foreclosure or deeds in lieu of foreclosure) and (b) releases from the liens and operation of such deeds of trust, mortgages, or similar security interests.

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- .8 Easements for the purposes of utilities, driveways, parking, footpaths, trails or other similar purposes.
- .9 Proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this Ordinance or the Subdivision Ordinance of the Town of Huntersville.
- .10 Transfers of tracts or parcels by inheritance or bonafide gift.
- .11 Condemnation or deed in lieu of condemnation, by either a public or private condemnor; provided, however, that the condemnor must comply with the requirements of this ordinance as to the property acquired, either prior to the commencement of any development of the property acquired, or prior to the issuance of any building permit on the property acquired, or within six months following the date of acquisition, whichever occurs first.

Total Pollutant Load Per Facility. The sum of the Total Pollutant Loads per Parameter discharged to a water body (typically expressed in pounds per day).

Total Pollutant Load Per Parameter. The total mass of an individual water quality pollutant discharged to a water body (typically expressed in pounds per day).

Vegetative conveyance: A permanent, designed waterway lined with vegetation that is used to convey stormwater runoff at a non-erosive velocity within or away from a developed area.

Watershed. The entire land area contributing surface drainage into a specific stream, creek, lake or other body of water.

Watershed Administrator. The individual appointed and duly sworn by the Board of Commissioners of the Town of Huntersville to administer and enforce the provisions of this section as follows:

- .1 The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits according to the provisions of this section. A record of all permits issued shall be kept on file in the office of the Watershed Administrator.
- .2 The Watershed Administrator or designee shall serve as staff to the Board of Adjustment when it is serving in its capacity as the Watershed Review Board.

Water Dependent Structures. Those structures for which the use requires access or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads and similar structures. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

ARTICLE 14: TRAFFIC IMPACT ANALYSIS

14.1 Overview

To lessen congestion in the streets and to facilitate the efficient and adequate provision of transportation and other public services pursuant to N.C.G.S § 160D-701, proposed development plans shall be subject to a determination of the sufficiency of infrastructure as defined by predetermined levels of service in accordance with this Article.

When a Traffic Impact Analysis (TIA) is required to determine the sufficiency of infrastructure pursuant to Section 14.2, the TIA will be prepared by a qualified traffic engineering consultant retained by the applicant or petitioner and reviewed and approved by the Town.

A Traffic Impact Analysis is utilized by the Town to evaluate the incremental impact of a development on the surrounding transportation system. A TIA required by this Article will be prepared by a qualified traffic engineering consultant retained by the Applicant and reviewed and approved by the Town. The adequacy of service levels for local and state road intersections that serve or are affected by a proposed project shall be determined in accordance with the provisions of this Article. Infrastructure shall be considered sufficient where it is demonstrated to have available capacity to accommodate the demand generated by the proposed development, as well as other approved developments and the Comprehensive Transportation Plan.

Pursuant to subsection 14.4.2, when infrastructure is determined to have insufficient capacity to accommodate the demand generated by the proposed development, the applicant or petitioner may propose to mitigate the impact of the development by constructing, or providing sufficient funding for the construction of, infrastructure or facilities necessary to provide sufficient capacity to accommodate the development. The commitment to construct or fund the construction of infrastructure or facilities shall be included as a condition of development.

Commented [ES1]: Added "pursuant to 14.4.2" because that subsection addresses specific instances for the provision of funding.

14.2 Applicability

14.2.1 Generally.

- a) A TIA is required for any development or portion thereof, which is expected to create one hundred (100) or more peak hour vehicle trips or one thousand (1,000) or more daily vehicle trips except as provided in subsections (c) through (f) below or when road improvements are excluded by North Carolina State Law. Daily trips are those occurring on peak days on the roadway adjacent to the proposed development, based on the current edition of the ITE (Institute of Transportation Engineers) Trip Generation Manual, with the exception of public and private schools which will be based on the NCDOT's most recent MSTa School Traffic Calculator. Alternative trip generation rates/equations for non-standard uses may be utilized subject to Town Engineering staff approval.
- b) The determination of the number of trips generated also shall take into account pass-by trips, internal trip capture for integrated mixed-use projects (e.g., roadway and/or pedestrian connectivity) and any proposed transportation demand management system where adequate warranties are provided by the applicant to the Town, which ensure the proposed demand management system will function as proposed for the life of the project. In addition, if the proposed development is designed and integrated with an adjacent mixed-use project, a credit for trips may be permitted.
- c) For redevelopment projects, including changes of use, trip generation thresholds shall be defined as the number of net new trips anticipated to be generated by the proposed development over and above the number of trips generated by the current use of the site.

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- d) Where a development is expected to generate less than one hundred (100) peak hour trips, but is anticipated to adversely impact intersections within the Town, a TIA may be required as determined by the Town Engineer.
- e) No TIA shall be required for special events, which either are temporary in nature, consistent with the Town Zoning Ordinance, or which generate trips that meet or exceed the thresholds set forth in (a), but which do not occur during the peak hours of the roadways adjacent to the proposed development.
- f) A "Determination of Need" for a TIA shall be made by the Town in accordance with the trip generation standards set forth in subsection 14.2.1. (See the *Town of Huntersville TIA Process and Procedures Manual* for additional information.).
- g) Nothing herein shall prohibit the Town from ~~requiring on-site or off-site improvements necessary to address traffic safety concerns created by a proposed development~~ determining the sufficiency of infrastructure as defined by the predetermined levels of service in accordance with this Article, regardless of whether the thresholds set forth above for requiring a TIA have been met.
- h) The provisions of this Article shall not be interpreted or deemed to affect any rights that have vested prior to the effective date of this Article, nor shall any provision of this Article be applied to a specific property or applicant in a manner that would result in a taking of property.
- i) The provisions of this Article shall not apply to any development proposal that was part of a conditional zoning plan or subdivision plan submitted prior to the effective date of this Article.

Commented [ES2]: Will need to be updated as necessary to align with any changes adopted in this Article.

14.2.2 Consecutive or Sequential Applications.

Proposed developments may not be phased or subdivided in piecemeal fashion to avoid application of this Article. Two or more developments represented to be separate developments shall be aggregated and treated as a single development under this Article if the Administrator determines them to be part of a unified plan of development and physically proximate to one another, based on the following factors:

- a) There is unified ownership, indicated by the fact that:
 - 1) The same person has retained or shared control of the developments;
 - 2) The same person has ownership or a significant legal or equitable interest in the developments; or
 - 3) There is common management of the developments controlling the form of physical development or disposition of parcels of the development.
- b) There is a reasonable closeness in time between the completion of eighty (80) percent or less of one development and the submission to the Town of a development proposal for a subsequent development that is indicative of a common development effort.
- c) The voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments.
- d) There is a common advertising scheme or promotional plan in effect for the developments.
- e) Any information provided by the applicant that the project is not being phased or subdivided to avoid the requirements of this Article.

14.2.3 TIA Submission and Completion Requirement

Once the Town has made a Determination of Need for a TIA, the applicant may proceed with the TIA study, in accordance with the terms of the most recent version of the *Town of Huntersville TIA Process and Procedures Manual*, as approved by the Town Engineer and all applicable Zoning Ordinance and Subdivision Ordinance requirements. The draft TIA shall be submitted to Town staff 30 days prior to either the Town Board Public Hearing (for rezoning cases) or the Planning Board Meeting (subdivisions). Resubmittals of TIAs are to be received a minimum of 20 business days prior to the scheduled Town Board final action. The final sealed TIA shall be completed and accepted by Town staff prior to final action by the Town Board or permit issuing authority.

14.3 Impact ~~Study~~ Area

The impact study area designates the intersections for a TIA study where potential increases in traffic from the development may ~~require mitigation~~ cause degradation of levels of service. Where traffic from the proposed development is anticipated to increase a signalized or major unsignalized intersection single approach by 30 vehicles in a peak hour or increase the total of all approaches by 50 vehicles in a peak hour, ~~would require~~ the intersection ~~to shall~~ be studied in the TIA. Should an intersection be considered at its ultimate buildout laneage or configuration or within the delivery portion of the current NCDOT State Transportation Investment Program (STIP) prior to final action taken by the Town Board, the Town Engineer may waive the requirement to include the intersection for study in the TIA.

14.4 Intersection Capacity Utilization Percentage Standards; Mitigation; Compliance; Excess Capacity

14.4.1 Intersection Capacity Utilization Percentage Standards

The following Intersection Capacity Utilization (ICU) percentage standards, measured using the most recent methodology, shall be used when determining the adequacy of intersections within the applicable impact area:

Zoning District	Adopted ICU Percentage*
Rural and TR Districts	73.0 (LOS C)
Town Center and TOD	91.0 (LOS E)
All other Districts	82.0 (LOS D)

**ICU percentage relates to the relative capacity of an intersection to accommodate vehicular traffic where a value of 100 percent means that the intersection is at capacity and likely experiences congestion periods of 60 minutes.*

Where an intersection is located within more than one zoning district, the less restrictive ICU percentage shall apply to the entire intersection for purposes of complying with this Article.

14.4.2 Mitigation

~~Mitigation will not be required~~ Infrastructure shall be considered sufficient if the ICU percentage is at or below those established in Section 14.4.1 or when, as a result of proposed development, an increase in the ICU percentage is three (3) percent or less.

Where an ICU percentage is above those established in Section 14.4.1 or, as a result of proposed development, becomes greater than the adopted standard AND has increased by more than 3 percent; a development application may be approved if the applicant proposes measures that fully mitigate the transportation impacts of the proposed development.

~~Proposed mitigation, when required,~~ shall fully reduce the ICU percentage of the impacted intersection to either the adopted standard in Section 14.4.1 or to within 3 percent of the no-build ICU percentage.

Proposed mitigation measures required to meet the ICU percentage standards of Article 14.4.1 may be modified, subject to Town Board approval, in order to substantially achieve the intent of this ordinance

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with input provided by the Town Engineer.

A modification to the ~~proposed~~~~required~~ mitigation, which may be considered by the Town Board as meeting the intent of the ~~o~~Ordinance, is where proposed mitigation at an impacted intersection provides measurable and beneficial surplus capacity (above and beyond that required to meet the minimum requirements) such that the surplus capacity may be counted toward credit in the mitigation of other impacted intersections. The method of measurement considered in determining the acceptability of such modifications will be the net effect on the cumulative ICU percentage totals.

~~Proposed m~~Mitigation may also include ~~the provision of Applicant funding foref~~ transportation improvements on planned or funded Town or NCDOT projects previously adopted such that the improvements can be advanced to mitigate the impacts of the proposed development. ~~This funding~~ mitigation may be accepted by the Town Board only where it is shown that such mitigation is a reasonable substitute for actual construction based on the ICU percentage totals and anticipated construction schedules of the projects. Proposed mitigation shall be included as a condition of approval.

Transportation improvements provided through mitigation, pursuant to this Article, shall be completed and available within three (3) years of the approval of the development proposal, unless expressly provided otherwise by the Town Board or other applicable Town permitting authority. ~~Any improvements not completed prior to the issuance of a Certificate of Occupancy, shall be~~ ~~bonded-secured by a performance guarantee~~ at 115 percent of the cost of the remaining required improvement(s), as reviewed and approved by the Town Engineer. ~~All necessary right-of-way for the required transportation improvements shall be acquired prior to the issuance of a Certificate of Occupancy.~~

Mitigation measures shall be consistent with the Standards found within the Town of Huntersville TIA Process and Procedures Manual and the Town Engineering Standards and Procedures Manual.

14.4.3 Compliance

- a) If the ICU percentage for an impacted intersection is greater than the adopted ICU percentage identified in Section 14.4.1 or, as a result of the proposed development, is anticipated to be greater than the adopted ICU percentage in Section 14.4.1, no application ~~or petition~~ subject to the requirements of this Article shall be approved unless ~~the~~~~an~~ applicant ~~or petitioner proposes~~ ~~sufficient~~ mitigation ~~ofes~~ the impact of the proposed development. This determination shall be based on methodology identified in section 14.4.2
- b) In the alternative to mitigation, the developer may elect to phase the project, reduce its intensity, or delay the project until the ICU percentage standards have been met as a result of a constructed transportation improvement by the Town, NCDOT or other party.

Commented [ES3]: Recall my note regarding the ability to require fees in lieu of required street connection pursuant to 160D-804, which is a distinct authority proposed in the Subdivision Ordinance.

14.5 Contents of TIA

14.5.1 General.

The TIAs shall generally follow the guidelines set forth by the ITE's publication entitled *Transportation Impact Analysis for Site Development* and be consistent with the *Town of Huntersville TIA Process and Procedures Manual*, or guidelines as required by the Town Engineer, and may include, but are not limited to, the following:

- a) traffic analysis information related to trip generation, peak hour impacts, and other factors evaluated to determine compliance with applicable ICU percentage standards for intersections within the impact area;
- b) site location map and site layout;
- c) existing and proposed land uses;
- d) timing and phasing of the proposed development, by month and/or year;
- e) a narrative describing the project, including any special transportation-related impacts or considerations; and
- f) other information determined by the Town's Traffic Engineer to be necessary in order to determine whether the proposed project complies with the requirements of this Article and the requirements of the ITE guidelines for the preparation of transportation impact analysis for site development.

14.5.2 Demand Measures. TIAs shall take into account the following demand factors:

- a) Existing traffic volumes;
- b) Background traffic, including, historical growth traffic and projected trips associated with approved, but unbuilt development(s); and
- c) The trips to be generated by the proposed development.

14.5.3 Capacity Measures. TIAs shall take into account the following existing or anticipated capacity measures:

- a) Existing road segments and intersections;
- b) Roadway and intersection improvements planned by the Town in the current year Capital Improvement Plan, NCDOT, or other party, scheduled to be completed and available within three (3) years of the approval of the development proposal, or within the delivery portion of the current NCDOT State Transportation Investment Program (STIP) and which either have or are reasonably certain to have all necessary governmental approvals and funding such that these timeframes can be met.

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14.5.4 Description Mitigation Measures Needed.

The TIAs shall describe what, if any, transportation facility improvements within the impact area are needed in order for the proposed development to comply with Section 14.4 of this Article. A TIA that does not identify the transportation facility improvements within the impact area to comply with Section 14.4 will be returned to the aApplicant or petitioner as incomplete.

14.6 Intergovernmental Coordination

While the Town coordinates with NCDOT and other appropriate governmental agencies on development proposals, it is the responsibility of the aApplicant or petitioner to contact NCDOT to discuss access and traffic impact issues on state roads.

14.7 Appeals and Variances

An applicant may seek a variance from the terms of this Article or appeal a determination by the ~~Zoning~~ Administrator or other ~~administrative~~~~Town~~ official ~~or agency~~, made pursuant to the terms of this Article, to the ~~Zoning~~ Board of Adjustment, as provided in Article 11.3 of the Zoning Ordinance.



Subdivision Ordinance

Adopted November 19, 1996
As Amended Through **March 04, 2019**

Commented [ES1]: Update when approved

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Commented [JS2]: 1.600 Cluster Development removed as that type of development is no longer an option. 1.700 renumbered to 1.600.

SECTION 1.

1.000 PURPOSE AND APPLICABILITY

1.100 SHORT TITLE

This ordinance will be known and may be cited as the Huntersville Subdivision Ordinance.

1.200 PURPOSE

The provisions of this ordinance are adopted pursuant to the authority conferred by Section 160D-A-801371 through Section 160D-A-808376 of the General Statutes of North Carolina for the purpose of providing for the orderly development of the Town of Huntersville, North Carolina and its environs by regulating the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for future development of the town; to coordinate transportation networks and utilities within subdivisions with existing or planned streets or with public facilities; to secure or protect adequate rights-of-way and easements for street or utility purposes; to secure adequate spaces for recreation and school sites; to provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding; to protect and enhance environmental quality; to ensure the proper legal description, monumentation, and recording of subdivided land; and to create conditions that substantially promote public health, safety, convenience, and the general welfare.

1.300 JURISDICTION

The provisions of this ordinance shall apply to all subdivision activities, as defined in Section 2.100 of this ordinance, within the corporate limits and the extraterritorial zoning jurisdiction of the Town of Huntersville, North Carolina as now or hereafter established. Any subdivision for which a preliminary plan has been approved by Mecklenburg County prior to becoming subject to the Huntersville Subdivision Ordinance, may, at the option of the developer, be developed in its entirety in accordance with the Mecklenburg County Subdivision Ordinance. Any subdivision for which a preliminary plan has been submitted to Mecklenburg County, but not approved prior to becoming subject to the Huntersville Subdivision Ordinance, shall comply with Huntersville ordinance standards. (#94-12; 12/1/94)

Commented [ES3]: This reference appears to be to an old resolution number, but I don't believe it is necessary.

1.400 SEPARABILITY

If any section, paragraph, subdivision, clause or provision of this ordinance is adjudged invalid by a court of competent jurisdiction, such adjudication will apply only to such section, paragraph, subdivision, clause or provision so adjudged and the remainder of this ordinance will be deemed valid and effective.

1.500 COMPLIANCE WITH ORDINANCE

All plats for the subdivision of land must conform to the requirements of this ordinance, and be submitted in accordance with the procedures and specifications established herein. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land will not exempt the transaction from compliance with this ordinance. No utility shall be extended nor any permit be issued by an administrative agent of the Town of Huntersville for the construction of any building or other improvement upon any land for which a plat is required until the requirements of this ordinance have been met and the final plat approved.

Commented [JS4]: Cluster development removed as this subsection is no longer relevant

1.600 MODIFICATION OF CERTAIN STANDARDS FOR CLUSTER DEVELOPMENTS

Appendix A of these regulations did set forth special development standards for Cluster Developments. All cluster developments submitted for review and approval by the Huntersville Board of Commissioners after July 11, 1995, the effective date of this amendment, and prior to November 19, 1996, date of removal of

~~Appendix A from these regulations, shall meet the development standards of Appendix A. At the option of the developer, cluster developments submitted prior to the effective date of this amendment may be reviewed and approved, and further revised and modified, based upon the development standards applicable to the project at the time of submission.~~

1.6700 EFFECTIVE DATE

This ordinance shall become effective November 1, 1989.

2.000 DEFINITIONS AND RULES OF CONSTRUCTION

2.100 DEFINITIONS

As used in this ordinance, the following terms will have the meanings indicated in this section:

Alley.

A vehicular way used for providing service access along rear or side property lines of lots which are also served by one of the listed street types defined herein or in Article 5 of the Huntersville Zoning Ordinance. An alley may be accepted for public maintenance only if it serves a broad public function. Residential alleys will generally remain private.

Administrative Decision.

Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Ordinance. These are sometimes referred to as ministerial decisions or administrative determinations.

Appeal.

An action requesting reversal or modification of an interpretation or decision made by Town Staff or Administrative Agent in the application of these regulations.

Board of Adjustment.

The Zoning Board of Adjustment of the Town of Huntersville.

Build-to line.

A line extending through a lot which is generally parallel to the front property line and marks the location from which the principle vertical plane of the front building elevation, exclusive of porches, bay windows and similar appurtenances, must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

Building face.

~~The dominant structural plane of the elevation of any side of a building. For example, the building face of a two-story dwelling with one-story porch is considered to be the two-story elevation of such structure.~~

Building Setback Line.

A line extending through a lot which is parallel to the front property line and between which and such line no building shall be erected.

Cluster Development.

~~A tract of land planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations, and in accordance with an approved site plan. The development on the tract is limited by overall density or intensity. The site-specific vesting plan for a cluster development requires review and approval by the Town Board.~~

Commented [ES5]: All of the definitions in this section should align with the zoning ordinance, as well as 160D-102.

We will likely continue to have to update this Section, as well as the definition of the Zoning Ordinance containing definitions (Article 12) until all updates are complete to ensure that we have captured all updated definitions as edits progress.

Commented [JS6]: Consistent with zoning ordinance definition

Commented [JS7]: Not mentioned in Sub. Ordinance and not needed

Commented [JS8]: Subsection no longer relevant

Conservation Easement.

A conservation agreement as defined by N.C.G.S 121-35(1) in the form of an easement.

Consulting Engineer.

A North Carolina Registered Engineer appointed from time to time by the Town Board of Huntersville.

Corner Lot.

A lot which abuts the right-of-way of two streets at their intersection.

Designated Administrative Agent (also Designee).

A government agency or consulting professional which has been designated by the Huntersville Board of Commissioners through contract or agreement to administer the Subdivision Ordinance.

Easement.

A grant by the property owner for use by the public, a corporation, or person(s) of a strip of land for specified purposes.

Expedited Subdivision Review.

