



AGENDA
Ordinance Advisory Board Meeting
February 2, 2023 - 3:30 PM

TOWN HALL (101 HUNTERSVILLE-CONCORD ROAD)

*Live Stream- Members of the public may view or access the meeting on YouTube at
<https://www.youtube.com/channel/UCqgiipdJL0ywl-LZrcN5MpQ/featured>.*

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes**
 - 2.A. Consider approval of the January 5, 2023 regular meeting minutes ()
- 3. Public Comments** - *Speakers are limited to 3 minutes. The Chairperson reserves the right to shorten the time limit for speakers when an unusually large number of persons have signed up to speak. Speakers may not give all or a portion of their time to other speakers*
- 4. Action Agenda**
 - 4.A. Consider recommendation on petition #TA22-11, a request by the Huntersville Planning Department for a text amendment to the Zoning Ordinance to amend Article 10 Signs to increase flexibility of sign regulations and codify current practices. *(Kayleigh Mielenz)*
 - 4.B. Consider recommendation on petition #TA22-15, a request by the Huntersville Planning Department for a text amendment to Article 7 Landscaping and Open Space to update penalties for removal/damage of required vegetation. *(Kayleigh Mielenz)*
 - 4.C. Consider a recommendation on petition #TA23-01, a request by the Huntersville Planning Department for a text amendment to Article 7, Part A: Landscaping altering the spacing and location of required street trees and providing greater flexibility for the types of supplemental residential lot trees. *(Lauren Speight)*
 - 4.D. Consider a recommendation on petition #TA23-02, a request by the Huntersville Planning Department for a text amendment to Article 14.2.3, Traffic Impact Analysis, Applicability to remove a reference to the Subdivision Ordinance that no longer applies to sketch plans reviews per the approved amendment TA22-05 making the major subdivision review process administrative. *(Lauren Speight)*
- 5. Other Business**

5.A. Acknowledge terms of service for Tim Taylor, Thomas Finlay & Brandy Skelley ()

5.B. Election of Chair and Vice-Chair ()

6. Adjourn

Minutes of the Town of Huntersville Ordinance Advisory Board

The Town of Huntersville Ordinance Advisory Board met in person at 3:30 p.m. on Thursday, January 5, 2023.

Call to Order/Roll Call

Chairman Jones called the meeting to order at 3:30 pm.

Voting Members Present: M. Jones, J. Kluttz, K. Jones, F. Gammon, B. Skelly, H. Whittaker, T. Taylor

Voting Members Absent: A. Hallman & T. Finlay

Non-Voting Members Present: Commissioner Munger, J. Simoneau, T. Barron, E. Sloop, and J. Glass

Non-Voting Members Absent: None

Approval of Minutes

Item 2A. Consider approval of the December 15, 2022, Regular Meeting Minutes

Motion: J. Kluttz made a Motion to Approve the December 15, 2022, minutes. H. Whittaker seconded the motion.

Vote: The motion passed unanimously (6-0-1) with T. Taylor abstaining because he was not in attendance.

Public Comments

Commissioner D. Boone, 317 Southland Drive thanked (the members with terms expiring) T. Finlay, T. Taylor & B. Skelly for their service on the Board.

Action Agenda

Item 4A: Consider recommendation on petition TA22-12, a Town Board sponsored text amendment to Article 4, Urban Workplace and Shopfront Building Types to clarify how to count residential and non-residential floor areas in mixed-use buildings.

J. Simoneau, Planning Director stated that staff's recommendation remains the same and staff is available to answer any questions the Board may have. Staff shared with the Board the alternate language provided by F. Gammon to the Board.

F. Gammon commented that he has drafted the proposed language after speaking with the members of this Board for whom he has phone numbers, as well as Commissioners with the goal of getting this amendment moved along in the approval process.

Motion: F. Gammon made a Motion to Approve TA22-12 move forward to Public Hearing, Planning Board recommendation and Town Board decisions as written with the following change, delete first floor diagram wording in section two and section three and replace with,

“100% commercial use of first floor area; however, up to 40% residential and/or non-residential floor space may be allowed. Any additional residential or non-residential floor space shall require conditional rezoning.” The HOAB feels that the rewording of the proposed amendment provides multiple zoning districts adaptability allowing mixed-use building to be configured for success based upon their specific site locations. The recommendation is based on the amendment being consistent with LU-6, LU-7, LU-10, EV-1, EV-2, D-1, D-10 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because the amendment clarifies first floor residential and commercial area requirements.

E. Sloop commented for clarity that the proposed language is contradictory because commercial use is non-residential use.

K. Jones seconded the motion.

F. Gammon commented that based on a discussion he had with A. Hallman he requested the Planning Department consider if there is a different need for floor space requirements within the Town Center district. Addressing concerns from Commissioners at the Public Hearing for this amendment D. Boone asked the Planning Department to consider orienting first floor commercial use space on primary streets. He stated he did not add this to the motion at this time because he believes it needs to be fully researched for the best application across multiple zoning districts and varied street styles. Commissioner Phillips mentioned not regulating commercial spaces on first floor for the disabled and elderly since the vast majority of these types of buildings do not have elevators. While there are age restricted accommodations there may be a need for an elderly or disabled resident to reside near a place of care or family member where single or multi-storied housing where accommodations do not exist. Staff commented that the approval process would be extended for approval with exceptions however that is the current process as shown by the current Birkdale and Northcross rezonings.

J. Kluttz asked about the concerns brought up by E. Sloop.

F. Gammon commented that he is open to amending the motion. He wrote it as 100% commercial use not commercial which is the defined term in the Zoning Ordinance. There is other commercial not defined in our commercial use which is non-residential.