The review and approval of the division of a tract or parcel of land in single-ownership for which only a Final Plat Review is required. Any subdivision of land, whether major, minor, or other will qualify for Expedited Subdivision Review if in single ownership and all of the following criteria are met:

1. The tract or parcel to be divided is not already exempt as a division of land under Section 2.100 DEFINITION, "Subdivision", paragraph 2 of the Subdivision Ordinance (which exempts the division of land into parcels greater than 5 acres where street right-of-way dedication or reservation is not involved).
2. No part of the tract of parcel to be divided has been divided under this subsection in the 10 years prior to division.
3. The entire area of the tract or parcel to be divided is greater than five acres.
4. After division, no more than three lots result from the division.
5. After division, all resultant lots comply with all of the following:
 - a. Any lot dimension size requirements of the applicable land-use regulations, if any.
 - b. The use of lots is in conformity with the applicable zoning requirements, if any.
 - c. A permanent means of ingress and egress is recorded for each lot.

Land Clearing and Inert Debris (LCID) Landfill.

A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes meeting the standards of the State of North Carolina.

Land Development Standards Manual.

The most recent edition of the Town of Huntersville Engineering Standards and Procedures Manual, which sets forth standard details for the design and construction of various aspects of development, regulates and controls the technical standards for construction of public and private improvements relating to streets, sidewalks, drainage and other facilities. Whenever, in this ordinance, reference is made to "standards" or "manual" it refers to the most recent edition of the "Town of Huntersville Engineering Standards and Procedures Manual".

Lot.

A portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

Commented [JS9]: This definition removed as the use is not mentioned elsewhere in the Subdivision Ordinance but is covered in the Zoning Ordinance.

Commented [JS10]: Consistent with Zoning Ordinance

Lot Front.

That side of a lot which fronts on a street. In the case of a corner lot, the subdivider shall designate the front of the lot for purposes of these regulations and the Huntersville Zoning Ordinance by labeling the front and side building lines as such on the final plat.

Open Space.

~~Any area which is not divided into private or civic building lots, streets, rights-of-way, parking, or easements for purposes other than open space conservation. In the Farmhouse Cluster, open space may also include deed-restricted portions of private building lots. Urban Open Space assumes one or more of the forms detailed in Article 7 of the Huntersville Zoning Ordinance, and may contain recreation equipment and amenities as indicated. Natural, Recreational and Agricultural Open Space is site specific in its designation. Golf courses and other neighborhood and outdoor recreational uses which are designed and sited to preserve rural appearance will be construed, in whole or in part, to be Recreational open space as permitted in Article 7 of the Huntersville Zoning Ordinance. Any area which is not divided into private or civic building lots, streets, rights-of-way, parking, or easements for purposes other than open space conservation. Unless specifically allowed by this ordinance in the Farmhouse Cluster, Conservation Subdivisions, and Minor Subdivisions. Reference Article 7.11 Urban, Agricultural, Common, Natural and Recreational Open Space for specific qualitative criteria.~~

Commented [JS11]: Matches with Open Space definition in Zoning Ordinance

Planning Area.

~~The land located within the boundaries of the most recently adopted Huntersville Land Development Plan, and consistent generally with the town's annexation sphere of influence~~

Commented [JS12]: This term is not used in the subdivision Ordinance and is not needed

Planning Board.

The Planning Board of the Town of Huntersville ~~established pursuant to G.S. 160D-301.~~

Commented [JG13]: Definition from 160D.

Plat

A map or plan of a parcel of land which is to be, or which has been, subdivided.

Reverse Frontage.

~~The configuration of lots or a development site so that vehicular access to the lots or development site does not involve individual driveway connections to the street to which access is restricted, but rather is from another means such as a public or private street or easement which either intersects or runs parallel to the street to which access is restricted. Reverse frontage does not relate to any particular orientation of a structure to the street.~~

Commented [JS14]: This term is not used in the subdivision Ordinance and is not needed

Streets (by classification).

Commented [JS15]: Definitions changed to match Zoning Ordinance and Comprehensive Transportation Plan

Freeway or Expressway (Class I).

~~High volume, high speed highways with access only at interchanges. Freeways are typically constructed to Interstate Highway standards. May incorporate special management techniques and may contain specialized accommodations for multi-occupant or transit vehicles. No parallel accommodation for non-motorized users. A multi-lane, grade-separated, limited-access major road connecting this region, major activity centers or major roads with other regions, major activity centers or major roads. It is designed to accommodate large volumes at high speeds. Such a facility may be part of the interstate, federal, or state primary highway system. A Class I road will be built to or approaching interstate design standards.~~

Boulevards Limited Access Arterial (Class II).

~~Moderate to high volume, moderate speed roadway. Includes median and may incorporate interchanges as appropriate. Access strongly controlled, typically provided at street intersections~~

and may be directional in nature (i.e. not full movement.) Shall incorporate provisions for transit, bicycle, and pedestrian users depending on context. A multi-lane limited-access major road connecting major activity centers or major roads. It is designed to accommodate large volumes of traffic at moderate speed. Intersections are at grade, with access only at cross streets, rather than at individual driveways. All types of land uses are acceptable along this road with proper consideration to environmental stresses related to the road.

Other Major Thoroughfares Major Arterial (Class III).

Multi-lane, moderate to high volume roadway, speed limits vary according to context. Often incorporate auxiliary lanes for turning vehicles. Typically includes median, individual driveways discouraged. Shall incorporate provisions for transit, bicycle, and pedestrian users. A multi-lane major roadway connecting Class I, II, or III streets with lesser streets in the network. The Class III road may also provide connections between this and other regions. It is designed to accommodate large volumes of traffic at moderate speeds, but it is not intended to provide primary access to adjoining high trip generating uses.

Commercial Arterial (Class III-C).

A multi-lane, major roadway connecting Class I or II roads with lesser streets in the network, the Class III-C road may also connect this region to other regions. It is designed to accommodate large volumes of traffic at moderate speeds while also providing direct access to nonresidential high trip generating land uses. A Class III-C road may be part of state primary or secondary highway systems.

Minor Thoroughfare Arterial (Class IV).

Usually two-lane roadways with low to moderate speeds depending on context. Balance of mobility and access functions. May include transit user provisions, shall incorporate non-motorized users. A roadway, frequently two lanes, providing a connection from Class II and Class III roads to other lesser roads in the system. It is designed to accommodate moderate volumes of traffic at moderate speeds. It does not have a significant function in connecting this region to other regions. Therefore, it usually only handles trips for short to moderate distances.

Collector.

A roadway which assembles traffic from local streets, and distributes it to the nearest thoroughfare street. The collector road provides direct primary access to low/medium density land uses. It is designed to carry low to moderate traffic volumes at low to moderate speeds. The Collector Street is characteristic of conventional subdivisions approved prior to November 19, 1996, the effective date of this amendment. Its function is replaced by one or a combination of the Town Street types defined in Article 5, Huntersville Zoning Ordinance.

Local.

This is a two-lane roadway which provides access directly to adjoining low/medium density land uses. It also conducts traffic to collector streets which serve the area. The local road is designed to accommodate low volumes of traffic at low speeds. The Local Street is characteristic of conventional subdivisions approved prior to November 19, 1996. It is replaced by one or more of the Town Street types defined in Article 5, Huntersville Zoning Ordinance.

Cul-de-sac.

A short minor street having one end open to traffic and the other permanently terminated by a vehicular turnaround. Cul-de-sacs may not exceed 350 feet in length and must be accessed from a street providing internal or external connectivity. They are permitted where topography makes a street connection impracticable.

Marginal Access Street.

A public or private street adjoining or parallel to an arterial street to relieve the arterial street of the necessity of providing access to abutting property.

Town Streets.

Town Street classification refers to the hierarchy of low speed, interconnected streets with pedestrian orientation of buildings and a fine-grained section which includes street tree plantings and sidewalks on either side of pavement. The required street elements can be assembled in a variety of ways depending on the fronting uses and the function/rank of the street in the hierarchy. Streets meeting the standards of Article 5 and the Engineering Standards and Procedures Manual (ESAPM) are eligible for acceptance and maintenance by the Town as public streets. Residential alleys will generally remain private.

The street types defined in Article 5 of the Huntersville Zoning Ordinance, intended to serve developments submitted and approved after November 19, 1996, the effective date of this amendment.

Street, ~~Private.~~

An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public. Highway Commercial Zoning District where existing development or limited access arterial prohibits extension and connection of the public street network; not dedicated to or maintained by the public.

Commented [JS16]: Consistent with Zoning Ordinance

Street Right-of-Way.

Street right-of-way shall mean any public right-of-way set aside for public travel which has been accepted for maintenance by the State of North Carolina or the Town of Huntersville or Mecklenburg County, if so authorized, or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of Huntersville, or has otherwise been established as a public street prior to the adoption of this ordinance.

Subdivision.

A subdivision will include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose, whether immediate or future, of sale or building development of any type (including both residential and non-residential multiple building sites and multi-site projects even if there is no division of the underlying land into separate parcels for recordation with the Register of Deeds) and also includes all divisions of land involving the dedication of a new street or a new street right-of-way or a change in existing streets; provided, however, that the following will not be included within this definition nor be subject to the requirements of this ordinance:

Commented [JG17]: 160D-102 (31) Subdivision. - The division of land for the purpose of sale or development as specified in G.S. 160D-802.

Commented [ES18R17]: Noted areas where our ordinance differs

1. 1- The combination or recombination of portions of ~~parcels platted subdivided~~ and recorded lots prior to the effective date of this ordinance, or portions of lots platted in compliance with this ordinance after its effective date, where the total number of lots is not increased and the resultant lots are equal to the standards of this ordinance and the appropriate zoning classification.
2. 2- The division of land into parcels greater than 5 acres where street right-of-way dedication ~~or reservation~~ is not involved.
3. 3- The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors or the location of public utility rights-of-way.
4. 4- The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where street right-of-way dedication ~~or reservation~~ is

Commented [ES19]: Statute says 10; 160D-802(a)(2)

Commented [JS20R19]: Huntersville set at 5 acres

Commented [ES21]: The statute does not include reservation

Commented [ES22]: The statute does not include reservation

not involved and where the resultant lots are equal to or exceed the standards of the appropriate zoning classification.

- ~~5. 5-~~ The division of land into plots or lots for use as a cemetery.
- ~~6. 6-~~ The creation of a separate lot or property interest by a less than fee simple instrument, such as a lease, when the property interest created is divided from the original parcel for less than 10 years including option to renew.
- ~~7. 7-~~ The division of a tract or parcel into separate tracts or parcels, or the creation of interest in lots or parcels, by means of (a) a deed of trust, mortgage, or similar security interest solely for the purpose of securing any bona fide obligation (including transfers of such parcels or tracts pursuant to foreclosure or deeds in lieu of foreclosure) and (b) releases from the liens and operation of such deeds of trust, mortgages, or similar security interests.
- ~~8. 8-~~ Easements for the purposes of utilities, driveways, parking, footpaths, trails, or other similar purposes.
- ~~9. 9-~~ Proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this Ordinance.
- ~~10. 10-~~ Transfers of tracts or parcels by inheritance or bona fide gift.
- ~~11. 11-~~ Condemnation or deed in lieu of condemnation, by either a public or private condemner; provided, however, that the condemner must comply with the requirements of this ordinance as to the property acquired, either prior to the commencement of any development of the property acquired, or prior to the issuance of any building permit on the property acquired, or within six months following the date of acquisition, whichever occurs first.

Subdivision, Conservation

~~A subdivision not otherwise exempt from the provisions of this ordinance where no new public streets are to be created and the tract to be subdivided is 40 acres or more, subdivided into single family building lots at a gross density not exceeding 1 dwelling unit per 20 acres, and subject to the restrictions of an irrevocable conservation easement held by a conservation organization authorized by N.C.G.S. 121-35(1). A tract of land 40 acres or more that is subdivided into single family building lots at a gross density not exceeding 1 dwelling unit per 20 acres, where no new streets are created through the development process and use of the land is restricted by an irrevocable conservation easement held by a conservation organization authorized by N.C.G.S. 121-35(1) 4 et seq.~~

Commented [JS23]: Consistent with Zoning Ordinance

Subdivision, Limited.

A subdivision that is not otherwise exempt from the provisions of this ordinance and where the tract or parcel of land retained by the owner submitting the land for subdivision approval is in excess of ten (10) acres. For such subdivisions the owner shall be required to plat only the parcel(s) to be transferred or leased and only said parcel(s) shall be subject to the requirements of this ordinance.

Subdivision, Major.

A subdivision not otherwise exempt from these regulations that involves any of the following:

1. The creation of any new public street or street right-of-way, or improvements to an existing street.
2. A future public school, park, greenway, or open space site shown in any adopted plan or policy document.

3. The extension of any needed right-of-way or easement for the water or sewer system operated by Charlotte-Mecklenburg Utility Department.
4. The installation of drainage improvements through one or more lots to serve one or more other lots.
5. The installation of a private waste water treatment plant or a private water supply system for more than one lot or building site.

Subdivision, Minor.

A subdivision that is not otherwise exempt from the provisions of this ordinance and that does not involve any of the following:

- ~~1. 1-~~ The creation of any new public street or street right-of-way, or improvements to an existing street.
- ~~2. 2-~~ A future public school, park, greenway, or open space site shown in any adopted plan or policy document.
- ~~3. 3-~~ The extension of any needed right-of-way or easement for the water or sewer system operated by Charlotte-Mecklenburg Utility Department.
- ~~4. 4-~~ The installation of drainage improvements through one or more lots to serve one or more other lots.
- ~~5. 5-~~ The installation of a private waste water treatment plant or a private water supply system for more than one lot or building site.

For purposes of these regulations, Farmhouse Cluster developments are considered a minor subdivision and require Town Board approval.

Thoroughfare.

~~Any street designated on the adopted thoroughfare plan or any street which is an extension of any street on the thoroughfare plan and which extends into the area not covered by the thoroughfare plan. The words thoroughfare and arterial are used synonymously and indicate streets which are designated as Class I, II, III, III-e, or IV. Any street (existing or proposed) on the adopted Comprehensive Transportation Plan (CTP) Highway Map. The words thoroughfare and arterial are used synonymously and indicate streets which are designated as freeways, expressways, boulevards, other major thoroughfare or minor thoroughfare.~~

Commented [JS24]: Consistent with Zoning Ordinance

Thoroughfare Plan.

The most recent map adopted by the Metropolitan Planning Organization which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck, and transit transportation. The words thoroughfare plan and arterial street plan are used synonymously.

Through Lot.

A lot ~~with frontage on two streets, other than a corner lot with frontage on more than one street.~~

Commented [JS25]: Consistent with Zoning Ordinance

Town Board.

The Board of Commissioners of the Town of Huntersville.

Town Manager.

The Town Manager of the Town of Huntersville.

Variance.

An action requesting consideration for relief from the strict enforcement of the standards of the ordinance where special circumstances or unusual considerations may exist on the parcel of land.

2.200 RULES OF CONSTRUCTION

For the purposes of these regulations, the following rules of construction apply.

1. ~~1-~~ These regulations will be construed to achieve the purposes for which they are adopted.
2. ~~2-~~ In the event of any conflict in limitations, restrictions, or standards applying to a project, the provision more consistent with the Huntersville Zoning Ordinance shall apply.
3. ~~3-~~ The words "shall", "must", and "will" are mandatory in nature, implying an obligation or duty to comply with the particular provision.
4. ~~4-~~ The word "may" is permissive in nature except when used in the negative.
5. ~~5-~~ References to "days" will always be construed to be working days, as defined in Article 12 of the Zoning Ordinance, unless the context of the language clearly indicates otherwise.

3.000 DECISION MAKING AND ADMINISTRATIVE BODIES

3.100 ~~PLANNING TOWN~~ STAFF

In addition to any authority granted to the Planning Director by other ordinances of the Town of Huntersville, the Planning Director and the employees under his or her direction, ~~and or other Designee,~~ may such agent as may, from time to time, be designated by the Board of Commissioners to administer the Subdivision Ordinance ~~(Designee), and~~ will have the following duties in accordance with these regulations. ~~(#94-17; 12/06/94)~~

1. ~~1-~~ To review all petitions for subdivisions of land, within the authority and jurisdiction of these regulations, and comment on completeness of petitions and conformity to the requirements of these regulations.
2. ~~2-~~ To review and provide comments on variance petitions.
3. ~~3-~~ To maintain files and other public records related to the administration and enforcement of these regulations.
4. ~~4-~~ To comment on proposed amendments to these regulations.
5. ~~5-~~ To interpret the provisions of these regulations.
6. ~~6-~~ To coordinate all local, state, and other appropriate agency review and comment on all subdivisions proposed under these regulations.
7. ~~7-~~ To establish such procedures as necessary and proper for the administration of their responsibilities under these regulations.
8. ~~8-~~ To approve for recordation in the Mecklenburg County Register of Deeds those divisions of land which, according to the definition of Subdivision found in Section 2.100, are not subject to the requirements of this ordinance.
9. ~~9-~~ To approve for recordation in the Mecklenburg County Register of Deeds those divisions of land, defined as Limited Subdivisions and Minor Subdivisions in Section 2.100, which meet the standards of the Subdivision Ordinance and Zoning Ordinance, except as otherwise provided in Section 6.550.
10. ~~10-~~ To approve Major Subdivision Preliminary Plans and Final Plats which are identical to, or include only minor revision(s) to the approved sketch plan. Minor revisions include, but are not limited to, minor shifts in streets to adjoining properties, shift in streets internal to the subdivision, minor shifts in open space location, reduction of lot and/or unit count not inconsistent with the

Commented [ES26]: Since we are referencing minor revisions, we should define minor revisions rather than the converse. Or at least define both.

Commented [JS27]: Town Board indicated staff should approve street shifts internal to a development provided they do not affect access to adjacent properties: January 28, 2021 Retreat. This was in reference to Bryton single-family amendment where streets shifted and density was reduced.

intent of the most detailed plan approved by the Board of Commissioners, and other changes which do not alter the overall layout of the plan. **Major revisions** include, but are not limited to, the addition of lots, the addition of streets, change(s) to the pattern of street connections, changes to open space provisions, reduction in dedications to the public, or any other feature(s) of the subdivision which assumed significance at the time of sketch plan approval.

11. To approve minor revisions to sketch plans, preliminary plans, and final plats; **Minor revisions** include, but are not limited to, minor shifts in streets to adjoining properties, shift in streets internal to the subdivision, and minor shifts in open space location, minor changes to reduction of lot and/or unit count not inconsistent with the intent of the most detailed plan approved by the Board of Commissioners, and other changes which do not alter the overall layout of the plan.
12. To approve subdivision sketch plans that are consistent with or show minor changes to an approved conditional rezoning plan. Minor changes to a conditional rezoning plan shall include, but not be limited to, minor shifts in street and open space location (not less open space), fewer lots and other changes which do not alter the overall layout of the plan or which were significant at the time of the conditional rezoning plan approval.
13. To approve final plats for recordation in conjunction with an Expedited Subdivision Review.

Commented [JS28]: While Statute 160D-703(b) mentions minor changes do not include modifications to “density of overall development”, it is a common practice as engineering plans are prepared that lot counts are reduced. Staff supports keeping a reduction in lots defined as a minor change because the impact will be less than what was approved. We believe reducing the impact of development is in keeping with the statute.

3.200 PLANNING BOARD

In addition to any authority granted to the Planning Board by other ordinances of the Town of Huntersville, the Planning Board will have the following powers and duties to be carried out in accordance with these regulations.

1. To hear and make advisory recommendations on proposed amendments to the text of these regulations; to propose, as needed, amendments to change the text of these regulations.
2. To review and make recommendation on sketch plans for major subdivisions (unless otherwise provided), and major changes to approved sketch or preliminary plans for major subdivisions of the zoning ordinance in accordance with the authority and jurisdiction of these regulations set forth by the zoning and subdivision ordinances.
3. To hear, recommend and comment on requests for variances from the standards of this ordinance in accordance with the provisions of Section 4.000.
4. To hear and make recommendation on appeals from the interpretation of any provisions of this ordinance by the Town Staff or Designated Administrative Agent. The Planning Board may recommend reversal or modification of any action under appeal upon finding an error in the application of these regulations.

In all of these matters, the Planning Board may recommend approval of the request, denial of the request, or approval of the request with conditions relating to the intent and standards of this ordinance.

3.300 TOWN BOARD OR DESIGNATED ADMINISTRATIVE AGENT

In addition to all other authority reserved to the Town Board by other ordinances, the Town Board will have the following powers and responsibilities in accordance with these regulations.