M. Jones commented that there are uses that are neither commercial or residential that non-residential incorporates. Staff confirmed there are some uses that are not under commercial use or residential use such as a school. M. Jones commented that if we don't have non-residential in the amendment then those uses would not be allowed in that first floor.

H. Whittaker asked staff to review what led to the proposed language. Staff stated we were originally comfortable with non-residential. There was a desire of the Town Board to have more commercial uses for the first floor and staff was asked to prepare an amendment. Staff proposed the amendment with up to 50% residential or commercial use because it was the

sense that this is what the Town Board wanted and that is why non-residential use is not included in what staff proposed.

F. Gammon asked E. Sloop if after hearing the reasoning there were remaining concerns. E. Sloop stated that as worded there is an internal conflict since all commercial is non-residential. F. Gammon said he is willing to amend it and asked if there are commercial areas that could be put on the first floor that is non-residential that is not listed in commercial use. E. Sloop stated that there are non-residential uses that are not commercial that could go there and it is her understanding that the desire of the Town Board was to indicate the use would be commercial so she is not sure this wording meets the goals of the Town Board. Additionally, she would not recommend stating that a developer could request a modification of the ordinance. The developer has the option to seek a conditional rezoning but we do not call that out in every single instance so she would not recommend doing that in this instance either.

F. Gammon commented that he is willing to remove non-residential from the motion at this time so that the item can move forward and could be added in the future if valid.

Amended Motion: “100% commercial use of first floor area; however, up to 40% residential floor space may be allowed. Any additional residential or non-residential floor space shall require conditional rezoning.” K. Jones seconded the amendment.

K. Jones expressed concerns over removing non-residential as an option stating that a small start-up church would not be allowed.

F. Gammon commented that he would prefer the statement be written out that a conditional rezoning is required for any alterations. Staff commented that because it is not written out in every other instance it raises the question of why it is not listed elsewhere.

M. Jones stated he understood that the Town Board wants to focus on commercial and our Ordinances currently allow 100% of first floor to be non-residential. As originally written up to 100% is the interpretation of commercial on the first floor but then you can have the ability to have 40% of your residential or non-residential uses. So, we are making it more restrictive on the first floor not allowing non-residential uses if we remove that.

K. Jones followed up and said that is where she had concern because daycare is allowed under commercial, but a small start-up church would not be allowed because they are non-residential and she would like them to have the same opportunities. Staff stated that as originally proposed they stuck with the term non-residential and there were some concerns from this committee and Town Board so we are comfortable leaving it commercial use.

M. Jones commented that the 40% residential or non-residential allows for some flexibility and does not restrict the non-residential uses in the first floor of the building. Without that statement there is effectively a minimum of 60% commercial required. For this reason M. Jones

asked F. Gammon if he would withdraw his amendment. F. Gammon agreed and withdrew his amendment. K. Jones seconded withdrawing the amendment.

M. Jones commented that there is a motion on the floor, but it does not include the interpretation aspect that would provide a more comprehensive solution. F. Gammon commented that he supports the things M. Jones has written but he would prefer to see it as a separate text amendment. M. Jones asked if F. Gammon would amend his motion that HOAB will sponsor that as a separate text amendment. Staff confirmed we will handle the interpretation piece next, and no amendment is necessary.

J. Kluttz asked if Staff was fine with the motion and asked why we do not suggest it. Staff responded that our recommendation is to remain at 50% commercial while acknowledging that the proposed motion could get you to 60% commercial, so it is close, but because the simpler you make it to develop here the more attractive you make it. Through the research of neighboring communities, the goal is to not create a regulation that is a disincentive. The second reason Staff is not comfortable with what is being proposed is because of the wording outlining the conditional rezoning exception. In staff's opinion the only difference between the proposed amendment and staff's wording appears to be an increase of 10% of commercial use and staff would simply word that differently.

F. Gammon asked what happens when you are not building in Town Center, you are building in a node, and you want to come back to the Town Board and say you want to build 40% commercial and 60% residential and non-residential. The flexibility is there for any building in any zoning. E. Sloop expressed concern about the numbers not adding up and there being conflict in the statement.

Following discussion as to what the percentages would allow and how this could be interpreted, M. Jones recommended the motion first state, "Up to 40% residential and/or non-residential floor space, or commercial use only." Staff stated that the wording works for staff.

B. Skelly commented that this wording still does not appear to resolve the conflicting issue as stated by E. Sloop. It appears that the same could be accomplished by adjusting staff's proposed wording to 60% commercial. Staff asked if the wording could be adjusted to, "Up to 40% residential and/or non-residential (not including commercial uses), or commercial use only."

F. Gammon stated he thinks commercial use should be mentioned first as this is the primary goal. He offered a rewording of, "Commercial Use or up to 40% residential of the first-floor area." Staff confirmed that avoids the non-residential confusion. He asked if the Board agreed that met the objective. M. Jones said he could live with it.

K. Jones asked for confirmation that a developer could still go through conditional rezoning and commercial on the first floor could be reduced to 20%. Staff confirmed that is always the case

but it is a four and a half month process and the applicant would be opening themselves up to all different things in that process.

Commissioner Munger followed up on the statement made by B. Skelly that adjusting staff's proposed wording to 60% commercial would in his opinion achieve the intent of what the Board is discussing while resolving the legal intent issues that have been raised.

Revised Amended Motion: "Commercial Use or up to 40% residential of the first-floor area."

Vote: The revised amended motion passed (5-2) with H. Whittaker and B. Skelly opposed

Staff introduced the Rules of Construction which are located in the Subdivision Ordinance section 2.2 and Zoning Ordinance article 12.1 which M. Jones sent out to the Board with his suggested changes and was included in the agenda packet.

M. Jones reviewed his recommended changes, highlighted in yellow of the document in the agenda packet, and explained why he thinks this would assist with the consistency of interpretation of the Ordinances. He then reviewed the rules of interpretation that Adam Lovelady wrote and explained that this would create a set of guidelines or buffers that everyone can operate in to make sure things are being consistently interpreted.

Commissioner Munger asked what the impetus was to bring this before the HOAB. M. Jones responded it was comments from the Town Board pre meeting that the Northstate project would not have been supported if the specific amount of square footage had been laid out. The interpretation of the motion and the results made him think that we should look at this to see if there is a consistent and clear process for interpretation so that conditions that the Town Board imposes, the intent of those conditions are accurately put into place. Commissioner Munger asked if there was a specific request by Town Board, Staff or Town Attorneys to have this reviewed. M. Jones confirmed there was not.

H. Whittaker asked M. Jones what is being decided here. M. Jones said the Board is deciding if they want to incorporate this into the text amendment TA22-12 to make a more comprehensive solution. M. Jones stated that as he saw it the problem wasn't really our text in our ordinance it was the process of interpretation of conditions imposed by the Town Board. Staff responded that the issue was how you treat shared space. The Town Board said you can do less than 50%, basically 34% non-residential. The ordinance that this Board just made a recommendation on said that shared space is not going to count towards commercial. If it is shared and has any component of residential it goes to residential. When the Northstate floor plan came in for staff review, staff went to the maker of the motion for clarity on interpretation which meets the legal requirements from School of Government but did not meet the expectation of the Town Board so in the future if there is ambiguity staff will go to the entire Board.

E. Sloop encouraged the Board to review the four pages of notes she replied to the Board with regarding the many legal reasons not to codify these points for interpreting ordinances and case law into our Ordinances. The takeaway that Professor Lovelady put into this conference was not to go change your rules of construction but to review your ordinances for areas of ambiguity and fix those areas of ambiguity. E. Sloop stated that she did research of other jurisdictions in North Carolina and she could not find any other jurisdiction that has codified these rules of thumb or guiding principles for ordinance interpretation.

Additionally, certain motions that the Town Board makes create vested rights so if you try to go back and ask for guidance on what the intent was for that motion it doesn't make a difference because a vested right was created and exists so the best practice would be not going back after the fact and asking for clarification it would be to make sure the motions are very clear on the night they are made and that all Board members and Staff understand the intent on that night. The Town Board was given best practices in motion making and they opted not to create a policy so she does not feel that a unilateral suggestion to put forth a text amendment that was not suggested or put forth by this entire Board but by a single member is the route we should be taking. M. Jones commented that the Board will need to decide to move forward with this or not.

M. Jones then pointed out that in the document before the Board, A. Lovelady recommends based on case law not relying on statements from individual Board members for interpretations. He then asked E. Sloop if she has sent out a memo to make sure that staff is complying with the visual properties case, the case law associated because if we exceed our authority on case law or statute we can be put in legal peril. E. Sloop responded she has not sent staff a memo, but she did reply to these points in the four pages she wrote to this Board for this meeting and staff has that same information.

M. Jones referred to the highlighted portion of page 29 of the agenda packet and the notes that E. Sloop provided the Board and read from the case law to be clear on what the court thinks on that aspect from the visual properties versus the Village of Clemmons case. He then asked E. Sloop if she thinks it would be a good idea to inform staff that this is how the ordinances should be interpreted otherwise we are going to into trouble or we should just codify it because then everyone knows. It is a good idea to codify things because we have to regularly amend things and law and legislation are constantly fluid.

Commissioner Munger referred to page two of the Code of Ethics, section B and stated that in his opinion at this point the Chair is serving his own personal public interests and he has crossed several boundaries today which is unacceptable behavior and should be noted for the record. M. Jones asked what boundaries he has crossed. Commissioner Munger responded by referring to the section B again.

Commissioner Munger stated that the HOAB was founded to handle issues that staff, the attorney or the Town Board specifically ask the HOAB to address. It appears that this topic is a personal agenda as staff and the attorney have stated that there is no point in doing this which

comes off to Commissioner Munger as something self-serving and is specifically addressed in the Code of Ethics.

M. Jones commented that this Board has a duty to ensure compliance with Town authority, the legal aspects, case law, constitutional limits and this is in that realm which is why he has brought it up. To make sure that our Ordinance is compliant and protect the public from unnecessary litigation expenses so that taxes are not raised for the residents when some simple changes to our Ordinance to make sure we are consistent in the way things are interpreted.

Commissioner Munger commented that we disagree, and he would refer to the legal department to determine if this topic is necessary for the HOAB to consider and to make a recommendation for the HOAB to consider this.

F. Gammon requested a five-minute recess. M. Jones asked if there was any objection. The Board voted unanimously (7-0) to recess.

The Board reconvened at 4:46 p.m. M. Jones made a statement apologizing for speaking over any fellow Board members or staff. M. Jones commented that he is passionate about protecting the public interest and tax payers of the Town and he invests a great deal of time towards that interest. If that is not coming off then he apologizes. In the best interests of this Board and Staff and for the public interests he would like all to work in a more collaborative fashion instead of one that is possibly adversarial.

M. Jones asked if the Board has any questions or would like to consider something like this into a recommendation with text amendment TA 22-12, table discussion or drop the matter.

Motion: F. Gammon made a Motion to Table this discussion for further study and at which time it needs to come back in collaboration with the Planning Department that it come back. K. Jones seconded the motion.