1. To hear and decide proposed amendments to the text of these regulations.
2. To review and decide all applications for approval of Major Subdivision Sketch Plans (unless otherwise provided), major changes to approved sketch plans or preliminary plans for Major Subdivisions, and Farmhouse Clusters as provided in Article 3 of the Zoning Ordinance.
3. To hear and decide requests for variances from the standards of this ordinance in accordance with the provisions of Section 4.000.

4. To hear and decide appeals from the interpretation of any provisions of this ordinance by the Town Staff or Designated Administrative Agent. The Town Board may reverse or modify any action under appeal upon finding an error in the application of these regulations.

In all of these matters, the Town Board may approve the request, deny the request, or approve the request with conditions relating to the intent and standards of this ordinance.

3.400 STAFF-TO-THE PLANNING STAFF ADDITIONAL POWERS BOARD

The Planning Director and the employees under his or her direction will have the following additional powers and duties to be carried out in accordance with these regulations:

1. To maintain the text of these regulations.
2. To recommend and prepare amendments to the text of these regulations.
3. To accept and file petitions for variances.
4. To accept and file notices of appeals within ten (10) days of the day an administrative interpretation or decision is issued.

4.000 APPEALS AND VARIANCES

4.100 AUTHORITY

The Planning Board may recommend, and the Town Board shall **hear and** decide petitions for appeals from an interpretation or decision made by ~~the Town Planning~~ Staff or Designated Administrative Agent and petitions for variances from the requirements of these regulations. Any reversal, modification, or affirmation of an interpretation or any variance thus authorized will be entered in writing in ~~the minutes a decision~~ of the Town Board with the justification set forth.

4.200 INITIATION

~~Any person who has standing under G.S. 160D-1402(c) or the local government may appeal an administrative decision made pursuant to this ordinance to the board. An appeal is taken by filing a notice of appeal with the Planning Staff. The notice of appeal shall state the grounds for the appeal. A petition for an appeal of an administrative interpretation or decision may be initiated by any person aggrieved or by any officer or department of the Town of Huntersville. A petition for variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.~~

4.210 FILING OF NOTICE OF APPEAL

~~The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. A notice of appeal, in the form prescribed by the Planning Director, must be filed with the Planning Staff, within 10 days of the day an administrative interpretation or decision is issued. The notice filed with the Planning Staff must be accompanied by a nonrefundable filing fee as established by the Huntersville Board of Commissioners. Failure to timely file such notice and fee will constitute a waiver of any rights to appeal under this section. The filing of such notice will require the official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner. officer whose action is appealed to transmit to the Town Manager and Planning Director all administrative papers, records, and other information regarding the subject matter of the appeal.~~

Commented [ES29]: 160D-406(j) requires quasi-judicial decisions. Applies to each quasi-judicial decision, including variances, appeals, AND quasi-judicial subdivision decision.

160D-406(j) Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective.

Commented [JG30]: Language from 160D-405(d)

Commented [JG31]: 160D-405(c)

4.220 STANDARDS FOR GRANTING AN APPEAL

The Planning Board may ~~recommend~~ **advise** and the Town Board may decide to reverse or modify the decision or interpretation under appeal upon finding an error in the application of these regulations on the part of the ~~administrative or official~~ **eer** rendering the decision or interpretation.

4.300 FILING OF VARIANCE PETITION

A petition for a variance ~~from the requirements of this ordinance~~, in the form prescribed by the Planning Director, must be filed with the Planning Staff, accompanied by a nonrefundable filing fee as established by the Town Board.

4.400 STANDARDS FOR GRANTING A VARIANCE

Before granting a variance ~~from the requirements of this ordinance~~, the Town Board must determine that:

~~(1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.~~

Commented [JG32]: 160D-705

~~(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.~~

~~(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.~~

~~(4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved~~

~~No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.~~

~~1. The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property; and~~

~~2. (a) The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties used for the same purposes; or~~

~~(b) The relationship of the property to natural topography or to the nature of adjoining properties warrants relief from the standard in question; or~~

~~(c) The difficulty or hardship from the application of these regulations would prevent the owner from making a reasonable use of the property. The fact that the property could be utilized more profitably with the variance than without the variance will not be considered as grounds for granting the variance; or~~

~~(d) The granting of a variance would permit the preservation of an historic structure or site, or a significant natural feature.~~

4.500 PLANNING BOARD REVIEW

After receipt of a complete variance petition, the Planning Board will review the petition and send a recommendation and supporting reasons for granting or denying the variance to the Town Board. Recommendation and supporting reasons shall be recorded in the minutes of the Planning Board.

4.600 ACTION BY TOWN BOARD

The Town Board of Adjustment may approve or deny the variance application, or approve with conditions relating to the intent and standards of the ordinance. ~~The board shall follow all procedures as specified in~~

G.S. 160D-406 and G.S. 160D-705. The findings of fact reasons that the Town Board used by the board to reach its decision shall be recorded in ~~the -written decision~~the minutes.

4.700 REHEARING

When the Town Board has denied any petition for a variance, it will not thereafter accept any other petition for the same variance affecting the same subdivision or any portion thereof, unless it finds that there have been substantial changes in the conditions or circumstances relating to the matter.

4.800 EFFECT OF GRANT OF VARIANCE

After the approval of a variance by the Town Board, the petitioner will be required to follow the procedures for preliminary and final plat approval in order to proceed with development of the subject property. All decisions made by administrative officers under those procedures will comply with the variance to these regulations granted to the petitioner by the Town Board.

5.000 AMENDMENTS

The Planning Staff may from time to time, and at the request of the Huntersville Town Board or Planning Board shall, prepare certain ~~improvements~~ amendments to the text of the subdivision ordinance to correct errors, update or modify the requirements, or otherwise ~~improve~~ modify the operation of the ordinance in regulating the subdivision of land.

Amendments to this ordinance may only be enacted pursuant to public notice and public hearing on the proposed amendments. Notice of such public hearing shall be published once per week for two successive weeks in a newspaper of general circulation in the Town of Huntersville. The notice shall be first published not less than ten (10) days nor more than twenty-five (25) days prior to the date fixed for the hearing. The notice shall indicate the date, time, and place of the hearing and shall include a statement of the substance of the proposed amendment.

All text amendments must be referred to the Planning Board for a recommendation prior to final action by the ~~elected officials~~ Town Board. ~~If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the Planning Board report. Failure of the Planning Board to act within forty-five (45) days following the public hearing will be deemed to constitute an affirmative recommendation on the proposed amendment. An action to defer a recommendation for cause will constitute an action for the purposes of this section.~~

6.000 THE SUBDIVISION PROCESS

6.100 COMPLIANCE REQUIRED

After the effective date of this ordinance, no plat of a subdivision of land subject to the jurisdiction of this ordinance will be filed or recorded by the Mecklenburg County Register of Deeds until it has been submitted to and approved by the Town of Huntersville in accordance with these regulations, ~~and until this approval shall have been entered on the face of the plat in writing by an authorized representative of the local government.~~ This applies to all subdivision activities included in the definition of Subdivision, found in Section 2.100.

6.200 GENERAL REQUIREMENTS

The following statements provide general requirements and policies to be used in the design, review, and approval of any subdivision under the jurisdiction of this ordinance. Questions of interpretation of any of these provisions should be discussed with the Planning Director or Designated Administrative Agent at the earliest possible time in the development of a subdivision proposal. *(See Section 4.000 for appeal process).*

1. Consistency with adopted public plans and policies.

All subdivision of land approved under these regulations should be consistent with the most recently adopted public plans and policies for the area in which it is located. This includes general policy regarding

Commented [ES33]: 160D-604(b) indicates if no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the report. Not that it constitutes an affirmative recommendation.

Commented [ES34]: 160d-604(b). No provision that failure to act constitutes an affirmative recommendation.

Commented [ES35]: 160D-803(d)

development objectives for the area as well as specific policy or plans for public facilities such as streets, parks and open space, schools, and other similar facilities. Plans and policies for the community are on file in the offices of the Town of Huntersville.

2. Conformity.

All proposed subdivisions shall be planned so as to facilitate the most advantageous development of the entire neighboring area. In areas with established and/or approved development, new subdivisions shall be planned to protect and enhance the stability, environment, health, and character of neighboring areas. The geometry of streets and intersections and the location of street connections will be assessed to minimize the detrimental effects of high volume, high speed neighborhood through traffic. This assessment will consider the location of large-scale traffic generating uses as well as the adopted thoroughfare plan and ~~other adopted plans the Land Development Plan~~. Proposed subdivisions shall not endanger the public health and safety of the community. ~~F~~Further, orientation of principal structures shall avoid backing-up to public streets because of lack of privacy and inappropriate relationship to the public realm. Use of single-loaded streets ~~where development is only on one side of the street~~ or providing large expanses of open space where principal structures are visually buffered from the road may be appropriate in circumstances where ~~new~~ such structures should not front on the existing public street. The ~~Town~~ Board of Commissioners may allow a deviation to the orientation due to topography issues or existing vegetation visually buffering structures from the public street.

Commented [JS36]: Clarifies what a single-loaded street is

3. Access Between Adjoining Properties.

To the extent practicable, all streets shall connect to create a comprehensive ~~transportation~~ network, ~~of~~ ~~public areas~~ which allows free movement of automobiles, bicyclists, and pedestrians. The purposes, ~~hierarchy~~, and design standards for Town ~~s~~Streets, as further described in Article 5 of the Huntersville Zoning Ordinance, shall be met.

4. Relation to topography.

In sloping terrain, streets will generally parallel the contours of the land insofar as practicable, to avoid steep grades and the concentration of surface storm water runoff. Variations are allowed to meet design objectives for the development and/or to calm vehicular speeds.

5. Mature trees and natural vegetation.

Streets and development sites shall be designed to protect and preserve, to the greatest extent practicable, stands of mature trees and other areas of significant natural vegetation. Minor adjustment of street alignment on the ground is permitted to achieve this objective, so long as standard drainage requirements continue to be met and the actual location of the street on the ground is reflected on the final plat or an amended final plat.

6. Access to parks, schools, etc.

Streets and sidewalks shall be designed to assure convenient access to parks, greenways, playgrounds, schools, and other places of public assembly. Supplemental walkways not associated with streets may not be less than 10 feet in width and may be required to be large enough to provide vehicular access for maintenance vehicles.

7. Discourage through traffic.

Methods to discourage high volume, high speed through traffic should consider street geometry, intersection design, and other traffic calming measures.

8. Relationship to railroad rights-of-way.

When a subdivision adjoins a railroad right-of-way, the subdivider may be required to arrange the street pattern to provide for future grade separation of street and railroad crossings.

9. Half streets.

Whenever an existing half street is adjacent to a tract of land to be subdivided the other half of the street should be platted within such tract. New half streets are prohibited except when essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where it will be practicable to require the dedication of the other half when the adjoining property is subdivided.

10. Parallel streets along thoroughfares.

Where a tract of land to be subdivided adjoins a federal or state highway or a major arterial street, the subdivider may be required to provide a marginal access street parallel to the highway.

11. Public School and Public Park Sites.

The subdivider shall determine if the tract of land to be subdivided appears in any adopted plan or policy document as a future public school, public park, greenway, or open space site by contacting the appropriate agency. The subdivider shall provide certification to the Planning Director or Designated Administrative Agent to indicate whether or not the area proposed to be subdivided includes any identified future public school or public park site. If no certification is provided, the Planning Director or Designee shall make the determination by contacting the appropriate agencies. If such site(s) are included in the area to be subdivided, the Planning Director or Designee will notify the appropriate agency of the proposed subdivision and its effect on the future public site. The appropriate agency must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision will be processed in the normal fashion. If the agency does wish to reserve the site, then the subdivision will not be approved without such reservation. ~~With regards to future school sites, the appropriate agency will have 18 months for future school sites and 12 months for future public park sites from the date of final preliminary plan approval of the subdivision or site plan to acquire the site by purchase, receipt of a dedication, or by initiating condemnation proceedings. If, at the end of the 18-month period, none of the actions listed above have commenced, the subdivider may consider the land free of any reservation. The subdivider may choose to dedicate the area to be reserved.~~

As an alternate to the above for public park sites, the Town Board may accept payment of funds to be used to acquire or develop recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area. All funds received pursuant to this subsection shall be used only for the acquisition or development of recreation, park, or open space sites. The formula to determine the amount of funds that are to be provided under this subsection shall be based on the value of the development or subdivision for property tax purposes. The regulation may allow a combination or partial payment of funds and partial dedication of land may be allowed when the governing board determines that this combination is in the best interests of the citizens of the area to be served.

12. Public Community Service Facilities.

When a tract of land that appears in any adopted plan or policy document as a future site for any community service facility, including but not limited to police and fire stations, libraries, public housing, and other public uses, falls within an area proposed to be subdivided, the Planning Director or Designated Administrative Agent will notify the appropriate agency of the proposed subdivision and its effect on the future public community service facility site. The appropriate agency must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision will be processed in the normal fashion. If the agency does wish to reserve the site, then the subdivision will not be approved without such reservation. ~~The appropriate agency will have 18 months from the date of preliminary plan approval to acquire the site by purchase, receipt of a dedication or by initiating condemnation proceedings. If, at the end of the 18-month period, none of the actions listed above have commenced the subdivider may consider the land free of any reservation.~~ The subdivider may choose to dedicate the area to be reserved.

13. Proposed street names

Proposed street names shall be coordinated with Charlotte-Mecklenburg Planning Commission staff, Town Engineering Department, or other designee.

Commented [ES37]: Technically, there is only specific statutory authority to reserve school sites. I am aware of the Batch v. Town of Chapel Hill case regarding planned road development, which also applies to planned utility lines. See 160D-804(a).

A broad interpretation of 160D-804(e) regarding the construction of community service facilities in accordance with local government plans may impliedly provide authority for additional reservations.

Commented [ES38]: The required 18-month deadline is specific to reservation of school sites. We might want to use something shorter for reservations that are not specifically authorized by the statutes.

Commented [ES39]: 160D-804(f)

Commented [ES40]: Makes the last sentence unnecessary

Commented [ES41]: "receipt of dedication" language makes this sentence unnecessary.

Commented [JS42]: Alternative provided in 160D-804(d).

14. Easements.

Easements established to the width and in the locations required by the Consulting Engineer, Utility Department, or Town Engineering Department, should be provided for open or piped storm drainage, sanitary sewers, water lines, and other utilities. This requirement applies to such lines installed at the time of the development of the subdivision, and to easements for such lines which may reasonably be expected to be installed in the future.

15. Proposed water and sewerage system.

At the sketch plan stage, the subdivision plan shall contain information as to the availability and method of providing potable water and a system of sanitary sewage collection and disposal. The preliminary subdivision plan must be accompanied by satisfactory evidence as to the proposed method of providing potable water and a system of sanitary sewage collection and disposal.

- (a) Where, at the time of preliminary plan approval, these systems are to be a part of the public water and sanitary sewerage system owned and operated by the Charlotte-Mecklenburg Utility Department, the preliminary subdivision plan shall be accompanied by a complete set of construction plans for the proposed systems, prepared by a registered engineer, which shall be required to meet the standards established by said utility owner/operator for connection to the system upon completion and dedication.
- (b) Where, at the time of preliminary plan approval, the proposed systems to serve more than one structure do not contemplate the use of facilities owned and operated by the Charlotte-Mecklenburg Utility Department, the proposed systems must be reviewed and approved by the agency or agencies with jurisdiction over the approval. This shall also include, but not be limited to, review and approval by Charlotte-Mecklenburg Utility Department to establish that construction plans meet public utility standards for adequacy and compatibility with the public system(s) in order to provide for the future orderly development of the town. Whether the proposed system serves one structure or more than one structure the developer must provide evidence prior to preliminary plan approval of the required discharge permit or a perk test for sewage disposal on each lot, whichever is applicable. Where lots are to be served by septic tank systems, the preliminary plan and the final plat shall clearly label any lots which do not perk and for which a building permit shall not be issued until alternate sewage disposal methods are available to such lots. Prior to final plat approval, evidence must be provided that both the sewage and water system designs have been approved for construction. Prior to the issuance of any certificate of occupancy for any structure, evidence must be provided that both the water and sewer systems have been approved and are operational for the structures in question.

Where local standards exceed those of State or Federal agencies and where those standards may be enforced over those of State or Federal agencies, then the Department of Environmental Protection will coordinate all reviews for such standards. However, the approval of the proposed systems remains with the responsible agency or agencies, which may include the Department of Environmental Protection.

16. Restrictions on the subdivision of land subject to flooding.

Lots that are subject to flooding should not be established in subdivisions except as provided in Section 7.280.

17. Reserved.

Neighborhood Parks: Dedication of Land or Fees in Lieu of Dedication of Land.

18. Open Space

Open space, where required, shall be consistent with the standards established in Article 7 of the Huntersville Zoning Ordinance.

19. Impact of Development on Public Facilities

Commented [ES43]: 160D-804(d):

The regulation may provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or, alternatively, for payment of funds to be used to acquire or develop recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area. All funds received by cities pursuant to this subsection shall be used only for the acquisition or development of recreation, park, or open space sites. All funds received by counties pursuant to this subsection shall be used only for the acquisition of recreation, park, or open space sites. Any formula enacted to determine the amount of funds that are to be provided under this subsection shall be based on the value of the development or subdivision for property tax purposes. The regulation may allow a combination or partial payment of funds and partial dedication of land when the governing board determines that this combination is in the best interests of the citizens of the area to be served.

Durham has sample language we might be able to borrow from to a certain extent. However, we cannot charge impact fees (they may have local legislation allowing) so we wouldn't use that part of the language
<https://durham.municipal.codes/UDO/12.5.1>

Note: If not specifically included in the ordinance, then fees in lieu are not an option.

Commented [JS44R43]: Payment option added to 11 above

Commented [ES45]: In looking back at Article 7, we should reword Article 7.8.2 (maintenance surety for trees) to require a "warranty period" similar to how I edited Section 8.4 below. See 160D-804.1(4), which is specific to subdivisions, but applies to zoning regulations pursuant to 160D-702(a):

160D-804.1

(4) Coverage. - The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

Per UNC-SOG (see section entitled Completion vs. Maintenance), warranties are ok.
<https://canons.sog.unc.edu/subdivision-performance-guarantees-legislative-changes/>

Note that the statutory references in the article have been replaced with the above 160D references.

Also note, there is a specific allowance for maintenance of stormwater facilities.

Commented [JS46R45]: Section 7.8.2 adjusted for warranty

When reviewing certain subdivisions, the town shall consider the impacts the proposed development will have on public facilities in light of the requirements of Section 6.300(13) and Article 13 and Article 14 of the Town Zoning Ordinance, as applicable. The developer shall demonstrate the proposed subdivision does not adversely affect the health, safety, and welfare of the community, and where applicable, the developer may provide mitigation measures to minimize adverse impacts. Examples of mitigation measures include altering development layout and plans, providing improvements at nearby intersections to address impacts of that development (not existing deficiencies), and providing street connections to adjoining property for safe and efficient movement of traffic, as further provided in Section 6.300(13) and Articles 13 and 14 of the Zoning Ordinance.

6.300 SKETCH PLAN REQUIRED FOR MAJOR SUBDIVISIONS

1. Prior to the filing of an application for approval of a major subdivision Preliminary Plan, a Sketch Plan shall be submitted to the Planning Director and any Designated Administrative Agent for review.

When submitted, this Sketch Plan shall be on a topographical map showing original contours at intervals of not less than four feet highlighting slopes over 25% and existing tree lines. It should show in sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. It should include the following information:

1. the boundary lines of the property being subdivided;
2. water courses on the land to be subdivided;
3. the location, names, and rights-of-way of any existing streets on or within 300 feet of the land to be subdivided;
4. the location of all property lines which intersect the boundaries of the property being subdivided; the zoning district of each adjacent property;
5. rough finished grades, the location of proposed streets, lots, parks or other open spaces, reservations, building lines, street cross-sections, number and type of buildings, and the location of any building restriction flood lines required by Section 7.280;
6. zoning information for the proposed project site;
7. proposed front, rear, and side yard dimensions for each building type along each street type;
8. for projects within a regulated watershed protection area, the location of required buffers and high density option detention, if applicable;
9. the location of general buffers or screens required for the project area, as a whole;
10. the scale of the plan, which shall not be smaller than 100 feet to the inch; north point; date;
11. a small scale vicinity map.
12. information necessary to evaluate the proposed development site for compliance with the water quality standards of Section 8.17 of the Huntersville Zoning Ordinance and the Performance Criteria as detailed in Section 9 of the Huntersville Water Quality Design Manual. Further, the Site Evaluation Tool (SET) output shall be submitted for each proposed development site. Section 9 of the Huntersville Water Quality Design Manual contains detailed information concerning the submission requirements for SET.
13. ~~Adequate Public Facilities Applications; Traffic Impact Assessments; Physical Analysis.~~

~~(a) An Adequate Public Facilities Application for certain subdivisions, as required under Article 13 of the Town Zoning Ordinance, which is hereby incorporated by this reference;~~

~~(b)(a)~~ a Traffic Impact Assessment for certain subdivisions, as required by Article 14 of the Town Zoning Ordinance, which is hereby incorporated by this reference.