Vote: The motion to table passed unanimously (7-0).

Item 5A: Take questions about table for UNC School of Government checklists

K. Mielenz, Planner I commented that the table staff was asked to put together has been completed and was included in the agenda packet and she is available to answer any questions that the Board may have.

M. Jones asked on the section, “amend development regulations to align appeals subdivision plat decisions with clarified statutory rules” associated with Senate Bill 768. That particular bill was signed into law on July 8, 2022 but it appears the text amendments referenced there were the year prior so he is not sure this has been addressed and taken care of. If staff could review and confirm that it has been taken care of there seems to be a date difference. E. Sloop confirmed that the ordinances are in compliance with these changes.

Item 5B: Discussion on Sub-Committees

M. Jones stated that there has been discussion about creating sub-committees to address ambiguous terms or surveys. In the past this Board had a traffic impact analysis committee. There is limited time during regular meetings and a sub-committee may be almost a work session to really dive into some of these issues and work out details and ask questions. Permanent sub-committees to address two areas, 1. Ordinance issues and 2. Planning process could be considered. He opened the discussion up to the Board.

Motion: M. Jones made a Motion to Approve forming two sub-committees with members to be determined that focuses on ordinance related issues that can provide additional research and guidance to this Board as well as one that can focus on planning processes. K. Jones seconded the motion.

B. Skelly said she would like to know if the Town Board thinks that there is a need for these sub-committees or if this Board would be voting to move this forward to determine if the Town Board thinks these sub-committees are needed.

Commissioner Munger commented that he does not see a need for these sub-committees.

J. Kluttz commented that he agrees that becoming less adversarial is going to be important and he is not sure that forming sub-committees that do not include Town Staff and Town Board is heading in that direction. He does not think we need to form any sub-committee that is not heading towards being collaborative.

K. Jones commented that she thought the sub-committees could help staff who does not have time to do this type of research and they could present their findings to staff for them to review and decide to bring forward or not.

M. Jones commented that we have a very limited amount of time during the meetings and this would allow the Board to vet out items for discussion such as mixed use buildings.

H. Whittaker commented that he is undecided and would like to see more information regarding what is being proposed and the problem he sees with a sub-committee is that if you are just going to direct those questions to staff same as this Board is doing now then you are still going to get into the same discussion and have the same questions. He is not in favor of setting themselves up to do what staff gets paid to do but he can also see some value in it.

M. Jones commented that with such a mixed response from the Board he will withdraw his motion and the Board can revisit this at a future date if it makes sense to the Board.

Item 5C: Discuss petition TA22-16, a request by the Huntersville Planning Department amending the Town Zoning Ordinance to place standards for a single multi-family home on one lot.

J. Simoneau, Planning Director stated that one issue identified by staff as a concern is one apartment building on one lot can get quite large and can be adjacent to lower density existing development. This amendment is to address the buffer requirements. This amendment is amend Article 3 to move the multi-family homes as a use permitted by right and put it as a use permitted with conditions in the NR, NC, TC, and HC zoning districts. In Article 9.64 would be amended to show different setbacks based on the circumstances involved with one building/one lot. In part B it also indicates how much buffer and screening would be required within that setback. Subsection 2 states that if it is part of a major subdivision it will be subject to this amendment. Staff reviewed the proposed amendment and provided examples of how this would have affected recently approved projects.

F. Gammon asked staff what current zones are by-right zoning for multi-family. Staff replied TC, NC, NR, and HC which are all included in the proposed amendment.

F. Gammon commented that he supports this amendment and the transparency of having this discussed in public forum with public comment. It will not stop multi-family development but the Town Board will be looped back in the discussion and not surprised by by-right development.

Motion: B. Skelly made a Motion to Approve TA22-16 as written. H. Whittaker seconded the motion.

Vote: The motion was approved (6-1) with M. Jones opposed.

Other Business

F. Gammon made a closing comment that he enjoys coming to these meetings and he continues to learn. He encouraged the Board members to attend the other Board meetings and commented this is a good Board and this is a great opportunity for the public to get involved, learn and serve their community.

Adjourn

Motion: H. Whittaker made a Motion to Adjourn. T. Taylor seconded the motion.

Vote: The motion passed unanimously (7-0).

Approved this ____ day of _____ 2022.

Chairman or Vice Chairman

Board Secretary

**AN ORDINANCE TO AMEND THE TOWN OF HUNTERSVILLE ZONING
ORDINANCE ARTICLE 10 SIGNS TO UPDATE AND CLEAN UP STANDARDS**

Section 1. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Zoning Ordinance Section 10.2 Applicability, is hereby amended as follows:

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.

Section 2. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Zoning Ordinance Section 10.3 General Provisions, is hereby amended as follows:

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).
- .6 **No sign shall be placed in a utility or storm drainage easement without permission from easement holder.**

Section 3. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Zoning Ordinance Section 10.4 District Classification, is hereby amended as follows:

10.4 District Classification

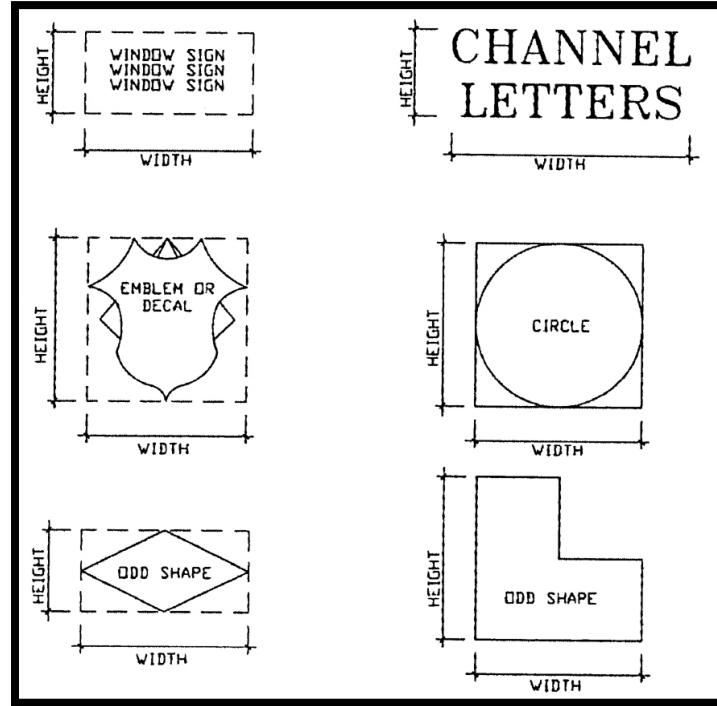
For purposes of this Article, zoning districts are classified as follows:

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
<u>Transit Oriented Development District- Employment (TOD-E)</u>	<u>Mixed Use</u>
<u>Transit Oriented Development District- Residential (TOD-R)</u>	<u>Commercial</u>
Highway Commercial (HC)	Commercial
Vehicle Sales (VS)	Commercial
Corporate Business (CB)	Commercial
Special Purpose (SP)	Commercial

Section 4. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Zoning Ordinance Section 10.6 Sign Measurement, is hereby amended as follows:

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.



Section 5. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Zoning Ordinance Section 10.7 Permanent Signs Requiring a Permit, is hereby amended as follows:

10.7 Permanent Signs Requiring a Permit

10.7.1 On-Premise Signs are allowed, as indicated in the chart below

CIVIC BUILDINGS, <u>PARKS, AND GREENWAYS</u> IN ANY DISTRICT Wall Mounted Sign Primary Sign Max Area: 10% of <u>the area of</u> any wall face area-fronting a street or approved alternate frontage, up to a maximum of 128 square feet. Parking Lot Sign Max Area: One wall face that does not front a public street or approved alternative frontage, but which fronts a parking area and contains pedestrian entry, may have up to 32 square feet of parking lot wall signage. 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, <u>TOD-R</u>) Wall Mounted Sign Primary Sign Max Area: 10% of <u>the area of</u> any wall face area-fronting a street or approved alternate frontage, up to a maximum of 128 square feet. Parking Lot Sign Max Area: One wall face that does not front a public street or approved alternative frontage, but which fronts a parking area and contains pedestrian entry, may have up to 32 square feet of parking lot wall signage. 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 (HC², CB², SP, VS, <u>TOD-E</u>) Wall Mounted Sign Primary Sign Max Area: 10% of <u>the area of</u> 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 square feet of floor area 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. Parking Lot Sign Max Area: One wall face that does not front a public street or approved alternative frontage, but which fronts a parking area and contains pedestrian entry, may have up to 32 square feet of parking lot wall signage. 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	<u>COMMERCIAL USE OR MIXED USE IN CERTAIN MIXED-USE BUILDINGS WHERE PERMITTED IN RESIDENTIAL DISTRICTS (NR, TR, R.)</u> 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. <u>Primary Sign Max Area: 5% of the area of any wall face fronting a street or approved alternate frontage, up to a maximum of 12 square feet.</u> Ground Mounted Sign Maximum Number: 1 per building street front Maximum Area: 4216 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 copy¹ 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	PLANNED DEVELOPMENT ENTRANCE SIGN <u>FOR DEVELOPMENTS OF 5 ACRES OR MORE</u> Maximum Number: 1 per street front; 2 sign faces may be used with a wall, fence, or other architectural entrance feature Total Maximum Area: 2432 square feet Maximum Height: 8 feet <u>Ground Mounted Sign limited to name and/or logo</u>

campuses, and similar large complexes which have a variety of tenants or uses) No individual tenant ground mounted signs are permitted.	(permitted for all residential, mixed use, and non-residential projects of 10 acres or more) Limited to name and/or logo
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~~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 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.~~

² Notwithstanding the above, in the Highway Commercial or Corporate Business zoning district, when a commercial site plan is submitted for a new or redeveloped multi-story, multi-tenant building(s) that is a Highway Commercial, Urban Workplace or Shopfront building type, a sign plan shall be submitted for administrative review that includes, but is not limited to, locations of wall signs for each tenant and the square footage of wall sign area devoted to each tenant. Sign plan shall be revised if the number of tenant spaces changes after the approval of the sign plan. The maximum area permitted for wall signs is 10% of the area of any wall face fronting a street or approved alternate frontage, up to a maximum of 128 square feet. One wall face that does not front a public street or approved alternative frontage, but which fronts a parking area, may have up to 16 square feet of parking lot wall signage for each building tenant.



Section 6. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Zoning Ordinance Section 10.10 Signs Permitted without a Permit, is hereby amended as follows:

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.

- .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: ~~45~~ feet.

.20 Temporary Sporting Event Sign

- a) Signs shall be displayed only on the property on which the event is held.**
- b) No more than one sign per street front shall be permitted per event.**
- c) Signs shall not exceed 32 square feet in area or 6 feet in height.**
- d) Signs shall be erected no sooner than the day of the event and may only be erected through the duration of the event.**

Section 7. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Zoning Ordinance Section 10.11 Master Signage Programs, is hereby amended as follows:

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 District **Option** and the Planned Development **Sign 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 District Option

Special Sign Districts require approval by the Board of Commissioners following review and recommendation by the Huntersville Planning Board. ~~For~~ The purpose of **a Special Sign District is to** 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.
 - d) 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.
- .2 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.
- .3 **A Master Sign Plan shall be submitted that includes, but is not limited to, the following information in a digital format:**
 - a) **Detailed designs of all proposed signs including the size, height, changeable copy, and materials of such signs.**
 - b) **A graphic showing proposed number and location of signs.**
 - c) **Sign Illumination Plans.**
 - d) **Plans for landscaping and architectural features to be used in conjunction with such plans.**

- .4 **Once the Special Sign District has been approved, modifications to the Master Sign Plan must be reviewed and approved in the same manner in which the approval was originally made, including any necessary notice and public hearing. However, minor modifications, as defined by Article 12 of this ordinance, may be approved by the Zoning Administrator.**

10.11.2 Planned Development ~~Sign~~ 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 ~~Plan~~ program **shall be submitted** that includes, **but is not limited to**, the following information in **a digital** booklet format ~~is submitted~~:
 - a) Detailed designs of all proposed signs including the size, height, **changeable** copy, **and** materials, ~~and colors~~ of such signs.
 - b) **A graphic showing** ~~P~~proposed number and location of signs shall be submitted.
 - c) Sign Illumination Plans.
 - d) Plans for landscaping ~~or~~ **and** architectural features to be used in conjunction with such plans.
- .3 The proposed signs meet the following criteria: **To utilize any of the below special provisions, it shall be noted in the approved Master Sign Plan.**
 - 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.~~ **The maximum size of wall mounted signage on a non-street fronting wall that contains pedestrian entry and fronts a parking area shall not exceed 40 square feet. This increase may only be used on one non-street fronting wall that contains pedestrian entry and fronts a parking area.**
 - 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.

Section 8. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Zoning Ordinance Section 10.13 Application and Issuance of Sign Permits, is hereby amended as follows:

10.13 Application and Issuance of Sign Permits

10.13.1 Application.

Applications for permits shall contain or have attached the following information:

- .4 A site or ~~plot~~ plan of the property involved, showing accurate placement of the proposed sign **including distance from right-of-way and any sight triangles.** ~~intended use(s) of the property and zoning district designation.~~

- .5 ~~Two (2) blueprints or inked, scaled~~ Drawings of the **sign** 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.

Section 9. **BE IT ORDAINED** by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 12.2.2 Sign Definitions, is hereby added to the Zoning Ordinance as follows:

Sign Types. The following are types of signs included in this ordinance.

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", **"Customer Pick Up", "Drive-Up", "Curbside Pick Up"**, 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.

Section 10. This ordinance shall become effective upon the date of adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: February 2, 2023

PUBLIC HEARING DATE: March 6, 2023

PLANNING BOARD MEETING: March 28, 2023

TOWN BOARD DECISION: April 1, 2023

Changes to Article 10

- 1) Section 1
 - a) Article 10.2
 - i) Removed outdated reference to who issues sign permits
- 2) Section 2
 - a) Article 10.3.6
 - i) Codify that signs are not allowed in utility/storm easements without permission from easement holder (this is already practice)
- 3) Section 3
 - a) Article 10.4
 - i) Amended to specify what type of zoning district TOD-E and TOD-R are classified as for the purposes of sign regulations
- 4) Section 4
 - a) Article 10.6.1
 - i) Add visual aid for measuring sign area to help when explaining to customers
- 5) Section 5
 - a) Article 10.7
 - i) Under Civic Buildings in any district, codify that signs for parks and greenways are subject to those standards as well
 - ii) Under Any Building Type in A Mixed-Use District Except A Detached House, added sign regulations for TOD-R.
 - iii) Under Any Building Type in A Commercial District Except Detached House, added sign regulations for TOD-E.
 - iv) Under Mixed Use Buildings where Permitted in Residential Districts, add sign regulations for commercial use and mixed use in R & TR. There are limited commercial uses allowed in R & TR and we currently do not have specific standards for signs in these districts. An example of a business in R that requested a sign is the ivory barn event venue.
 - (1) Increase allowed square footage of ground-mounted signage from 12 SF to 16 SF to give flexibility while still keeping the size smaller than ground-mounted signs allowed in other zoning districts so the sign will blend better with surroundings.
 - v) **Parking Lot Signage.** Currently, a building wall that does not front a street or urban open space is only allowed a wall sign if it contains a pedestrian entrance and fronts a parking area. When allowed, the maximum area of the non-street fronting (parking lot) sign is 25% of the allowed square footage for the street-fronting (primary) sign,

Changes to Article 10

up to 32 SF. It also requires a square footage transfer (deduction of square footage) from the primary sign to the parking lot sign.

(1) Current Language

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.

(a) Example. If the primary sign is allowed 100 SF in sign area, the parking lot sign would be allowed 25 SF in sign area (100 x 25%). The 25 SF would then be transferred (deducted) from the primary sign to the parking lot sign, leaving the primary sign with only 75 SF of usable sign area.

(2) Staff is proposing to allow a 32 SF wall sign on a non-street fronting wall that fronts a parking lot and contains pedestrian entry.

(a) This removes away the 25% of the area of the primary sign limit and the requirement to transfer the square footage from the primary sign.