~~(e)(b)~~ for developments of twenty (20) or more residential units or equivalent traffic generation a physical analysis (type of units expected, including number of bedrooms,

Commented [ES47]: Caution: 160D-701(replaced 160A-383) has been interpreted to link the requirement of adequate public facilities to land use regulation. However, per David Owens “[a]ssuming the local government has done appropriate planning and analysis to support the decision, it has the legal authority to deny or delay development approvals that would overburden public facilities. A local government cannot, however, use development regulations to mandate payment of impact fees to address inadequate public facilities unless the particular fee involved has been expressly authorized by the General Assembly. While there is latitude for good faith negotiations on public-private cost-sharing and contributions towards the provision of public facilities with development agreements and conditional zoning, any mandatory impact fee must have legislative authorization.” <https://canons.sog.unc.edu/if-we-cant-collect-a-fee-can-we-just-say-no-use-of-impact-fees-and-adequate-public-facility-regulatory-requirements/>

The same analysis likely applies to any mandatory (I note our ordinance says “may provide mitigation measures”) mitigation not in the form of a fee (i.e. construction of improvements) that exceeds our exaction authority set forth within the statutes. The exaction authority is separate and apart from adequate public facilities considerations in 160D-701.

Specifically, 160D-702 (zoning) and 160D-804 (subdivision) limit our exaction authority as interpreted by the Buckland case. Per that case, we cannot require off-site road improvements to be built by the developer based on these two specific statutory grants of authority.

Finally, whereas the Town Charter includes language at Section 8.1 regarding “mitigation,” that mitigation is tied specifically to when “development would cause the level of service to fall below the predetermined level.”

As I believe was previously discussed with Angie, and as was being reviewed by the HOAB, Article 14 of the Zoning Ordinance likely needs to be updated to conform to the above limitations.

projected values, size and timing of phases, etc.).

14. an "Existing Features (Site Analysis) Plan" shall be submitted as part of the sketch plan application in order to determine significant features to be preserved. It is recommended a pre-application meeting with the administrator be held to review the Existing Features Plan prior to submission of the sketch plan. The Existing Features (Site Analysis) Plan analyzes each site's special features, as they form the basis of the design process for open space lands, building locations, street alignments, and lot lines. Detailed requirements for Existing Features Plans at the minimum must include:
 - (a) the location and area calculations of constraining features including wetlands, slopes over 25%, watercourses, intermittent streams and floodways, S.W.I.M. buffers (outside of floodways), watershed buffers, and all rights-of-way and easements (current and future);
 - (b) the location of significant features such as woodlands, tree lines, specimen and heritage trees, open fields or meadows, scenic views into or out of the property, watershed divides and drainage ways; existing structures, cemeteries, roads, tracks and trails; significant wildlife habitat; prime agricultural farmland; historic, archeological and cultural features listed (or eligible to be listed) on national, state or county registers or inventories; and aquifers and their recharge areas;
 - (c) the location of existing or planned utility easements (above and below ground) to include, but not limited to power/transmission, water, sewer, gas, phone, and cable;
 - (d) a topographical map showing original contours at intervals of not less than four feet and existing tree lines;
2. The Existing Features (Site Analysis) Plan shall identify areas to be preserved as described in Section 7.12 of the Huntersville Zoning Ordinance. These areas comprise the development's proposed open space, the location of which shall be consistent with the locational design criteria listed in Section 7.12 of the Huntersville Zoning Ordinance. The Existing Features (Site Analysis) Plan shall form the basis for the conceptual Sketch Plan, which shall show the tentative location of buildings, streets, lot lines and greenway lands in new subdivisions, according to the four-step design process described below.
3. Four-Step Process: **Within the Rural and Transitional zoning district**, each Sketch Plan shall follow a four-step design process as described below. When the conceptual Sketch Plan is submitted, applicants shall be prepared to demonstrate to the town that these four design steps were followed by their site designers in determining the layout of their proposed streets, house lots, and open space.
 - (a) Designating the Open Space: During the first step all potential preservation areas are identified, using the Existing Features (Site Analysis) Plan. Areas to be designated should consist of wetlands, floodways, flood fringe, and significant trees as well as sensitive and noteworthy natural, scenic and cultural resources on the property.
 - (b) Location of House Sites: During the second step, potential house sites are tentatively located. Because the proposed location of houses within each lot represents a significant decision with potential impacts on the ability of the development to meet the evaluation criteria contained in Section 7.13 of the Huntersville Zoning Ordinance, subdivision applicants shall identify tentative house sites on the conceptual Sketch Plan.
 - (c) Street and Lot Layout: The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on both the Primary and Secondary Conservation Areas. To the greatest extent practicable, wetland crossings shall be strongly discouraged.

(d) Lot Lines: The fourth step is simply to draw in the lot lines where applicable.

6.310 SKETCH PLAN NOT REQUIRED FOR MINOR SUBDIVISIONS

A sketch plan shall not be required for a Minor Subdivision.

6.315 SKETCH PLAN NOT REQUIRED FOR CONSERVATION SUBDIVISIONS

To offer property owners an incentive to maintain land in the Open Space zoning district in a largely undeveloped and rural condition, conservation subdivisions as defined in the Huntersville Zoning and Subdivision Ordinances are eligible for a streamlined approval process. Compliance with the requirements below, and with Section 3.2.1(f) of the zoning ordinance, shall entitle the subdivider to choose to divide the property by deed, as a metes and bounds subdivision, or by final plat according to the requirements of subdivision ordinance Section 6.600.

1. Documents prepared by the property owner in association with an authorized conservation organization that have resulted in the grant of an irrevocable conservation easement will be accepted in lieu of the sketch plan requirements of the preceding Sections 6.300 and 6.310.
2. The submitted documents must show that the following conditions have been met:
 - (a) An irrevocable conservation easement held by a conservation organization ~~(as authorized in U.S.C. 170(h), 2055(a) and N.C.G.S. 124-34 et seq.)~~ has been recorded on the tract(s) to be subdivided; documentation of the easement includes a boundary description of the area subject to the conservation easement.
 - (b) Limits on location and extent of land disturbance and building construction have been set out in the conservation easement(s), which at a minimum preserve the rural appearance of the land when viewed from public roads and from abutting properties.
 - (c) Treatment of floodplain(s) and required water quality buffers, as described in the conservation easement(s), conform to the minimum standards of the Huntersville Zoning and Subdivision ordinances.
 - (d) The proposed subdivision conforms to the minimum project size of 40 acres and the maximum gross density of one dwelling unit per 20 acres.
 - (e) All parcels within the conservation subdivision have been provided with permanent access by way of public road frontage or a permanent 20-foot wide access easement that connects to a public right-of-way. Landlocked parcel(s) are not created.
 - (f) Where the parent tract(s) abuts or includes a segment of a thoroughfare that is shown on the adopted thoroughfare plan and for which an engineered alignment has been selected, any right of way reservation required by the subdivision regulations has been made, either by the filing of a deed or the filing of a plat map.

Commented [ES48]: See comment from Article 3 regarding adding a definition to the definition section for conservation easement:

A conservation agreement as defined by N.C.G.S 121-35(1) in the form of an easement.

6.316 SKETCH PLAN NOT REQUIRED FOR EXPEDITED SUBDIVISION REVIEW

A sketch plan shall not be required for divisions of land qualifying for Expedited Subdivision Review.

6.320 REVIEW OF MAJOR SUBDIVISION SKETCH PLAN

1. Upon submission, the Planning Director and any Designated Administrative Agent shall have fifteen (15) working days to review and comment on the Sketch Plan. A technically deficient sketch plan shall be returned to the subdivider with comments once final adjustments are made by the applicant to address staff comments and minimum submission requirements are met, the sketch plan, shall be forwarded by the staff to the Planning Board to place on the Planning Board's agenda for their next scheduled meeting. Mailed notice about the request shall be sent to all owners of property within 250 feet of proposed subdivision prior to the Planning Board meeting. Prior to the Planning Board meeting, the subdivider must file with the

Planning Department a written report of at least one community meeting held by the subdivider. The community meeting shall not be held on regularly scheduled Town Board and Planning Board meeting nights. -Notice of such a meeting shall be given to all of the following using the parcel ownership information listed in the current Mecklenburg County tax records:

- a. Owner of each property petitioned for subdivision
- b. Owner of each abutting property
- c. Owner of each property within 250 feet of the petitioned property
- d. Owner of each property directly across a street, easement, or right-of-way, public or private, from the petitioned property
- e. Owner of each property across a street, easement, or right-of-way, and within 250 feet of the right-of-way boundary opposite the petitioned property
- f. Contact person for each neighborhood association, property owner association, and homeowner association registered with the Town Planning Department that has jurisdiction over property within 2000 feet of any portion of the subdivision site (distance scaled on a Town of Huntersville or Mecklenburg County official map).
- g. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a copy of any materials presented at the meeting, a summary of issues discussed at the meeting, including changes suggested by the participants and a description of any changes to the subdivision petition made by the petitioner as a result of the meeting. In the event the subdivider has not held at least one meeting pursuant to this paragraph, the subdivider shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this paragraph shall be considered by the Town Board but shall not be subject to judicial review.

If, however, a sketch plan shows only minor revisions (see 3.100.11) to a sketch plan or is consistent with or shows minor changes to a conditional zoning district plan(s) approved by the Huntersville Board of Commissioners and remaining in effect on all of the property subject to the sketch plan submittal, then the Planning Director or staff under his direction is authorized to approve the sketch plan, approve with conditions, or deny the plan. Administrative decisions to deny approval of a sketch plan may be appealed to the Huntersville Board of Commissioners.

- .2 Town staff shall prepare a written report setting forth the proposed findings concerning the application's compliance with applicable regulations. If the staff report proposes a finding or conclusion that the application fails to comply with applicable regulations, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.
- .3 Sketch Plan documents shall be submitted in accordance with published review schedules in order to be placed on the applicable Planning Board or Town Board agenda
4. The Planning Board shall have forty-five (45) consecutive days from their first meeting to review and make a recommendation to the Town Board on the Sketch Plan. However, the developer may request one additional regular Planning Board meeting to address any issues raised, subject to approval by the Planning Board. The Planning Board shall report to the Board of Commissioners whether it concurs in whole or in part with the staff's proposed findings, and to the extent there are differences the Planning Board shall propose its own recommendations and the reasons therefore. In response to the Planning Board's recommendations, the applicant may modify his application prior to submission to the Town Board, and the staff may likewise revise its recommendations.
5. A Sketch Plan subdivision hearing will be conducted as a quasi-judicial hearing before the Town Board. The applicant has the burden of producing competent, material, and substantial evidence establishing that the proposed subdivision will comply with all of the applicable standards which apply. The burden of producing competent, material, and substantial evidence establishing the proposed subdivision should be denied for any of the reasons set forth in these regulations rests on the

Commented [ES49]: See above comments regarding quasi-judicial decisions and Planning Board involvement.

party or parties urging that the requested Sketch Plan should be denied. In considering whether to approve an application for a subdivision Sketch Plan, the Town Board shall proceed according to the following format:

- (a) the Board shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the Board that the application is complete;
- (b) the Board shall consider whether the application complies with all of the applicable requirements. ~~If a motion to this effect passes, the Board shall make findings supporting the motion. If such a motion fails or is not made then a motion shall be made that the application be found not in compliance with one or more of the applicable requirements. Such a motion shall specify the particular requirements the application fails to meet.~~ Separate votes may be taken with respect to each requirement not met by the application. ~~It shall be conclusively presumed that the application complies with all requirements not found by the Board to be unsatisfied through this process; and,~~
- ~~(c)~~ If the Town Board concludes that all applicable requirements are met, it shall approve the Sketch Plan. If the Board concludes that the application fails to comply with one (1) or more of the applicable requirements, it shall adopt a motion to deny the application for one (1) or more of the reasons set forth within this ~~o~~Ordinance. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

6.400 PRELIMINARY PLAN REQUIREMENTS

The preliminary subdivision plan must be drawn to the following specifications and must contain or be accompanied by the information listed below. No processing or review of a preliminary plan will proceed without all of the information listed. Detailed standards and specifications for construction of state standard road are contained in the Mecklenburg County Land Development Standards Manual available from the Mecklenburg County Land Use and Environmental Services Agency. For Town ~~s~~Streets, the standards of Article 5 of the Huntersville Zoning Ordinance shall control.

1. The boundary of the area to be subdivided and the location within the area, or contiguous to it, of any existing streets, railroad line, water courses, easements or other significant features of the tract.
2. The location, size, elevations of existing sanitary sewers, storm drains, and culverts within the tract and immediately adjacent thereto.
3. Original contours, including tree lines, shown at intervals of not less than 4 feet for the entire area to be subdivided and extended into adjoining property for a distance of 300 feet at all points where street rights-of-way connect to the adjoining property. These contours shall be referenced to mean sea level datum established by the U.S. Coast and Geodetic survey. Proposed contours for the full width of all street rights-of-way, along open drainage channels and in all other portions of the subdivision where extensive grading is proposed must be shown. These requirements shall not apply where the size of the subdivision and the topography make such information unnecessary.
4. The location of proposed streets, alleys, easements, lots, parks or other open spaces, reservations, other property lines, front build-to lines and rear and side yard dimensions for each lot, street dimensions, tentative building locations, and the location of any building restriction flood lines required by Section 7.280. The location and area calculations of constraining features including wetlands, slopes over 25%, watercourses, intermittent streams and floodways, S.W.I.M. buffers (outside of floodways), watershed buffers, and all rights-of-way and easements (current and future)

5. The location of all proposed storm drains and appurtenances with grades, inverts, and sizes indicated, together with a map of the drainage area or areas tributary to the proposed storm drains, a copy of the data used in determining the sizes of drainage pipes and structures, and the Building Restriction Floodline and Flood Protection Elevation for each lot subject to flooding as defined in Section 7.280.
6. The name of the subdivision; the name and signature of the owner or the owner's duly authorized agent; the name of the surveyor, engineer or designer; the names of proposed streets; the names of adjoining subdivisions or property owners. The name assigned to the subdivision and the names assigned to streets at this time will be used throughout the review and approval process for preliminary and final plats and may not be changed without approval of the Planning Director and or Designated Administrative Agent.
7. The scale of the plan which shall not be smaller than 100 feet to the inch, north point, date.
8. Typical cross sections of internal or abutting streets showing width, sidewalk, and planting details and proposed construction of roadways.
9. Proposed profiles of roadways. Where a proposed street is an extension of an existing street the profile shall be extended to include 300 feet of the existing roadway and storm drains if present and a cross section of the existing street shall be shown. Where a proposed street within the subdivision abuts a tract of land that adjoins the subdivision and where said street may be expected to extend into said adjoining tract of land, the profile shall be extended to include 300 feet of the said adjoining tract.
10. The proposed method of water supply and sewer disposal.
11. A small scale vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
12. The location of any existing LCID landfills on the site and the location of any proposed LCID landfills on the site.
13. A timetable for estimated project completion of the area covered by the preliminary plan.
14. The zoning district(s) in which the project is located.
15. For projects in the Mountain Island Lake Watershed Overlay District, the calculated built-upon area permitted for each building lot, taking into account permanently preserved open space.
16. For subdivisions within which open space is required, a draft of the documents by which irrevocable preservation of open space shall be assured.
17. A Landscape/Preservation Plan is required for all subdivisions. Items to be included on the plan are as follows:
 - (a) Project Name
 - (b) Owner Name
 - (c) Landscape Architect's seal and signature
 - (d) Tree save calculations
 - (e) Tree save areas – must also be shown on all sheets to be included within the Preliminary Plan
 - (f) Street Trees Proposed
 - (g) Additional trees to be planted to meet minimum tree save requirements and appropriate table (if any)
 - (h) Individual residential lot trees and a table showing total amount by lot type

- (i) Internal/Perimeter landscaping for parking lots
 - (j) Landscape easements properly labeled – must also be shown on the site plan and final plat
 - (k) Notes on plan related to maintenance of street trees by individual homeowner or homeowners association – must also be noted on all preliminary plans and final plats to be recorded and documented within the homeowner’s covenants and restrictions.
 - (l) Proposed utilities in relation to tree save areas.
18. Storm Water Permit Application. A Storm Water Permit Application shall be submitted along with preliminary plans for each proposed development. The permit application shall demonstrate compliance with [Section 8.17.6](#), Performance Criteria of the Huntersville Zoning Ordinance, unless otherwise exempted. The storm water permit application shall contain computations, drawings, soil analyses, calculations for each BMP, and overall site hydrology calculations as well as other information sufficient to describe the manner, location, and type of measures for managing storm water from the development in compliance with [Section 8.17.6](#). In addition, the permit application shall specify those parties responsible for long-term maintenance of all BMPs. The Town of Huntersville shall review the permit application to determine compliance with the approved Performance Criteria. Approval of the storm water permit application by the Town of Huntersville is required prior to the initiation of land disturbing activities and said storm water permit application shall serve as the basis for all subsequent construction.

6.500 PROCEDURES FOR APPROVAL

6.510 PRELIMINARY PLAN: SUBMISSION AND APPROVAL

A preliminary plan of the proposed subdivision developed in accordance with the specifications set forth in Section 6.400 must be submitted to the Planning Director or Designated Administrative Agent. The plan must be accompanied by an application in duplicate signed by the owner or his duly authorized agent on application forms to be furnished by the Planning Director or Designated Administrative Agent. At the time of submission, the applicant will be advised as to the number of copies of the plan and related data required in Section 6.400. Application for preliminary plan approval shall be accompanied by the appropriate development review fee(s) as established by ordinance.

The Planning Director or Designee shall have twenty (20) working days to review and comment on the initial preliminary plan. If subsequent corrections or changes to the initial preliminary plan are necessary, the reviewer shall have fifteen (15) working days to review any revised plan. The preliminary plan time limits listed above do not apply to plans for which no sketch plan has been submitted, nor to plans which contain any proposed school, park, greenway, or other public facility for which reservation is required. The applicant may consent to an extension of any of the time limits. Upon determination by the Planning Director or Designee and Town Engineering Department, or such other engineering agent designated by the Town Board to review Subdivision Plans, that the preliminary plan is complete, correct, and in compliance with Section 6.200 as submitted, or has been resubmitted and found complete and correct, the plan is eligible for approval.

If the preliminary plan shows only minor revisions (see 3.100.11) to the approved sketch plan, the Planning Director or staff under his direction is authorized to approve the plan, approve with conditions, or deny the plan. Administrative decisions to deny approval of a preliminary plan may be appealed to the Town Board.

If the preliminary plan includes major revisions (see 3.100.10) to the approved sketch plan, or if a sketch plan has not been submitted and approved by the Town Board, the Planning Director will schedule consideration of the preliminary plan before the Planning Board within 30 working days. Upon receipt of the Planning Board’s recommendation, the Planning Director will, within 30 working days, place the preliminary plan and the Planning Board’s recommendation for approval, denial, or approval with conditions on the agenda of the Town Board. The time limits do not apply to plans for which no sketch

plan has been submitted to the Planning Director, nor to plans which contain any proposed street, school, park, greenway, or other public facility for which reservation may be required. The applicant may consent to an extension of any of the above time limits. Should the Planning Director or Designated Administrative Agent fail to respond within the time limits set out above, the application will be considered recommended for denial.

The Town of Huntersville reserves the right to approve, disapprove in whole or in part, or condition its approval of the whole or any of its parts upon such requirements of this ordinance as may be necessary for the health, safety and general welfare, and to achieve compliance with Section 6.200. If a preliminary plan is disapproved, the Planning Director will furnish a written notice of the denial and the reasons for the denial upon request of the applicant. An administrative disapproval may be ~~appealed~~ taken to the Planning Board and Town Board in accordance with the provisions of Section 4.000.