(b) Staff has gotten many comments on how restrictive the 25% size limit and the transfer requirement is over the years. Staff feels comfortable allowing 32 SF outright for a wall sign on a non-street fronting wall that fronts a parking lot and has a pedestrian entrance as it is still in keeping with the spirit of the ordinance.

vi) Changed size of Planned Development Entrance from 24 to 32 SF to align with the size allowed for other monument signs.

vii) 10.7.2 was added to regulate multi-story, multi-tenant buildings. Staff has received many inquiries from new tenants in multi-story, multi-tenant buildings about what size sign they can put up. In some cases, the primary wall of the building has already used up the allowed sign area on that primary wall. Tenants often express their frustration that the lease they signed promised space for a wall sign on the primary wall. 10.7.2 was added to make property owners/managers be pro-active so that this situation will not happen. If the number of tenant spaces were to change, the sign plan would need to be updated. This would be triggered by an application for a new sign permit for the building because staff would check to see if the number of tenant spaces for the building had changed.

(1) Staff has specified each tenant may have a 16 SF parking lot sign as previously the entire wall face for parking lot signage would be limited to 32 SF. Which, if there are multiple tenants, will not be enough for each tenant to have an identifiable sign.

Changes to Article 10

(2) Example of multi-story/tenant building in Huntersville that has used all sign area.



6) Section 6

a) Article 10.10.4

- i) Updating maximum height of instructional/directional signs to match the minimum height of 5' for a handicap parking lot sign. Since staff is specifying in Section 9 of the proposed ordinance that drive up/pick up signs are directional/instructional, staff increased the height limit from 4' to 5' to match the minimum height of handicap parking lot sign. The intention is to keep the drive up/pick up signs a comparable size/height to the handicap parking lot signs to prevent the drive up/pick up signs from overwhelming the parking lot landscape.

b) Article 10.10.20

- i) The ordinance does not permit sporting event flags. Staff has received feedback multiple times from local sports team about the desire to have these flags. Staff is not comfortable with permitting sporting flags because flags flutter and signs that flutter are prohibited by our ordinance, so as a compromise, staff is proposing to allow temporary sporting event signs instead of flags.

7) Section 7

a) Article 10.11.1 & 10.11.2

- i) Name of Master Sign Programs changed to include word 'sign' and 'option' in each for clarity
- ii) Added language under the Special Sign District to codify the requirement of approval by the Town Board and the amendment for such approval
- iii) Updated content requirements for the Master Sign Plans to align with what we currently request
 - (1) Codified requirements already being used for the Special Sign District Master Sign Plan.
- iv) Updated the sign criteria under the Planned Development Flex Option to allow a 40 SF sign on one non-street fronting wall. This aligns with the flexibility from general sign regulations allowed by the Planned Development Flex Option.

8) Section 8

a) Article 10.13.1.4 & 10.13.1.5

- i) Updated sign application requirements to reflect information we currently require.

Changes to Article 10

9) Section 9

a) Article 12.2.2 Sign Definitions

- i) Signs for customer pick up (curbside/drive up signs) are considered directional/instructional signs by our ordinance. These are permitted without a permit but still have size standards. We specified in the definition of directional/instructional signs that signs for customer pick up are considered such.

(1) Staff has had a few requests for drive up/curbside signs that are very large in height and size and look more like an advertising sign for curbside/drive up rather than directional/instructional sign. The addition of the language is to make pick up signs subject to the size and height limit of directional/instructional signs to prevent the signs for overwhelming the parking lot landscape.

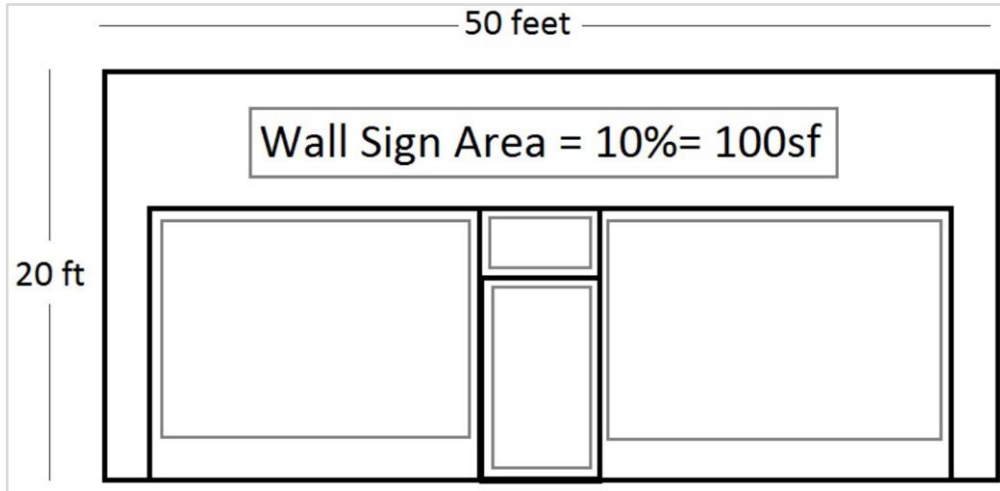
(2) Example of large pick-up structure with large sign