6.520 EXCEPTIONS: WHEN PRELIMINARY PLAN NOT REQUIRED

The required preliminary plan may be waived by the Planning Director or Designee for subdivisions defined as Minor Subdivisions or divisions of land qualifying for Expedited Subdivision Review in Section 2.100 of these regulations provided:

1. A plat of the tract being subdivided, accompanied by two (2) applications signed by the owner or his duly authorized agent has been filed with the Planning Director or Designee, and the required fee submitted; and
2. The subdivider, has provided topographic information to determine flood elevations whenever the property proposed to be subdivided, or re-subdivided, is traversed by or adjacent to a known watercourse.

The required preliminary plan may also be waived by the Planning Director for those subdivisions, including Limited Subdivisions, which do not involve the dedication of a new street, improvement to or right-of-way for an existing street, or site designated for a future public facility.

However, a final plat must be prepared and recorded as provided in Section 6.600.

6.530 EFFECT OF APPROVAL OF PRELIMINARY PLAN

An approved preliminary plan will be valid for a period of ~~two~~three (23) years from the date of approval. If no work in furtherance of the plan except grading on the site has commenced within the ~~two~~three-year period, the preliminary plan approval will become null and void and a new application will be required to develop the site. If work on the site in furtherance of the plan has commenced, and such work involves any utility installations or street improvements except grading, the plan will remain valid and in force.

6.540 RELEASE OF GRADING PERMIT

Preliminary Plan approval is required for the issuance of a grading permit for any grading work on the site for the installation of any improvements in furtherance of the development. Once the preliminary plan is approved, further approvals under this provision are not required for grading permits for individual sites within the development, so long as grading conforms to the approved Preliminary Plan.

6.550 FINAL PLAT: SUBMISSION AND APPROVAL

Upon approval of the preliminary subdivision plan, the subdivider may proceed to comply with the other requirements of this ordinance, and the preparation of the final subdivision plat. The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plan, provided that all required improvements to any existing or new streets shown on the preliminary plan within the boundaries of the final plat have been provided for or been assured by the posting of a surety as provided for in Section 8.400.3 prior to any final plat approval.

The final subdivision plat must be developed in accordance with the specifications set forth in Section 6.600. The official plat or plats, together with copies thereof sufficient for distribution, shall be presented for approval to the Planning Director or Designated Administrative Agent for review. The plat shall be

accompanied by an application for final plat approval, submitted in duplicate and signed by the owner and/or his duly authorized agent. The reviewer shall have fifteen (15) working days to review and comment on the final plat.

If the final plat for a major subdivision shows only minor revisions (see 3.100.11) to the approved preliminary plan and/or sketch plan, the Planning Director or staff under his direction is authorized to approve the plat.

If the final plat for a major subdivision includes major revisions (see 3.100.10) to the approved preliminary plan and/or sketch plan, the staff's comments along with final plat copies will be forwarded to the staff to the Huntersville Planning Board for Planning Board review at their next scheduled meeting date. The staff to the Planning Board must receive the final plat and staff comments at least fourteen (14) days before the next regularly scheduled meeting of the Planning Board in order to place the final plat on their agenda. If subsequent corrections or changes to the initial final plat are necessary, the reviewer shall have fifteen (15) working days to review any revised plan.

The Planning Board shall recommend approval, disapproval, or approval with conditions of said plat. The final plat and Planning Board recommendation shall within 30 working days be presented to the Town Board, which shall approve, disapprove, or approve with conditions. The Town Board shall approve the final plat if all requirements of this ordinance, including Section 6.200, have been met.

The Planning Director or staff under his direction is authorized to approve final plats of minor subdivisions and limited subdivisions which meet all the requirements of this ordinance, including Section 6.200. If the Planning Director determines that the final plat fails to meet any of the requirements of Section 6.200, or that the manner in which the tract is proposed for subdivision significantly affects the implementation of adopted public plans or policies, the Planning Director shall present the final plat to the Planning Board for recommendation and to the Town Board for approval, approval with conditions, or disapproval, in the manner provided in this section. For Limited Subdivisions the owner shall be required to plat only the parcel to be transferred or leased and only that parcel shall be subject to the requirements of this ordinance. If a final plat is disapproved, the Planning Director will furnish a written notice of the denial and the reasons for the denial upon request of the applicant. An administrative disapproval may be taken to the Planning Board and Town Board in accordance with the provisions of Section 4.000.

Upon approval, the final plat will be noted approved and made available to applicant for recordation in the Office of the Register of Deeds for Mecklenburg County, North Carolina, which such Register of Deeds is authorized to accept the plat for recordation.

6.600 FINAL PLAT REQUIREMENTS

The final plat will be prepared by a registered surveyor and must be drawn to scale not smaller than 100 feet equal 1 inch, and must contain the following information:

1. The exact boundary of the tract of land being subdivided, showing clearly the disposition of all portions of the tract.
2. The lines and names of all streets, alley lines, lot lines, lot and block numbers, front build-to line and side and rear yard dimensions for each lot, easements, reservations, and areas dedicated to public purposes with notes stating their purposes. In addition, on-site LCID landfills must be shown on the final plat and on deed(s) for affected lot(s). Also, the plat for all lots subject to flooding shall include a statement as follows: "This lot is subject to flooding during heavy rainfall and the construction of buildings or structures below the flood protection elevation of _____ is prohibited", as further described by Section 7.200 of this ordinance. Plats for multiple lots may include the flood protection elevations in tabular form.

In areas where the floodway regulations are applicable, the following statement shall be inscribed on the plat:

"Any construction or use within the areas delineated by floodway fringe district boundary line and floodway district encroachment line is subject to the restrictions imposed by Floodway Regulations."

For subdivisions within which open space is required, a designation on the plat denoting the area of preservation and the limitations on its use and a reference to the recorded documents by which irrevocable preservation of open space shall be assured. A copy of such documents shall also be provided to the Planning Department.

Any amendment to a previously approved final plat must note in writing on the amended plat the nature and extent of the changes and the deed or plat book and page number where previously recorded.

3. Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, building line, easements required hereunder or of record in Mecklenburg County or ascertainable by physical inspection of the property, and boundary lines of reserved or dedicated areas. All linear dimensions shall be in feet and hundredths thereof. The maximum allowable error of linear closure shall not be in excess of 1: 10,000. In closed traverses the sum of the measured angles shall vary with the theoretical sum by a difference not greater than an average of 7.5 seconds per angle, or the sum of the total shall not differ from the theoretical sum by more than 90 seconds, whichever is smaller.
4. Sufficient data to determine readily and reproduce accurately on the ground the location and extent of rural and/or urban open space to be preserved, the method of preservation, and any limits on use. In addition, the subdivider shall provide to the Huntersville Planning Staff a copy of any covenants and restrictions governing disposition and use of preserved open space.
5. ^{“as built”}“As built” drawings and plans of all water system, sewer system, and storm drainage system facilities. Such plans should show all easements and rights-of-way to demonstrate that the facilities are properly placed. These drawings need not be placed on the final plat but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.
6. “As built” cross-sections of each town street type used in the development. Such cross-sections should show improvements in the public rights-of-way and in any easement associated with the detail of the street. Features to be shown will usually include: travel lanes, parking lanes (if any), curb and gutter (or ditch), planting strip, sidewalk, utility allocation. These drawings need not be placed on the final plat, but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.
7. For projects in the Mountain Island Lake or Lake Norman Watershed Overlay Districts, the calculated built-upon area permitted for each building lot, taking into account permanently preserved open space.
8. The name of the township in which the subdivision is located, the name of the subdivision, the zoning district, the name of the owner, the name, registration number and seal of the registered surveyor under whose supervision the plat was prepared, the date of the plat and north point, with indication of whether the north point is true, magnetic, or grid, and a small vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
9. Control corners and permanent markers with adequate and sufficient description to enable a surveyor to locate such control corners or markers shall be shown on the plat. One or more corners shall be designated as control corners, and shall establish two or more street center lines or offset lines within or on the street right-of-way lines to be permanently monumented at intersecting center line or offset lines, points of curvature or such other control points, which monuments shall also be designated as control corners. In addition to the above, control corners must be established along the rear property lines of lots with a minimum of two (2) per block located along a common line. Coordinates must be computed from North Carolina Plane Rectangular Coordinate System and the City of Charlotte Primary Control System monuments, as extended therefrom, provided such a control monument is within two thousand (2,000) feet of the subdivision. Design and material of the concrete monument must be in

accordance with the standard detail contained in the [Mecklenburg County Land Development Standards Manual](#). The corners of all lots and parcels must be marked with iron pins driven flush with the ground. The iron pins must be placed where lot boundaries intersect railroad and public street rights-of-way.

Commented [JS50]: Clarify applicable manual

10. The following signed certificates (lettered or stamped) shall appear on each copy of the final plat submitted by the subdivider:

(a) Certificate of Ownership and Dedication:

I hereby certify that I am the owner of the property shown and described hereon and that I hereby adopt this plan of subdivision with my free consent, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I dedicate all sewer lines and all water lines to the Charlotte-Mecklenburg Utility Department, if applicable.

Date	Owner(s)
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Final written approval by the Planning Director or staff under his direction must be entered on the plat for recording. Changes or amendments to an approved final plat which already bears the written approval prior to recording the plat constitutes a violation of this ordinance. A copy of the sealed and recorded final plat must be delivered to the Huntersville Planning Department within 5 days of recording.

11. The exact boundary of all water quality best management practices shall be shown on final plats prepared by a registered surveyor. Final plats shall contain the following statement: "This lot contains a water quality feature that must be maintained in accordance with the recorded Maintenance Covenant as specified in Section 8.17.21(a) of the Huntersville Zoning Ordinance."

6.700 PLATS ALREADY ESTABLISHED BY SURVEY AND RECORD

Plats already established by survey and recorded in the Mecklenburg County Register of Deeds prior to the effective date of this ordinance will be eligible for development and other administrative permits without complying with the requirements of this ordinance, but must be developed in accordance with the provisions of the subdivision ordinance in effect at the time of the approval.

A subdivision for which a preliminary plan has been approved but for which a final plat has not been recorded in the Mecklenburg County Register of Deeds prior to November 1, 1989 shall be approved for recording without complying with the requirements of this ordinance if final plats conform to the requirements of the subdivision ordinance in effect at the time of preliminary plan approval. Such subdivision will be inspected and must be developed in accordance with the provisions of the subdivision ordinance in effect at the time of preliminary plan approval.

6.800 MULTI-BUILDING SITES

The following requirements will apply for the preparation, submission, and approval of preliminary site plans for both residential and non-residential developments with more than one principal building on a single lot.

6.810 PRE-APPLICATION CONFERENCE

A pre-preliminary site plan conference will be arranged by the developer with both the Planning Staff and any other Designated Administrative Agent prior to the submission of a preliminary site plan for a multi-building site.

6.820 PRELIMINARY PLAN REQUIREMENTS

A developer must submit to the Planning Director or Designee a preliminary site plan and supplemental documents for review and approval. The preliminary site plan must be prepared in accordance with the requirements of Section 6.400 and must include the following additional information:

1. The use, approximate height, bulk, and location of all buildings and structures.
2. All proposed land uses and, for residential development, the densities of dwelling units.
3. In the case of plans which call for development over a period of years, a schedule showing the time within which application for final approval of all parts of the development are intended to be filed.
4. The proposed location, use, improvements, ownership, and manner of maintenance of common open space areas.
5. Final drafts of legal documents dedicating and restricting the common areas and establishing the means of common area ownership and maintenance.
6. Proposed off-street parking and circulation plan showing the location and arrangement of parking spaces and any driveways for ingress and egress to and from adjacent streets and highways.

6.830 PRELIMINARY PLAN REVIEW CRITERIA

The Planning Director or employees under his or her direction will review the preliminary site plan to insure conformance with the requirements of the zoning ordinance. The Planning Director or Designated Administrative Agent will review the preliminary site plan to insure conformance with the requirements of this ordinance. In addition, the multi-building site will be evaluated on the standards listed below.

1. The character, amount and arrangement of open space areas will adequately serve the needs of residential or non-residential occupants.
2. Proposed means of dedication, ownership, and maintenance of all common areas, the restrictions on its uses, and the organization and authority of such associations as may be established for ownership and maintenance of common areas will assure the continuance of such space for its designed purpose.
3. Site planning for the overall development will provide protection of the development from potentially adverse surrounding influences and protection of surrounding areas from potentially adverse influences within the development.
4. The terms and conditions proposed for development over a period of years are sufficient to protect the interests of the public and the occupants of the development.

6.840 PRELIMINARY PLAN APPROVAL AND FINAL PLAT

The Planning Director or staff under his direction is authorized to approve, approve with conditions, or disapprove the preliminary site plan for a multi-building site which adheres to or shows only minor revisions (Section 3.100.11) to:

- (1) an approved parallel conditional district or overlay district zoning plan which specifies the location of open space, edge conditions, approximate location of buildings, internal circulation, and relationship to public streets; or
- (2) a sketch- plan which has been reviewed by the Planning Board and approved by the Town Board in accordance with Section 6.300f.

For multi-building sites which do not adhere to a detailed approved plan as described in (1) or (2) above, the Planning Board will recommend and the Town Board will take action to approve, tentatively approve with conditions, or deny the preliminary site plan. When granted tentative approval with conditions, the developer must submit a revised plan that is in conformance with those conditions. If a preliminary site plan is disapproved, the Planning Director will furnish a written notice of the denial and the reasons for the denial upon request of the applicant.

The final plat for a multi-building site or innovative housing development shall be prepared in accordance with the requirements of Section 6.600 and shall contain the following additional information:

- (a) The use, height, bulk, and location of all buildings and structures;
- (b) All land uses;
- (c) The location, use, improvements, ownership, and manner of maintenance for all open space and for all common areas.

The Planning Director or staff under his direction is authorized to approve, approve with conditions, or disapprove the final plat for a multi-building site which adheres to or shows only minor revisions (3.100.11) to an approved preliminary plan. If the final plat includes major revisions to the approved preliminary plan, it will be placed on the agendas of the Planning Board for recommendation and the Town Board for approval, approval with conditions, or disapproval.

An administrative disapproval may be ~~taken-appealed~~ to the Planning Board and Town Board in accordance with the provisions of Section 4.000.

6.850 ADEQUATE PUBLIC FACILITIES AND TRAFFIC IMPACT ASSESSMENTS ANALYSIS

Where required, an ~~Adequate Public Facilities Application and~~ Traffic Impact ~~Analysis~~ ~~assessment~~ shall be provided by the applicant, in accordance with Articles ~~13 and~~ 14 of the Town Zoning Ordinance, which are incorporated by this reference.

7.000 SUBDIVISION DEVELOPMENT REQUIREMENTS.

7.100 DESIGN STANDARDS FOR STREETS

Detailed construction standards and specifications for state standard streets are contained in the Mecklenburg County Land Development Standards Manual. For Town Streets, the standards of Article 5 of the Huntersville Zoning Ordinance and the Huntersville Land Development Standards Manual shall control.

Commented [JS51]: Applicable manual

Commented [JS52]: Applicable manual

7.110 RIGHT-OF-WAY

1. On proposed streets, right-of-way must be of sufficient width to accommodate the required cross section. However, in no case will the dedicated and/or reserved right-of-way be proposed to be less than the standards below. The Town Board, on the advice of the Town Engineer or their designee or other designated consulting engineer, may certify that special circumstances exist which make the dedication and/or reservation of the full right-of-way unnecessary or impractical.

Minimum R.O.W. by Street Classification

Street Type	Feet
Freeway or Expressway	250-350
Boulevard	<u>100-200</u>
Other Major Thoroughfare	<u>100-150</u>
	<u>70-120</u>
Minor Thoroughfare	70- <u>100</u>
Town Streets (Collector, Local, Alley)	Varies according to the standards of Article 5 of the Huntersville Zoning Ordinance and Town's Engineering Standards and Procedures Manual.

Commented [ES53]: May need to be updated per Stephen's recent comment

Commented [JS54]: Changes for consistency with Zoning Ordinance and Comprehensive Transportation Plan

These street types (above) are consistent with the Comprehensive Transportation Plan (CTP)-Highway Map (as adopted by the Charlotte Regional Transportation Planning Organization (CRTPO)) and the Town Engineering Standards and Procedures Manual. These standards represent the normally required rights-of-way for highways designated on the CTP. These widths may be modified by contextual

design, environmental impact studies, or other adopted planning documents. Additional right-of-way may be necessary in the area of interchanges, intersections, cut/fill areas, or areas where horizontal or vertical alignments must be improved and will be determined on a case-by-case basis.

2. Along existing streets, neither right-of-way dedication nor reservation is required unless:

- (a) an existing street has a right-of-way less than 60 feet wide and will provide access to the subdivision, in which case a right-of-way up to 30 feet on each side of the centerline may be required to be dedicated; or
- (b) an existing street will provide access to the subdivision and volume of traffic projected to be generated by the subdivision necessitates intersection and/or other improvement(s), in which case dedication of right-of-way sufficient for the subdivision developer to make intersection and/or other improvements to serve said subdivision may be required.

The Town Board, after consulting applicable plans and programs and after consulting with appropriate county, state, and/or federal officials, is responsible for classifying streets or segments thereof within the zoning and subdivision jurisdiction of the Town of Huntersville.

7.120 FREEWAYS/EXPRESSWAYS (NEW)

Whenever a tract of land to be subdivided includes any part of the right-of-way of a planned freeway or extension of a freeway, as shown on the adopted [Thoroughfare-Comprehensive Transportation Plan](#), and whenever such a right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, the right-of-way for the freeway must be reserved, platted in the location and to the width specified in the plan, and remain undeveloped pending future acquisition by the state or other governmental unit. The subdivider is responsible for the reservation of the right-of-way in accordance with the provisions of Section 8.110, Improvement Responsibility. The entire right-of-way must be shown as such on the final plat. All measurements involving minimum lot standards under this ordinance and under the zoning ordinance will be made at the edge of the full right-of-way. Right-of-way that is dedicated by the subdivider will count toward the transfer of development rights in accordance with Section 7.135.

7.130 ARTERIAL STREET RIGHT-OF-WAY (NEW STREETS)

Whenever a tract of land to be subdivided includes any part of a planned arterial or extension of an existing arterial street shown on the adopted [Thoroughfare-Comprehensive Transportation Plan](#), and whenever a right-of-way for such a street has been further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the arterial street must be platted in the location and to the width specified in the plan. The subdivider is responsible for the dedication and/or reservation of the right-of-way in accordance with the provisions of Section 8.110, Improvement Responsibility. The entire right-of-way (that which has been reserved and that which has been dedicated) must be shown as such on the final plat. All measurements involving minimum lot standards under this ordinance and under the zoning ordinance will be made at the edge of the full right-of-way. Arterial Street right-of-way that is dedicated by the subdivider will count toward the transfer of development rights in accordance with Section 7.135.

7.135 TRANSFER OF DEVELOPMENT RIGHTS —R/W DEDICATION

All of the area dedicated by the developer as right-of-way for any public street may be used in the computation of development rights, but may not be used for the computation of lot area or open space, or fulfill storm water detention, or any other mandatory requirement. On-street parking which is planned, provided for, and approved will, however, be applied to the mandatory parking requirement. A developer may choose to dedicate the full right-of-way and thereby use the entire dedicated area for the density calculation.

7.150 CUL-DE-SAC

Cul-de-sacs (streets designed to be permanently closed at one end), may not be longer than 350 feet and must be terminated by a vehicular turnaround design as accepted by the Town Engineering Department;

provided, however, that this requirement may be waived where topographical or other unusual conditions exist.

7.170 STREET OFF-SETS

Where there is an offset in the alignment of a street across an intersection, the offset of the centerlines should not be less than 300 feet for arterials. Offsets for other street types will be determined based upon projected traffic volumes and the applicability of traffic calming measures.

7.180 BLOCK LENGTHS AND WIDTHS

Block lengths may generally not exceed ~~500 feet~~ the standards established in Article 5 of the Zoning Ordinance, except as hereinafter provided. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where longer blocks will result in an arrangement of lots and public space more consistent with Articles 5 and 7 of the Huntersville Zoning Ordinance, the Town Board may authorize greater block lengths.

Commented [JS55]: Consistent with Article 5

7.200 DESIGN STANDARDS FOR LOTS

7.210 FRONTAGE ON STREET

Each lot must have frontage on a street, but with the following exceptions:

- .1 Any lot for which a residential use has been legally established prior to the effective date of this ordinance in accordance with ~~provisions of Section 8.1.1 of the Zoning Ordinance~~ permitting establishment of use on a lot served by a private and exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement.
- .2 Any lot for which a non-residential use has been legally established prior to the effective date of this ordinance in accordance with provisions permitting establishment of use on a lot served by a private, exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be construed in the same manner as a lot abutting a street provided that it is served with a driveway built to appropriate standards located on the permanent, recorded easement.
- .3 Up to six residential lots may be served by a privately maintained easement with a minimum ~~30-foot~~ right-of-way ~~if~~ designed according to the specifications of the Rural (R) and Transitional Residential (TR) Districts' Farmhouse Cluster development (Section 3.2.1(e) & Section 3.2.2(e)). Any lots created pursuant to Section 3.2.1(f) & Section 3.2.2(f), Conservation Subdivision, may also be served by a privately maintained easement with a minimum 20-foot right-of-way.
- .4 A site specific development plan may be considered for approval in the TC, NC, NR, OPS, and TND-O districts where residential and/or non-residential structures front upon a private courtyard, carriageway, or pedestrian way, where adequate access by emergency vehicles is maintained by way of a rear alley and where the off-street placement of uses does not diminish the orientation of building fronts on the public street.
- .5 A site-specific development plan may be considered for approval in the Campus Institutional and Corporate Business Districts to permit interior lot access by private drives so long as business and emergency access is furnished to all interior building sites, and proposed buildings at the perimeter of the campus and corporate development front upon public street(s) or are buffered in accordance with this ordinance. It is intended that subdivisions be primarily served by public streets and use of private drives is minimal. Private drives may be appropriate where property configuration or environmental constraints make their use a practical alternative. Private drives shall be constructed in accordance with Mixed Use/Retail and Industrial Street Standards as found in the Engineering Standards and Procedures Manual and sidewalks shall be provided on at least one side of the private drive. See the Campus and Corporate Business Districts.
- .6 To access a lot or lots in the Highway Commercial District, where factors beyond developer control, such as a limited access highway, an existing development, or the location of an existing intersection,

Commented [ES56]: Provide the specific reference referring to (8.1.1 of Zoning Ordinance)

Commented [JS57]: Consistent with Farmhouse Cluster regulations in Zoning Ordinance.

prohibit completing a street connection, a private drive may be substituted for the interior street which cannot be connected to the public network.

7.220 SIDE LINES

Side lot lines shall, as nearly as practicable, be at right angles or radial to street lines. Where side lot lines intersect at the rear of the lot, the angle of intersection shall not be less than 60 degrees. The requirement of this paragraph shall not be applicable to lots in Conservation Subdivisions.

7.230 LOT SIZES

Lot dimensions and yard dimensions are controlled by the Huntersville Zoning Ordinance.

7.240 BUILDING LINES

Building lines shall be established on all lots in residential subdivisions and shall be determined on the basis of zoning district and classification of any abutting streets, existing or planned, in accordance with Section 8.15 of the Huntersville Zoning Ordinance.

7.270 DRIVEWAY CONNECTIONS

Prior to the construction of any driveway or other connection within the right-of-way of a public street, a permit must be secured from the North Carolina Department of Transportation or the Town of Huntersville, for a state or a local road respectively. However, in a residential major subdivision, access to individual lots from streets constructed as part of the subdivision shall be reviewed and approved at the time each building permit is issued and individual driveway permits will not be required on a lot by lot basis.

7.280 LOTS SUBJECT TO FLOODING

The Land Use and Environmental Services Agency (LUESA) will determine which lots are subject to significant flooding, which will include those lots along any significant water course, whether or not the stream is enclosed with pipes or culverts, and may also include areas where it can reasonably be expected that significant overland flow of stormwater or flooding will occur. If any part of a proposed lot is subject to flooding, subdivider shall make a determination of the crest elevation of the 1% annual chance flood level (the "100-year flood") in accordance with generally accepted engineering practice, which is to be submitted with the seal and signature of a professional engineer to Town Engineering Department. This determination must reflect the actual conditions imposed by the completed subdivision and must give due consideration to the effects of urbanization and obstructions.

No proposed building lot that is wholly or partly subject to flooding shall be approved unless there is established on the final plat a line representing an actual contour, as determined by field survey, at an elevation one foot above the 100-year flood crest. Such line shall be known and identified on the final plat as the "Storm Water Elevation Line" (SWEL). In addition, a "Storm Water Protection Elevation" for each lot subject to flooding shall be noted on the lot plan as determined by LUESA staff based on the "Storm Water Elevation Line" (SWEL), or for lots upstream of street crossings, the low elevation of the street plus one foot, whichever is greater.

All habitable buildings or structures shall be located outside the "Storm Water Elevation Line", or the lowest usable and functional part of the structure shall not be below the Storm Water Protection Elevation. "Usable and functional part of the structure" shall be defined as being inclusive of living areas, basements, sunken dens, basement utility rooms, crawlspaces, attached carports, and mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits and wiring, but shall not include water lines or sanitary sewer traps, piping and clean-outs; provided, openings serving the structure are above the Storm Water Protection Elevation.

Where only a portion of a proposed lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a usable lot area of not less than 1200 square feet. The usable

Commented [JS58]: Staff sent ordinance to Mecklenburg County staff responsible for administering the flood prevention regulations to see if any changes were needed. They have not indicated to us that changes need to be made.

lot area shall be determined by deducting from the total lot area the area of all yards and setbacks required by the applicable zoning district regulations and any remaining area of the lot lying below the Storm Water Elevation Line.

During the construction of a subdivision, the developer shall maintain the streambed of each stream, creek or backwash channel contiguous to the subdivision in an unobstructed state and shall remove from the channel and bank of the stream all debris resulting from the land development process, including logs, timber, junk and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course. Installation of appropriately sized stormwater drains, culverts, bridges or erosion control devices will not be construed as obstructions in the stream. In areas of the county that are covered by the provisions of the Floodway Regulations, the Floodway Regulations will supersede the provisions of this ordinance regarding land within the Community and FEMA Special Flood Hazard Areas.

7.290 LOTS WITHIN THE MOUNTAIN ISLAND LAKE WATERSHED PROTECTION AREA

The purpose of the Mountain Island Lake Watershed Protection Area is to provide for the protection of public water supplies as required by the North Carolina Water Supply Watershed Protection Act and regulations promulgated thereafter.

Mountain Island Lake Watershed Protection Area is that area within Mecklenburg County which contributes surface drainage into Mountain Island Lake and which is bounded as follows: Beginning at the Mountain Island Lake Dam on the Catawba River and proceeding along the ridgeline in an easterly direction to Rozzelle's Ferry Road and proceeding thence in a south easterly direction, along Rozzelle's Ferry Road to the intersection of Mt. Holly-Huntersville Road, and thence proceeding along Mt. Holly-Huntersville Road in a northeasterly direction to the intersection of Hambright Road and thence proceeding in an easterly direction along Hambright Road to N.C. 115 and thence proceeding in a northerly direction along N.C. 115 to the intersection of N.C. 73 and thence in a westerly-southwesterly direction along N.C. 73 to the Lake Norman Dam and thence proceeding in a southerly direction along the Catawba River to the beginning point.

A map showing the Mountain Island Lake Watershed Protection Area and the subareas CA1, CA2, CA3, CA4, PA1, PA2, and PA3 is incorporated ~~herein as Appendix A~~ [into the Official Zoning Map](#). In any event of any difference or inconsistency between the areas as depicted on the map and the definition, the map or definition which describes or depicts the greater geographical area shall control. Should these subareas be more specifically defined in the Huntersville Zoning Ordinance by use of major landmarks such as roads and property lines to adjust the subarea boundaries, the subarea boundaries as described in the Zoning Ordinance shall control over those described in this ordinance.

1. EXCEPTIONS TO APPLICABILITY.

- (a) Existing development, as defined in this section, is not subject to the requirements of the Mountain Island Lake Watershed Overlay District.
- (b) An existing lot owned prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes subject only to the buffer requirements of sub-sections 3. or 4. of this section, whichever is applicable; however, this exemption is not applicable to multiple contiguous lots under single ownership.
- (c) Existing public utilities may expand without being subject to the restrictions of this part provided that:
 - (i) Such expansion complies with all applicable laws of the State of North Carolina and the United States of America; and
 - (ii) Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

2. DEFINITIONS.

For the purpose of this section the following terms will have the definitions indicated below.

BMP's. *Best Management Practices.*

A structural or non-structural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

Non-structural BMP's.

Non-engineered methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

Structural BMP's.

Engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply. Structural BMPs allowed for use under the High Density Option are those which have been approved by the North Carolina Division of Water Quality and Mecklenburg County. These are wet detention ponds, extended dry detention ponds, and grass swales.

Buffer.

A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized, and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Built-upon Area (*Bb. Uu.*).

Built-upon areas shall include that portion of a development project and/or lots that are covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), etc. (NOTE: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

Critical Area.

The area adjacent to a water supply intake where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area of the Mountain Island Lake Watershed Protection Area is divided into four subareas as follows:

CA1 - Lower Gar Creek.

From normal pool elevation of Mountain Island Lake extending up Gar Creek to Beatties Ford Road and to approximately the ridgeline along the north side of Gar Creek and to Mt. Holly-Huntersville Road on the south side of Gar Creek.

CA2 - Upper Gar Creek.

From Beatties Ford Road upstream along Gar Creek to the limits of the Gar Creek drainage basin and to approximately the ridgeline along either side of Gar Creek.

CA3 - McDowell Creek.

From normal pool elevation of Mountain Island Lake extending one mile upstream on McDowell Creek and to approximately the ridgeline along either side of McDowell Creek.

CA4 - Lake Front.

Commented [ES59]: Should make sure that the definitions in this section do not conflict with those in 160D-102 and/or the Zoning Ordinance

Commented [ES60]: The short cite/acronym for BMPs should not have an apostrophe

Extending landward one half mile from normal pool elevation along Mountain Island Lake and the Catawba River between Cowan's Ford Dam and Mountain Island Lake Dam.

Discharging Landfill.

A landfill which discharges treated leachate and which requires a National Pollution Discharge Elimination System (NPDES) permit.

Existing Development.

Existing development, as defined for the purpose of this section, means projects that are built or projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of the amendment incorporating [Section 7.290 Water Supply Watershed Regulations](#) into the Huntersville Subdivision Ordinance based on at least one of the following criteria:

- (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
- (2) Having an outstanding valid building permit; or
- (3) Having an approved site specific or phased development plan under the provisions of Section 2.2.2 of the Huntersville Zoning Ordinance.

Nonconforming Lot of Record.

A lot described by a plat or added that was recorded prior to the effective date of this ordinance (or its amendments) that does not meet the minimum lot size or other development requirements of this ordinance.

Normal Pool Elevation.

The Mountain Island Lake normal pool elevation which is at contour interval 648 feet above the Mean Sea Level, United States Geological Survey (U.S.G.S.) Datum.

Perennial Stream.

A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions. They are identified on United States Geological Survey Quadrangle Maps by solid blue lines.

Protected Area.

The area adjoining and upstream of the Critical Areas and encompassing the remainder of the watershed where risk of water quality degradation from pollution is less than in the Critical Area. The Protected Area is divided into three subareas as follows:

PA1

The area extending from the outer limits of the critical areas to five hydrologic miles from the normal pool elevation and draining to Mountain Island Lake.

PA2

The area extending from the outer limit of the PA1 area where it intersects with N.C. 73 and running in a north-northeasterly direction along N.C. 73 to the intersection of I-77 and thence proceeding in a southerly direction along I-77 to the intersection of Gilead Road and thence in an easterly direction along Gilead Road to the intersection of N.C. 115 and thence in a southerly direction along N.C. 115 to the intersection of Hambright Road and thence in a westerly direction along Hambright Road to the intersection of Mt. Holly-Huntersville Road and thence in a northwesterly direction along the outer limits of the CA2 and PA1 areas to the beginning point.

Commented [JS61]: Consistent with Zoning Ordinance

PA3

The area extending from the outer limits of the PA2 area to the limits of the Mountain Island Lake Watershed.

Septic Tank System.

A ground absorption sewage disposal system consisting of a holding or settling tank and a ground absorption field.

Watershed.

The entire land area contributing surface drainage into a stream, creek, lake or other body of water.

Water Dependent Structures.

Those structures for which the use requires access or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads and similar structures. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

3. CRITICAL AREA DEVELOPMENT STANDARDS.

Only development activities that require an erosion/ sedimentation control plan under Mecklenburg County regulations, as may be amended from time to time, are required to meet the development standards of [this](#) ~~sub~~Section 7.290.3 of this ordinance.

Commented [JS62]: Insert proper reference.

For individual buildings or for development projects within the Critical Areas, the following **impervious area limitations** are established on a building or project basis, respectively:

CA1	6% B.U. ¹
CA2	12% B.U. ¹
CA3	12% B.U. ¹
CA4	24% B.U. ¹

- 1 Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but in no case less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant**

Vegetative buffers are required in the Critical Areas along the shoreline of Mountain Island Lake, measured from the normal pool elevation, and along all perennial streams, measured from the bank on each side of the stream.

CA1	100 feet or 100 year flood plain boundary, whichever is greater
CA2	100 feet or 100 year flood plain boundary, whichever is greater
CA3	100 feet or 100 year flood plain boundary, whichever is greater
CA4 (lake shore)	100 feet

No permanent structures, impervious covers, septic tank systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:

- a. No trees larger than 2 inch caliper are to be removed except for dead or diseased trees. Undergrowth and trees less than 2 inch caliper may be removed to be replaced by an effective stabilization and filtering ground cover based upon Mecklenburg County [Environmental Protection Department Water Quality Program](#) guidelines and as approved on a plan submitted to the Mecklenburg County [Environmental Protection Department Water Quality Program](#).
- b. Streambank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the Mecklenburg County [Environmental Protection Department Water Quality Program](#).
- c. Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural BMP's and pervious materials.
- d. The Town can require enhancement of the existing vegetation in the buffer if necessary so that the buffer can effectively perform its filtering and absorption functions based on [Mecklenburg County Environmental Protection Department guidelines the most recent edition of the "Watershed Buffer Guidelines for Mecklenburg County, NC"](#).

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Commented [JS64]: Correct citation

[Cluster Development](#) is allowed within the Critical Area.

4. PROTECTED AREA DEVELOPMENT STANDARDS.

Commented [JS65]: Cluster development no longer an option

Only development activities that require an erosion/sedimentation control plan under the Town of Huntersville regulations, as may be amended from time to time, are required to meet the development standards of Section 7.290.4 of this ordinance.

For individual buildings or for development projects within Protected Areas 1 and 2, the following **impervious area limitations** are established on a building or project basis, respectively:

PA1 and PA2, low density option	24% B.U. with curb and gutter streets ¹ 36% B.U. without curb and gutter streets ¹
PA1 and PA2, high density option, where permitted**	70% B.U. with BMP

¹ Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but in no case less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant

Vegetative buffers are required in the Protected Areas along all perennial streams, measured from the bank on each side of the stream.

** STRUCTURAL BMP'S. Wet detention ponds, or alternative stormwater management measures limited to extended dry detention ponds and grass swales, are required where the High Density Option is permitted within the Protected Area. Other types of Structural BMP's may also be required.

PA1, low density option	50 feet
PA2, low density option	30 feet; 50 feet for agricultural uses

PA1, high density option	100 feet
PA2, high density option	100 feet

In the PA1 and PA2 subareas non-impervious recreational development and non-impervious pedestrian trails may be allowed in the required buffer if located a minimum of 30 feet from the stream bank.

~~Cluster development is allowed within the Protected Area.~~

High density option is permitted in subareas PA1 and PA2.

Commented [JS66]: Cluster development no longer an option

5. POSTING OF FINANCIAL SECURITY REQUIRED

When Structural BMP's (wet detention ponds and all other BMP's) are required under the High Density Option, the approval of the High Density Development Permit will be subject to developer compliance with Section 8.400 of the Huntersville Subdivision Ordinance.

7.295 LOTS WITHIN THE LAKE NORMAN WATERSHED PROTECTION AREA

The purpose of the Lake Norman Watershed Overlay District is to provide for the protection of public water supplies as required by the North Carolina Water Supply Watershed Protection Act and regulations promulgated thereafter.

The Lake Norman Watershed Protection Area is that area within the jurisdiction of the Town of Huntersville which contributes surface drainage into that portion of the Catawba River known as Lake Norman and its tributaries. The Lake Norman Watershed Protection area is specifically defined on the Huntersville Zoning Maps with the designation LN-O (Lake Norman Overlay District).

1. EXCEPTIONS TO APPLICABILITY.

- (a) Existing development, as defined in Section 7.290, sub-section 2., is not subject to the requirements of the Lake Norman Watershed Overlay District.
- (b) An existing lot owned prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes subject only to the buffer requirements of sub-section 3. of this section; however this exemption is not applicable to multiple contiguous lots under single ownership.
- (c) Existing public utilities may expand without being subject to the restrictions of this part provided that:
 - (i) Such expansion complies with all applicable laws of the State of North Carolina and the United States of America; and
 - (ii) Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

2. DEFINITIONS.

The definitions below supplement the definitions of section 7.290, sub-section 2.

Lake Norman Watershed Critical Area

The Lake Norman Critical Area is defined as the land area which begins at the normal pool elevation of Lake Norman and extends one-half mile inland or to the ridgeline, whichever is closest, as shown more specifically on the Huntersville Zoning Maps.

Lake Norman Normal Pool Elevation

The Lake Norman normal pool elevation, which is at contour interval 760 feet above Mean Sea Level, as determined by United States Geological Survey (U.S.G.S.) Datum.

3. LAKE NORMAN CRITICAL AREA DEVELOPMENT STANDARDS

Only development activities that require an erosion/sedimentation control plan under the Town of Huntersville regulations, as may be amended from time to time, are required to meet the development standards of [this Subsection. 7.295.3 of this ordinance.](#)

For individual buildings or for development projects within the Lake Norman Watershed Critical Area, the following impervious area limitations are established on a building or project basis, respectively:

CA, low density option	24% B.U. ¹
CA, high density option	50% B.U. with Structural BMP ¹

¹ **Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but not less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant**

Vegetative buffers are required along the shoreline of Lake Norman measured from the normal pool elevation and along each side of all perennial streams measured from the top of stream bank. Minimum buffer widths are:

CA, low density option	50 feet
CA, high density option	100 feet

No permanent structures, impervious covers, septic tank systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:

1) a. ~~No trees larger than 2-inch caliper are to be removed except for dead or diseased trees. Undergrowth and trees less than 2 inch caliper may be removed to be replaced by an effective stabilization and filtering ground cover based upon Mecklenburg County Land Use and Environmental Services Agency guidelines and as approved on a plan submitted to the Mecklenburg County Land Use and Environmental Services Agency the most recent edition of the "Watershed Buffer Guidelines for Mecklenburg County, NC" and as approved by the Mecklenburg County Water Quality Program.~~

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b. Stream bank or shoreline stabilization is allowed as approved on a plan submitted to the ~~Mecklenburg County Engineering Department and the Mecklenburg County Land Use and Environmental Services Agency~~ Town Engineering Department and the Mecklenburg County Water Quality Program.

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c. Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural BMP's and pervious materials.

d. The Town can require enhancement of the existing vegetation in the buffer, if necessary, so that the buffer can effectively perform its filtering and absorption functions based on Mecklenburg County ~~Water Quality Program~~ Land Use and Environmental Services Agency guidelines.

- e. Non-impervious recreational development and non-impervious pedestrian trails are allowed in the required buffer if located a minimum of 30 feet from the stream bank.

~~Cluster development is allowed within the Lake Norman Critical Area.~~

Commented [JS69]: Cluster development no longer an option

High density option is permitted in the Lake Norman Critical Area.

4. POSTING OF FINANCIAL SECURITY REQUIRED

When Structural BMPs (wet detention ponds and all other BMPs) are required under the High Density Option, the approval of the High Density Development permit will be subject to developer compliance with Section 8.400 of the Huntersville Subdivision Ordinance.

7.300- DESIGN STANDARDS FOR -S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS

Commented [ES70]: Staff should review this technical section for any necessary updates outside of 160D.

1. PURPOSE.

The purpose of a stream buffer network is to filter pollutants, store floodwaters, provide habitat, and contribute to the “green infrastructure.” Stream systems are comprised of each stream and its respective drainage basin.

- Streams have the primary natural functions of conveying storm and ground water, storing floodwater, and supporting aquatic life.
- Vegetated lands adjacent to the stream channel in the drainage basin serve as “buffers” to protect the stream’s ability to fulfill its natural functions. Buffers have the primary natural functions of protecting water quality by filtering pollutants, providing intermittent storage for floodwaters, allowing channels to meander naturally, and providing suitable habitat for wildlife.

2. DEFINITIONS.

For the purposes of this section, the following words and phrases shall be defined as specified below:

Best Management Practices (BMPs)

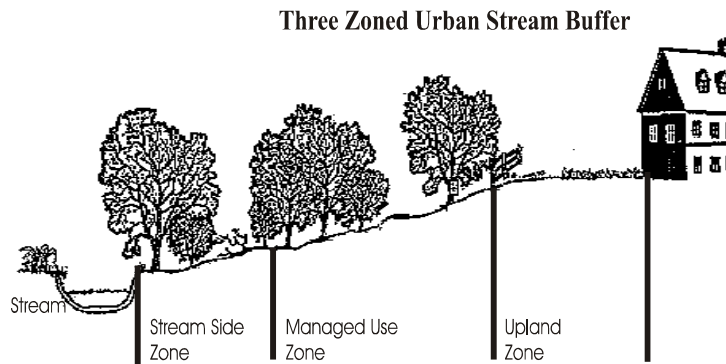
A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

Buffer.

A vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.

Buffer Zones.

Buffer widths are measured in three (3) zones as shown below. The buffer width is measured horizontally on a line parallel to the surface water, landward from the top of the bank on each side of the stream.



Drainage Basin.

The area of land which drains to a given point on a body of water.

Floodway.

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the allowable surcharge (currently one foot).

Flood Fringe.

The land area located between the limits of the floodway and the maximum elevation subject to inundation by the base (1% chance) flood.

Floodplain.

The low, periodically flooded lands adjacent to rivers and lakes. For land use planning purposes, the regulatory floodplain is usually viewed as all alongside a watercourse that would be inundated by the base (1% chance) flood; the floodway plus the flood fringe.

Mitigation.

Actions taken on-site and/or off-site to offset the effects of temporary or permanent loss of a buffer.

Top of Bank.

The landward edge of the stream channel during high water, bankfull conditions at the point where water begins to overflow onto the floodplain.

3. APPLICABILITY.

- (a) All properties shall comply with the buffer requirements of this Section except those which, as of the effective date of October 19, 1999, have previously secured a right to proceed by:

- Being subject to a recorded subdivision plat;
- Being subject to a subdivision sketch plan approved by the Board of Commissioners prior to the effective date of this Section;
- Being subject to a site specific development plan defined under [Section 2.2.2](#) of these zoning ordinances; or
- Having otherwise secured a vested property right under state law.

(b) Redevelopment or expansion of development projects included in a), above, shall comply with the buffer requirements of this Section; however, uses and structures previously approved and constructed in a buffer may remain.

(c) A site-specific ~~vesting development~~ plan amended by action of the Board of Commissioners subsequent to adoption of this Section shall comply, in its amended form, with the S.W.I.M. buffer requirements. However, uses and structures previously approved for construction in a buffer may remain.

(d) Where stream buffers are also required as part of the Lake Norman or Mountain Island Lake Watershed Overlay Districts, the more stringent of the stream buffer requirements shall apply.

4. BUFFER DELINEATION.

S.W.I.M. Stream Buffers, throughout the jurisdiction of the Town of Huntersville shall be delineated by Mecklenburg County through its geographic information system (GIS) using the most current digital elevation model (DEM) of no greater than 10-foot cells. This stream buffer delineation including buffer widths shall be periodically updated as new data becomes available. The most recent delineation shall be provided for public use through Mecklenburg County's website.

5. MINIMUM BUFFER WIDTHS.

All perennial and intermittent streams draining less than 50 acres shall have a minimum 30-foot vegetated buffer including a 10-foot zone adjacent to the bank. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the 10-foot zone adjacent to the bank shall require stream bank stabilization using bioengineering techniques as specified in the Design Manual. All perennial and intermittent streams draining greater than or equal to 50 acres and less than 300 acres shall have a 35-foot buffer with two (2) zones, including a 20-foot stream side and 15-foot upland zone. Streams draining greater than or equal to 300 acres and less than 640 acres shall have a 50-foot buffer with three (3) zones, including a 20-foot stream side, 20-foot managed use and 10-foot upland zone. Buffers for streams draining greater than or equal to 640 acres shall be a 100 feet in width or include the entire floodplain, whichever is greater. This buffer shall consist of a 30-foot stream side, 45-foot managed use and 25-foot upland zone or the entire FEMA floodplain, whichever is greater. All buffers shall be measured from the top of the bank on both sides of the stream. A summary of minimum buffer widths is provided in the table below.

Table of Minimum Buffer Widths by Basin Size and Buffer Zone

Area Designation	Stream Side Zone	Managed Use Zone	Upland Zone	Total Buffer Width each side of Stream	Notes
< 50 acres	N/A	N/A	30	30 feet	(1), (2)
> 50 acres	20 feet	None	15 feet	35 feet	(2)

> 300 acres	20 feet	20 feet	10 feet	50 feet	(2)
> 640 acres	30 feet	45 feet	25 feet or balance of floodplain, whichever is greater	100 feet or entire floodplain, whichever is greater	(2), (3)

Notes:

1. ~~(1)~~ All perennial and intermittent streams draining less than 50 acres shall have a minimum 30-foot vegetated buffer including a 10-foot zone adjacent to the bank. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the 10-foot zone adjacent to the bank shall require stream bank stabilization using bioengineering techniques as specified in the Design Manual.
2. ~~(2)~~ Buffer widths are surveyed horizontally on a line parallel to the surface water, landward from the top of the bank on each side of the stream.
3. ~~(3)~~ Floodplain and buffer calculations will be based upon the FEMA flood fringe and floodway encroachment lines, as locally adopted and as may be amended from time to time.

6. BUFFER DESCRIPTION.

Buffer function, vegetation and use vary according to the different buffer zones and are described in the following table.

Table of Buffer Treatment by Buffer Zone

	Stream Side Zone	Managed Use Zone	Upland Zone	Notes
Function	Protect the integrity of the ecosystems	Provide natural filter; provide distance between upland development and the stream side zone	Prevent encroachment and filter runoff	
Land Disturbance/ Vegetative Requirements	<u>Undisturbed (no cutting, clearing or grading).</u> If existing tree density is inadequate, reforestation is required.	<u>Limited clearing (no grading).</u> Existing tree density must be retained to a minimum of 8 healthy trees of a minimum 6-inch caliper per 1000 square feet. If existing tree density is inadequate, reforestation is encouraged.	<u>Herbaceous ground cover,</u> including grass, is allowed; maintenance of existing forest or reforestation is encouraged. <u>Limited grading</u> that does not change the functionality or extent of the floodplain is permitted.	(1)
Development Uses	<u>Very restricted.</u> Limited to flood control structures and bank stabilization (where permitted) as well as installation of parallel or near perpendicular ($\geq 75^\circ$) water and sewer utilities and near perpendicular road crossings ($\geq 75^\circ$) with stabilization of disturbed areas as specified in	<u>Restricted.</u> Limited to those allowed in the Stream Side Zone, as well as bike paths and greenway trails up to 10 feet in width.	<u>Restricted.</u> Limited to those allowed in Stream Side and Managed Use Zones, <u>as well as gazebos, non-commercial storage buildings less than 150 square feet, limited grading that does not change the functionality or extent of the floodplain, and to</u> storm water structural best	(2), (3), (4)

	Section 7.300, 910 .		management practices (BMPs) if approved in accordance with Section 7.300 101 , b), as a condition of a buffer width variance or if they are located a minimum distance of 100 feet from the stream bank .	
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Notes:

- (1) When reforestation of disturbed buffers is required, tree planting shall be as specified in the [Land Development Standards Manual Water Quality Buffer Implementation Guidelines](#).
- (2) Fill material **cannot** be brought into any required buffer. In the Upland Zone only, limited grading that does not change the extent or functional characteristics of the floodplain is permitted. Uses permitted in the buffer zones should be coordinated to ensure minimal disturbance of the buffer system. For example, if it is necessary to install utilities within the buffer, then if greenway trails are built they should follow these cleared areas instead of necessitating additional clearing.
- (3) Notwithstanding the uses and structures permitted in the "Upland Zone", the stricter standards of floodway regulations, if applicable, shall apply.
- (4) Greenway Trails referenced in this table refer exclusively to those approved by and dedicated to the Town of Huntersville or Mecklenburg County Parks and Recreation Departments. Other paths or trails in the buffer shall be in accordance with the Charlotte-Mecklenburg SWIM Stream Buffer Implementation Guidelines.

7. DIFFUSE FLOW REQUIREMENT.

~~Diffuse flow of runoff shall be maintained in the buffer by dispersing concentrated flow and reestablishing vegetation. Techniques for providing diffuse flow are specified in the Charlotte-Mecklenburg BMP Design Manual.~~

[Diffuse Flow Requirement. Diffuse flow of runoff shall be maintained in the buffer by dispersing concentrated flow through the use of level spreaders or other such devices to create sheet flow and by reestablishing vegetation. Techniques for providing diffuse flow are specified in the Charlotte-Mecklenburg BMP Design Manual.](#)

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- [Maximum drainage area size shall be no greater than 10 acres for all outfalls discharging directly into a stream buffer.](#)
- [When practical, a drop structure should be installed prior to the last section of outfall pipe discharging to a buffer. A short length of outfall pipe should be laid flat \(0% Slope Energy Dissipater\), prior to the riprap apron or other energy dissipater.](#)
- Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the buffer.
- Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to impede the formation of erosion gullies

8. PONDS THAT INTERSECT THE STREAM CHANNEL.

Ponds that intersect the stream channel shall have the same buffers as the original stream. Buffer requirements do not apply to wet ponds used as structural BMPs.

9. BUFFER DELINEATION.

The following buffer delineations are required:

- a) Buffer boundaries including all buffer zones must be clearly delineated on all site-specific plans for Board of Commissioner approval, on all construction plans, including grading and clearing plans, erosion and sediment control plans, and site plans.
- b) ~~Buffer boundaries including all buffer zones must be clearly marked on-site prior to any land disturbing activities. Where existing trees are to be preserved in a buffer zone, limits of grading shall maintain a minimum 20' separation from the base of each tree on the upland side of the buffer. The surveyed outside buffer boundary, including all buffer zones, must be clearly marked on-site with orange "tree-protection" or "high-hazard" fence prior to any land disturbing activities. Tree protection is required by Section 7.4(3) of this Ordinance. Where existing trees are to be preserved in a buffer zone, the limits of grading shall equal the drip line of those trees plus an additional five (5) feet on the upland side of the buffer. All Specimen and Heritage trees require a tree survey prior to land-disturbing activity and shall be saved in all buffer zones.~~
- c) ~~The outside boundary of the buffer must be permanently marked on each parcel following the completion of grading activities and prior to occupancy. The surveyed outside boundary of the buffer must be permanently marked with an iron pin at the intersection of the watershed buffer and each property line on each parcel following the completion of land disturbing activities and prior to occupancy. Properties greater than 200' in width shall be marked at a maximum of 100' intervals.~~
- d) Separate buffer zones must be permanently marked at highway stream crossings.
- e) Buffer boundaries including all buffer zones as well as all buffer requirements must be specified on the record plat, on individual deeds, and in property association documents for lands held in common.

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Commented [JS74]: Consistent with Zoning Ordinance

10. BUFFER IMPACTS PERMITTED UNDER SECTION 7.300.

The following buffer impacts are permitted, but design and construction shall comply with the specifications provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines and/or Design Manual for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.

- Near perpendicular (75° or greater) road crossings for connectivity or transportation links where the Town of Huntersville has granted site plan approval.
- Near perpendicular (75° or greater) utility crossings as approved by Charlotte-Mecklenburg Utilities.
- Parallel water and sewer utility installation as approved by Charlotte-Mecklenburg Utilities, where a logical and appropriate basis for the impact is demonstrated, where disturbance of the Stream Side Zone is minimized to the maximum extent practicable, and where guidelines for restoring vegetation within buffers disturbed as a result of parallel utility installation are met. These guidelines are specified in the Charlotte-Mecklenburg Buffer Implementation Guidelines.
- Public paths and trails parallel to the creek outside the Stream side Zone and near perpendicular stream crossings in any zone. Pathways must use existing and proposed utility

alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall preserve existing drainage patterns and avoid drainage structures that concentrate storm water.

- Incidental drainage improvements/repairs for maintenance.
- Individual pedestrian paths connecting homeowners to the stream in the form of narrow, pervious footpaths with minimal tree disturbance.
- New domesticated animal trails (farming) where existing trails are lost as a result of action beyond the farmer's control. Stream crossings should be constructed to minimize impacts to the Stream Side Zone and be maintained with fencing perpendicular to and through the buffer to direct animal movement.
- Mitigation approved by a state or federal agency acting pursuant to Sections 401 or 404 of the federal Clean Water Act.

11. APPEALS AND VARIANCES.

- a) An appeal to reverse or modify the order, decision, determination, or interpretation of the Zoning Administrator shall comply with the procedures and standards of [Section 4.000](#) of these ordinances as well as the requirements of the Huntersville Zoning Ordinance.

b) Special Variance Provisions/Mitigation Techniques.

- When a ~~difficulty or~~ [unnecessary](#) hardship" would result from adherence to the buffer width requirements and/or buffer treatment standards, a petition for variance may be filed with the Huntersville Planning Staff in compliance with the procedures of [Section 4.300](#).
- The Standards for Granting a Variance, as set out in [Section 4.400](#) of these ordinances shall be met. Site-specific mitigation plans using the techniques below, and approved by the designated agency, shall constitute conditions relating to the intent and standards of this ordinance, and may be attached to variance approval by the Town Board. Specifications for these mitigation techniques are provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines. The techniques below are not construed to offset the requirement of Section 7.300 6. for diffuse flow.
 - (1) Installation of Structural BMPs. The installation of an on-site structural BMP designed to achieve specified pollutant removal targets will allow for all proposed stream buffer impact on the specific site. The BMP must remain outside of the Stream Side Zone and Managed Use Zone. A detailed BMP design plan must be submitted to ~~the Town of Huntersville~~ [Charlotte-Mecklenburg Storm Water Services](#) for approval based on specifications contained in the Charlotte-Mecklenburg Buffer Implementation Guidelines. This plan must also include a long-term maintenance strategy for the BMP, complete with the establishment of adequate financing to support the proposed maintenance practices.
 - (2) Stream Restoration. The owner may restore and preserve the buffer area on any stream of equivalent or greater drainage area the condition of which is determined to be qualified for restoration by ~~the Mecklenburg County Land Use and Environmental Services Agency~~ [Charlotte-Mecklenburg Storm Water Services](#) on a 1:1 basis in linear feet of stream. This restoration shall include stream bank improvements and Stream Side and Managed Use Zone re-vegetation, in

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accordance with the Charlotte-Mecklenburg Buffer Implementation Guidelines and receive approval from the [Mecklenburg County Land Use and Environmental Services Agency Charlotte-Mecklenburg Storm Water Services](#).

- (3) Stream Preservation. The owner may purchase, fee simple, other stream segments at equivalent or greater drainage area on a 1:1 linear foot basis and convey fee simple and absolute title to the land to the Town of Huntersville, Mecklenburg County, or conservation trust, with a plan approved from the [Mecklenburg County Land Use and Environmental Services Agency Charlotte-Mecklenburg Storm Water Services](#).
- (4) Wetlands Restoration. On a 2:1 acreage basis for disturbed stream and buffer area (2 acres of wetland for each acre of disturbed area), the owner may provide a combination of the preservation and/or restoration of wetlands with protective easements and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area. Restoration plan must be approved by the [Mecklenburg County Land Use and Environmental Services Agency Charlotte-Mecklenburg Storm Water Services](#).
- (5) Bottom Land Hardwood Preservation. On a 2:1 acreage basis for impacted stream and buffer area (2 acres of bottomland hardwood for each acre of disturbed area), the owner may provide a combination of the preservation of existing bottom land hardwood forest or other specifically approved natural heritage area by conservation easement or other legal instrument, and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area. Plan to be approved by [Mecklenburg County Land Use and Environmental Services Agency Charlotte-Mecklenburg Storm Water Services](#).
- (6) Controlled Impervious Cover for Disturbance landward of Stream Side Zone. The owner may commit to, and provide, a specific site development plan for the parcel with requested buffer disturbance. The plan shall limit overall site impervious cover to less than or equal to 24%. Preservation of the Stream Side Zone is still required. Plan to be approved by Mecklenburg County Land Use and Environmental Services Agency.
- (7) Open Space Development. The submission of a site-specific development plan that preserves 50% of the total land area as undisturbed open space. Plan to be approved by [Mecklenburg County Land Use and Environmental Services Agency Charlotte-Mecklenburg Storm Water Services](#).
- (8) Mitigation Credits: The purchase of mitigation credits through the Stream Restoration Program on a 1:1 basis, utilizing linear feet of stream impacted and the prevailing rate of purchase as established by the Charlotte-Mecklenburg Buffer Implementation Guidelines. Mitigation credits purchased under any other program (i.e., U.S. Army Corp of Engineers) shall not cover this requirement unless the issuing agency agrees to relinquish the funds to the appropriate local government agency.
- (9) Alternative mitigation. The list of mitigation techniques shall not prevent the creative development of alternative mitigation plans that achieve the purposes of this section.

12. POSTING OF FINANCIAL SECURITY REQUIRED.

When structural BMPs (set detention ponds and other BMPs) are approved for mitigation of a buffer disturbance, the approval will be subject to the owner filing a surety bond or letter of credit or making other financial arrangements which are acceptable to ~~the Town of Huntersville Charlotte-~~ [Mecklenburg Storm Water Services](#), in a form which is satisfactory to the ~~Town-County~~ Attorney, guaranteeing the installation and maintenance of the required structural BMPs until the issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to be built within the area which drains into the BMPs, allowing credit for improvements completed prior to the submission of the final plat. At such time that this level of occupancy is achieved, written notice thereof must be submitted by the owner to ~~the Mecklenburg County Land Use and Environmental Services Agency Charlotte-~~ [Mecklenburg Storm Water Services](#). The owner must also verify the adequacy of the maintenance plan for the BMPs, including the necessary financing to support the proposed maintenance practices. ~~The Mecklenburg County Land Use and Environmental Services Agency- Charlotte-~~ [Mecklenburg Storm Water Services](#) will inspect the structural BMPs and verify the effectiveness of the maintenance plan; if both are found to be satisfactory, the department will notify the owner within 30 days of the date of notice.

13. MAINTENANCE REQUIREMENTS FOR STRUCTURAL BMP'S – CIVIL PENALTIES.

Maintenance of all structural BMPs will be the responsibility of the property owner or his designee. Any person who fails to maintain the required BMPs in accordance with the approved maintenance plan will be subject to a civil penalty of not more than \$5,000. Each day that the violation continues shall constitute a separate violation. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in assessment of a civil penalty or other enforcement action.

14. REQUEST FOR DETERMINATION OF BUFFER REQUIREMENT

When a landowner or other affected party believes that the S.W.I.M stream buffer delineation maps described in Section 8.25.4 inaccurately depict buffer requirements, he or she shall request a determination from the Storm Water Administrator. Such determinations shall be made by the Storm Water Administrator based on an on-site evaluation using the U.S. Army Corps of Engineers and N.C. Division of Water Quality methodology for stream delineation as well as information from databases maintained for stream delineation by Mecklenburg County. Such determinations can also be made at the discretion of the Storm Water Administrator in the absence of a request from a landowner or other concerned party. The buffer requirements of this ordinance shall apply based on determinations made by the Storm Water Administrator. Surface waters that appear on the maps shall not be subject to this ordinance if an on-site determination by the Storm Water Administrator shows that they fall into one of the following categories.

- (1) Ditches and manmade conveyances other than modified natural streams.
- (2) Manmade ponds and lakes that are not intersected by a buffered stream segment and that are located outside natural drainage ways.
- (3) Ephemeral (storm water) streams.

8.000 REQUIRED WORK ON THE GROUND

8.100 STANDARDS AND SPECIFICATIONS

1. Unless specifically noted, before any final plat of a subdivision is eligible for final approval, and before any street is accepted for maintenance by the ~~T~~own or the State Department of Transportation, minimum improvements (including drainage and soil

Commented [JS77]: Consistent with Zoning Ordinance

erosion) must have been completed by the developer and approved by the Town Engineering Department, or other designated engineer, in accordance with the standards and specifications of the Land Development Standards Manual or Article 5 of the Huntersville Zoning Ordinance, whichever applies. Minimum improvements not completed and approved must be ~~bonded-guaranteed~~ in accordance with the provisions of Section 8.400.3 prior to final plat approval.

2. The intent of the specifications set out in this sub-section is to prescribe minimum requirements for storm drainage and street improvements to be undertaken by the developer. Satisfactory completion of these improvements, attested by approval of the Town Engineering Department, will qualify streets in the town to be accepted for maintenance by the town and streets in the extraterritorial jurisdiction to be accepted for maintenance by the town upon annexation or, in the case of state-standard streets, to be considered for maintenance by the state.

8.110 STREET IMPROVEMENT RESPONSIBILITY

In order to facilitate the provision of street rights-of-way and necessary improvements, the following sections establish responsibilities for the installation of streets and related improvements for each class of street. Any area of right-of-way which must be reserved for future acquisition may be dedicated at the option of the developer or property owner in return for the transfer of development rights, as provided for in ~~Section 7.100~~ of this ordinance. In addition, all streets built by the developer will be credited to the developer for the transfer of development rights.

Class I (~~Freeway-Expressway~~):

- New ~~Class I~~ or extension of existing ~~Class I Freeway or Expressway~~ street:
 - **Right-of-way** — Entire width reserved by developer for future acquisition, provided the certification in Section 8.115 can be made
 - **Improvements** — Installed by public
- Existing ~~Class I street Freeway or Expressway~~:
 - No right-of-way or improvements required of developer

Class II (~~Limited Access Arterial~~):

- ~~New Class II or extension of existing Class II street:~~
 - ~~**Right-of-way** — Entire width reserved by developer for future acquisition, provided the certification in Section 8.115 can be made~~
 - ~~**Improvements** — Installed by public~~
- ~~Existing Class II street:~~
 - ~~No right of way or improvements required of developer~~

Class III (~~Major Arterials~~) Other Major Thoroughfare:

- **Right-of-way** — For ~~new Class III streets Other Major Thoroughfare~~, the developer is responsible for the dedication of up to 100 feet of right-of-way (50 feet each side of the centerline). Along ~~existing Class III streets Other Major Thoroughfare~~, any development which requires specific improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.
- **Improvements** — Installed by the public in accordance with a schedule of public street improvements, except on existing streets where specific improvements are required to

Commented [JS78]: Correct Comprehensive Transportation Plan terminology

meet vehicular and/or traffic needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be responsible. The developer has the option, after consultation with the Town Manager and Town Engineering Department, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new Class III streets or extensions of Class III streets must limit access points to public streets or specifically approved street type entrances.

Class III-C (Commercial Arterial):

- ~~**Right-of-way** — For new Class III-C streets, the developer is responsible for the dedication of up to 100 feet of right-of-way (50 feet each side of the centerline) and reservation of the remaining required right-of-way. Along existing Class III-C streets any development which requires specific improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.~~
- ~~**Improvements** — Installed by the public in accordance with a schedule of public street improvements, except on existing streets where specific improvements are required to meet the vehicular and/or pedestrian access needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be responsible. The developer has the option, after consultation with the Town Manager and Town Engineering Department, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new Class III-C streets or extensions of Class III-C streets must limit access points to public streets or specifically approved street type entrances.~~

Class IV (Minor Arterial) Minor Thoroughfare

- **Right-of-way** — For new Class IV- Minor Thoroughfare streets the developer is responsible for the dedication of up to 70 feet of right-of-way (35 feet each side of the centerline). Along existing Class IV- Minor Thoroughfare streets any development which requires improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.
- **Improvements** — Installed by the public in accordance with a schedule of public street improvements, except where specific improvements are required to meet the vehicular and/or pedestrian access needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the Town Manager and Town Engineering Department, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new Class IV streets

or extensions of Class IV streets must limit access points to public streets or specifically approved street type entrances.

Town Streets:

- **Right-of-way** --- Dedicated by the developer.
- **Improvements** --- Constructed by the developer.

All streets must be constructed to comply with the minimum standards shown in the Land Development Standards Manual or Article 5 of the Huntersville Zoning Ordinance, whichever applies, and all applicable town or state requirements. Public improvements will be made in accordance with adopted plans, programs, and budgets. It should not be expected that the occurrence of development will result in the immediate installation of public street improvements by the public sector unless those improvements are scheduled and funded in accordance with public policies and programs.

In lieu of required street construction, and subject to approval by the Town Board of Commissioners, a developer may provide the Town with funds to use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development, and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the Town pursuant to this provision shall be used only for development of roads, including design, land acquisition, and construction. The Town may undertake these activities in conjunction with the Department of Transportation under an agreement between the Town and the Department of Transportation. The amount of funds the developer pays in lieu of required street construction shall be based on the trips generated from the subdivision or development. A combination of partial payment of funds and partial dedication of constructed streets may be permitted when the Town Board determines that a combination is in the best interests of the citizens of the area to be served

8.115 RESPONSIBILITY FOR STATE ROADS

No dedication or reservation of right-of-way for a new street or highway within a corridor for a street or highway on a plan established and adopted pursuant to N.C.G.S. § 136-66.2 for a street or highway that is included in the Department of Transportation's "Transportation Improvement Program" will be required by the provisions of this ordinance unless and until the Town Manager has determined and certified in writing: (1) that the dedication or reservation does not result in the deprivation of a reasonable use of the original tract and (2) that the dedication or reservation is either reasonably related to the traffic generated by the proposed subdivision or use of the land remaining in the original tract, or the impact of the dedication or reservation is mitigated by measures provided in this ordinance. For these purposes the term "original tract" will mean all contiguous land owned by the applicant. The ability of the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant is deemed to be a measure which mitigates the impact of the dedication or reservation.

8.120 DRAINAGE

1. Storm drainage adequate to accommodate a 10-year storm must be provided throughout the subdivision by means of storm drainage pipe or properly graded channels or natural drainage. Where adequate storm drainage has been provided by means of approved storm drainage pipe and the necessary easements to provide access to the drainage facilities, in accordance with the standards of the Town and the Town Engineering Department, and has been dedicated and accepted or otherwise conveyed to the Town, the Town will assume the responsibility for maintenance of the drainage pipe. Where adequate storm drainage has been provided by means of properly graded channels or ditches, the maintenance thereof will remain the responsibility of the property owner and must be so noted on the final plat and on deeds for the affected lots.

Commented [JS79]: Aside from construction, Huntersville can require fees in lieu of construction for the Town to construct the street improvement inside and outside of the subdivision. However, this is only possible under 160D-804(c)(3) IF the ordinance provides for it as is proposed here.

Given that this issue has come up recently, we need to add the fees in lieu option in the subdivision ordinance.

The computation of the fees must be based off trips generated per 160D-804(4).

2. In addition to drainage improvements as required by this section, the subdivider may provide for storm water detention to serve the entire subdivision as part of the drainage plan to be approved by Town Engineering Department. For the purposes of this subsection, the subdivision shall include the streets, sidewalks, driveways, rooftops, and other impervious surfaces proposed to be constructed upon completion of the subdivision.

3. Reserved.

8.130 CURB AND GUTTER

Curb and gutter is required on all arterial and collector streets and on all Town streets with the exception of alleys, lanes, and other rural street applications. Location and type of curb and gutter is determined through the design process outlined in Article 5 of the Zoning Ordinance. Standard curb and gutter is recommended for curb and gutter installations on all street types. However, valley (mountable) curb and gutter may be used in lieu of standard curb and gutter on collector streets, and on Town streets that serve less urban purposes such as Residential Local and Collector streets. Standard curb and gutter is required where formal parking is used.

8.140 SIDEWALK

Sidewalk width should be established using the Design Process found in Article 5 of the Zoning Ordinance and in accordance with the Engineering Standards and Procedures Manual (ESAPM) or thoroughfare design process. In all cases, a minimum of a five (5) foot wide sidewalk is required on both sides of new or existing collector streets, on both sides of local streets except lanes, alleys, and on the developed side of Residential Local streets with Greenway/Belt. Installation of sidewalks is the responsibility of the developer. -However, to reduce impervious cover and promote LID, sidewalks on one side of Town streets may be waived by the town in the Rural Zoning District.

Sidewalks are required on both sides of new or existing arterial streets with installation by developer to meet the pedestrian access requirements of the development. Sidewalk construction may be waived by the Town Board when accessibility by pedestrians does not now exist and is not expected to exist in the future. Conservation Subdivisions are exempt from the requirement to construct or escrow funds for sidewalks or alternative pedestrian paths along existing arterials

Location. Approval of sidewalk construction plans must be obtained from the Town Engineering Department as part of the subdivision review process. Town Engineering will review and comment on the location of the required facilities at the time of plan review. Except in unusual circumstances, sidewalks may not be located less than 5 feet, but preferably 7-10 feet, from the back of the curb or edge of pavement when no curb and gutter is required. If existing public street right-of-way is not available, the developer will be required to construct the sidewalk outside the street right-of-way on a permanent easement. While in most instances a sidewalk will be placed parallel to and offset from the curb line, developers are encouraged and expected to meander sidewalks to preserve existing trees of significance. -Adjustments may be made in the field to accommodate such circumstances.

8.150 STREET TREES

The developer shall install street trees along all streets within a development and along the abutting side of streets forming the perimeter of the development. -Street trees shall be placed between the sidewalk, if present, and the back of curb or back of ditch, when no curb and gutter is required. Street trees must be planted in accordance with the applicable standard found in the Engineering Standards and Procedures Manual (ESAPM) and NCDOT Guidelines. Large maturing trees should be planted 40' on center; small maturing trees should be planted 30' on center. Street tree plantings conceived to produce a clear vertical edge to a street or plaza may require denser spacing. -The planting plan shall adhere to Article 7 of the Huntersville Zoning Ordinance. In Conservation Subdivisions where existing, mature trees are to be preserved as a condition of the conservation easement, the requirement for street tree planting shall be waived.

Commented [ES80]: See above comment regarding limitations on ability to require transportation network improvements outside of subdivision development pursuant to 160D-804(c) as interpreted by Buckland.

UNC suggests that statutes could be interpreted so as to allow fees in lieu for Town to construct sidewalks outside of development as allowed for street construction.

See page 14-15

<https://www.sog.unc.edu/sites/www.sog.unc.edu/files/160D%20Q%26A%20Update%20Dec%202020.pdf>

However, 160D-804(c) is specific to "street construction."

Commented [ES81]:

Commented [JS82R81]: Staff is looking at the sidewalk issue and impact by street trees. To be addressed outside 160D changes.

8.160 STREET LIGHTS

Street lighting will be installed in each new subdivision pursuant to a street lighting plan which shall be submitted to the Town for approval. This shall be the responsibility of the developer. Street lights compatible in height and scale with the streetscape are strongly recommended. Further,

1. Street lights shall in all cases use fully shielded fixtures except that decorative street light fixtures shall be designed with caps so that light does not shine upward at more than a 135-degree angle measured above straight down (three-quarters of the way between straight down and straight to the top) from the pole or mounting wall.
2. Fixtures with minimal across-road and "house side" waste shall be used, especially in residential areas, taking into consideration the details of roadway geometry and width.
3. Low pressure sodium lights are strongly encouraged.
4. A street lighting plan must be approved by the Town prior to Preliminary Plan or Commercial Site Plan approval.

Commented [JS83]: This is consistent with the proposed zoning ordinance text.

8.170 STREET MARKERS AND BARRICADES

1. Standard street markers must be installed by the developer at one corner of all street intersections, including private streets, before any certificates of occupancy may be issued for buildings or residences along those streets. The design, material, location, and installation of the signs must be in accordance with standards specified in the Engineering Standards and Procedures Manual unless an alternative design is approved. Alternatives to the standard design for street markers may be submitted by the developer for consideration by the Town Board. If an alternative design is approved by the Town Board, responsibility for the installation, maintenance, and replacement of non-standard street markers remains with the developer and subsequently with the homeowners. If maintenance and replacement of non-standard street markers is not provided by the developer or homeowners, the Town shall install standard street markers as replacements are needed. All standard street markers will be maintained and replaced by the Town once initial installation has been completed and streets are accepted for maintenance.
2. Barricades must be installed at the end of all dead-end streets except cul-de-sac streets which have been improved with a permanent turnaround as required by this Ordinance. Design, material, and installation of the barricades must be in accordance with the Engineering Standards and Procedures Manual (ESAPM).

8.200 NO SERVICE UNLESS STREET ACCEPTED/APPROVED

No department, officer, agent, or employee of the Town will accept for maintenance, lay out, open, improve, grade, pave, or light any streets or authorize the laying of water mains, sewers, electrical service extensions or other facilities or utilities in any street within the Town unless:

1. ~~4.~~ such street has been accepted or opened as, or has otherwise received the legal status of, a public street prior to the effective date of this ordinance; or
2. ~~2.~~ for any new street, such street corresponds in its location and lines with a street shown on a preliminary subdivision plan, tentatively approved by the ~~Town Manager Board~~ or Designated Administrative Agent; or
3. ~~3.~~ such street has been accepted as a public street by a vote of a majority of all the members of the Town Board or by the State of North Carolina; or
4. ~~4.~~ such street has been accepted as a public street by the State of North Carolina; or
5. ~~5.~~ such street is an approved private street built in conformance with the provisions of all applicable ordinances.

Commented [ES84]: Town Manager wouldn't be approving a preliminary subdivision plan. I assume should be Town Board.

8.300 OTHER PUBLIC FACILITIES

Reserved.

8.400 MODIFICATION OF REQUIREMENTS; PERFORMANCE GURANTEEBOND

1. ~~4.~~ In subdivisions adjoining already established streets that have been accepted for maintenance by the North Carolina Department of Transportation, the requirements of Section 8.000 will apply as hereinafter provided; those requirements that would necessitate the general removal and reconstruction of established permanent pavements will not be applicable; where the adjoining established street is a part of the North Carolina Department of Transportation's street system, the adjoining street must be improved in accordance with either the requirements of Section 8.000 and the requirements of the Town of Huntersville or the North Carolina Department of Transportation, whichever establishes the higher standard.
2. ~~2.~~ Plats for new lots fronting on already dedicated or established streets or roads that have not been accepted for maintenance by the Town Board or the North Carolina Department of Transportation or which have been accepted for maintenance by the North Carolina Department of Transportation, but have not been improved with a paved roadway, will be eligible for final approval when the requirements of Section 8.000 have been complied with as closely as may be reasonably required considering the existing condition of the road, the extent of area to be platted and the cost of required improvements in relation to the comparative benefits to accrue to the subdivider and the other owners of property on both sides of the street or road.
3. ~~3.~~ Where the improvements required by the Zoning Ordinance and Subdivision Ordinance (i.e. streets, alleys, improved open space, landscaping, drainage, etc.) have not been completed prior to the submission of the final subdivision plat for approval, the approval of the plat will be subject to the owner providing filing a performance guarantee in the form of a surety bond, or an irrevocable letter of credit, or other form of guarantee that provides equivalent security to a surety bond or letter of credit with the Town Manager or designated agent~~es~~. The amount of the performance guarantee shall be, in an amount to be determined by the Town Manager in consultation with the Town Engineer or their designee, and affected agencies such as the department of Environmental Health, with sureties satisfactory sufficient to the Town Manager in order to guarantee the installation of the required improvements, allowing credit for improvements completed prior to the submission of the final plat. The amount so determined shall not to exceed 125% of the reasonably estimated cost of completion of the required improvements at the time the guarantee is issued. ~~For landscaping required by this subdivision ordinance, the developer shall provide a contractor's estimate for provision and installation of such landscaping, the estimate shall be reviewed for adequacy, and a surety bond or irrevocable letter of credit~~ performance guarantee sufficient to guarantee the provision and installation of required landscaping shall also be filed in the manner provided above. Upon completion of the improvements and the submission of "as built" drawings, written notice thereof must be given by the subdivider to the Town Engineering Department and the Town of Huntersville Planning Department. The ~~E~~ngineering ~~D~~epartment and Huntersville Planning Department will arrange for an inspection of the improvements, ~~and if the improvements are found satisfactory, the Town Manager will be notified by the town manager who will, within 30 days of the date of such notification, authorize in writing the release of the security given~~ performance guarantee, subject to the warranty requirement below.
4. ~~4.~~ Maintenance-Warranty Guarantee. All improvements required by this ordinance shall be guaranteed-warranted against defects in workmanship and materials by the subdivider for a period of not less than one (1) year, but not more than two (2) years from the date of the filing of the final plat or the date of the completion of the improvement, whichever is later. The subdivider shall file with the Town Manager a maintenance-warranty surety bond listing the Town as beneficiary in an amount of 15% of the estimated value of the warranted

Commented [ES85]: 160D-804.1(1).

The performance guarantees are allowed for completion of Town-required improvements.

Commented [ES86]: 160D-804.1(3)

~~development-related improvements with adequate sureties in an amount determined by the Town Manager or Town Engineer or their designee to be sufficient to assure proper maintenance and repair of such improvements for the warranty period of up to two (2) years.~~

8.500 INSPECTION

- ~~1.~~ 1.-Town Engineering Department must be notified two days in advance of the work to be started so that an authorized representative of the Town Engineer or their designee or other responsible agency may be assigned to make any and all necessary inspections of the work performed.
- ~~2.~~ 2.-The inspector must be allowed access to all parts of the work, and must be furnished with every reasonable facility to ascertain whether or not the work as performed is in compliance with the specifications.
- ~~3.~~ 3.-No materials may be placed, nor any work performed except in the presence of the inspector without special permission of the appropriate agency. Such inspection, however, does not relieve the contractor from any obligation to perform all of the work strictly in accordance with the specifications.
- ~~4.~~ 4.-In the case of any disputes arising as to the material furnished or the manner of performing the work, the inspector will have authority to reject materials or suspend work until the question or issue can be referred to and decided by the appropriate agency. The contractor must remove any work or material condemned as unsatisfactory by the inspector and must rebuild and replace the work or material to the standard required by the specifications, all at his or her own expense.

9.000 ENFORCEMENT

~~1. After the effective date of this ordinance, a plat of a subdivision within the jurisdiction of this ordinance which is filed or recorded in the office of the Register of Deeds of Mecklenburg County without the approval of the Town of Huntersville will be null and void for purposes of this ordinance.~~

- ~~1.~~ 2.-After the effective date of this ordinance, aAny person who, being the owner or the agent of the owner of any land located within the area of jurisdiction of this ordinance, subdivides land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the Office of the Register of Deeds of Mecklenburg County shall, upon conviction, be guilty of a Class 1 misdemeanor, which shall be punishable by a fine not to exceed \$500.00, or imprisonment for not more than 30 days for each and every offense. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. -The Town of Huntersville through the Town Attorney may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation, may enjoin such transfer or sale by action for injunction. -All administrative actions relating to such land, including the issuance of any grading, construction, building, or occupancy permit will be suspended. This ordinance will not affect the sale or transfer of any land, a plat of which was recorded prior to the effective date of this ordinance.

- ~~2.~~ 3.-In order to properly enforce the provisions of the subdivision regulations as stated in this ordinance prior to the beginning of any construction, reconstruction, use, or alteration of any land, building, or structure, the appropriate permit must be obtained from the Building Standards Department, Mecklenburg County and the Town of Huntersville. No permit will be issued unless there has been a determination made that the proposed use, building, or structure complies with the requirements of this ordinance. Building permits required pursuant to G.S. 160D0-1110A-417 may be denied for lots that have been illegally

Commented [ES87]: See 160D-804.1(4), which only allows the performance guarantee for COMPLETION of improvements, not maintenance and repairs after completion.

See Adam Lovelady on the subject here:
<https://canons.sog.unc.edu/subdivision-performance-guarantees-legislative-changes/> [Note statutory references have been replaced now by 160D references].

I used Raleigh's warranty language at 8.1.4 of their UDO. However, we could change the percentage if preferred.
<https://user-2081353526.cld.bz/UnifiedDevelopmentOrdinance/242/>

Commented [ES88]: Would have to go through the injunction process. Paragraph below correctly addresses.

Commented [JG89]: Direct language from 160D-807(a)

Commented [JS90]: Correct reference.

subdivided. In addition to other remedies, ~~a the Towneity~~ may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

10.000 APPLICATION AND PROCESSING FEES

Fees for the submittal of preliminary and/or final subdivision plats shall be established, and from time to time revised, by the Board of Commissioners of the Town of Huntersville and shall be collected when a subdivision application is submitted. Fees shall be collected by the Town Manager, employees under his or her direction, or an Administrative Agent designated by the Board of Commissioners to administer the subdivision ordinance.

Fees for variances and appeals of administrative decisions or interpretations shall be in accordance with the fee schedule established by the Huntersville Board of Commissioners and shall be collected by the Town Manager or employees under his or her direction at the time a variance or appeal is submitted.

SECTION 2

That this ordinance shall become effective November 1, 1989.