Sign Area Example

How to calculate maximum wall sign area for street-fronting (primary) signs

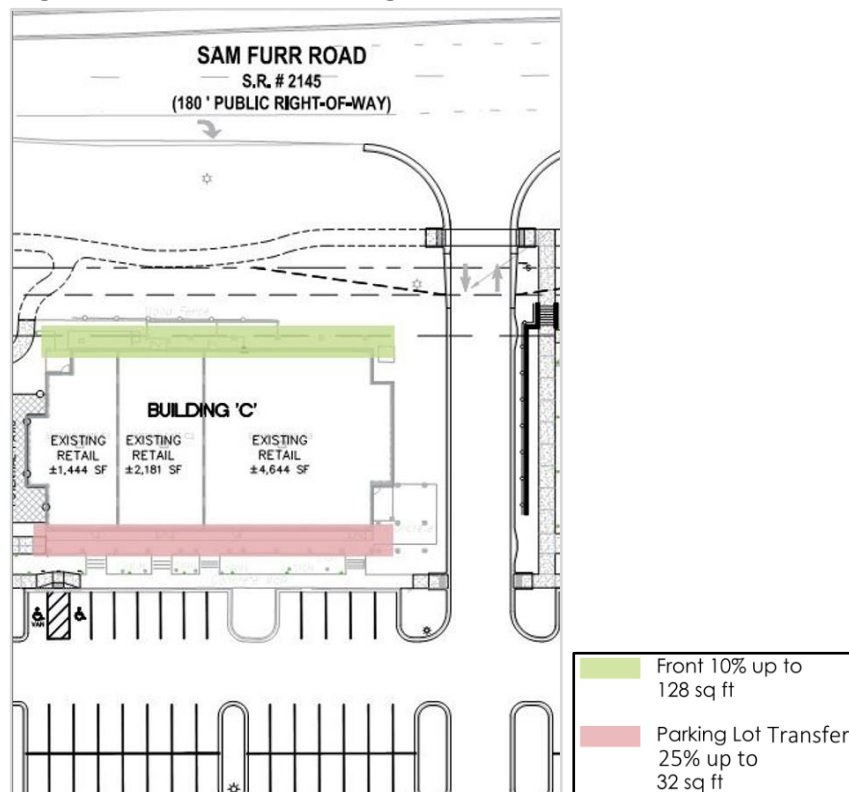
1. Using the graphic below as an example, find the area of the street-fronting wall.
 - a. $50' \times 20' = 1,000 \text{ SF}$
2. Multiply the area of the street-fronting wall by 10%. The resulting number is the maximum sign area for street-fronting signage.
 - a. $1,000 \text{ SF} \times 10\% = 100 \text{ SF}$



How to (currently) calculate maximum wall sign area for non-street fronting (parking lot) signs

1. Multiply the maximum sign area of the street-fronting signage by 25%. The resulting number is the maximum sign area for non-street fronting signage.
 - a. $100 \text{ SF} \times 25\% = 25 \text{ SF}$
2. Deduct the SF used for the non-street fronting sign from the maximum sign area of the street-fronting sign. The resulting number is the remaining maximum sign area for the street-fronting sign. If a non-street fronting sign is NOT erected, the maximum street-fronting wall sign area would remain at 100 SF.
 - a. $100 \text{ SF} - 25 \text{ SF} = 75 \text{ SF}$

Example of street-fronting and non-street fronting walls for a multi-tenant building in Birkdale Landing



AN ORDINANCE TO AMEND THE TOWN OF HUNTERSVILLE ZONING ORDINANCE
ARTICLES 7.4 TREE PRESERVATION, PROTECTION, AND REMOVAL AND 7.9
COMPLIANCE AND PENALTIES TO INCREASE PENALTIES FOR REMOVAL/DISTURBANCE
OF REQUIRED VEGETATION

Section 1. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Article 7.4.2 Tree Preservation, Protection, and Removal, is hereby amended as follows:

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 ³ 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, the developer ~~may~~ **shall** mitigate protected tree canopy removal. **This may be achieved** 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~~ **shall** contribute to a Tree Fund/Bank set up by the town for the planting and maintenance of such trees elsewhere in the community. In such cases, a combination of planting and contribution in lieu of planting is acceptable. The amount of contribution is ~~based on~~ **equal to** the total cost of the required mitigation trees plus that of their installation. **The violator/property owner shall obtain a letter of appraisal from a certified arborist that the cost of the tree(s) to be mitigated shall be based upon.** Planning staff will be responsible for reviewing and approving all tree mitigation plans consistent with the mitigation standards of this section.

For Specimen Tree Mitigation, the developer ~~may~~ **shall** mitigate the removal of specimen trees. **This may be achieved** 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~~ **shall** 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. **Reference Article 7.9 for penalties that may apply.**

Section 2. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Article 7.4.5 Tree Preservation, Protection, and Removal, is hereby amended as follows:

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. **Reference Article 7.9 for penalties that may apply.**

Section 3. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Article 7.9 Compliance and Penalties, is hereby amended as follows:

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. **Penalties shall be in addition to and not in lieu of compliance.**

Any act constituting a violation of this Article that results in the destruction, removal, or damage of **required** trees, shrubs, and any vegetation, shall subject the landowner and the violator to a civil penalty in the amount of ~~\$2.00~~ **\$5.00** for every square foot of area of damaged or destroyed vegetation, not to

exceed \$30,000, payable to the Town of Huntersville. Reference Article 7.4.2.c for method to calculate square foot of tree area. 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.

Any act that results in the destruction, removal, or damage of a required specimen or heritage tree within an undisturbed buffer yard and/or tree preservation area, shall subject the landowner and the violator to a civil penalty, per tree, of \$100 per caliper inch up to 24 inches and \$250 per caliper inch over 24 inches, not to exceed \$30,000.

Penalties Cumulative: The civil penalties provided for in Article 7 and Article 11 may be assessed cumulatively.

If the area violated is required tree save and required undisturbed buffer, that shall constitute two separate violations.

By way of example only, if one 24 caliper inch specimen tree is removed from a required tree preservation area that is also a required undisturbed buffer and the area of vegetation destroyed is 1,000 square feet, at least four separate penalties may be assessed: (i) \$5,000 for disturbance of tree preservation, (ii) \$5,000 for disturbance of undisturbed buffer, (iii) \$2,400 for removal of a specimen tree within a tree preservation area, and (iiii) \$2,400 for removal of a specimen tree within an undisturbed buffer

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.

Section 4. This ordinance shall become effective upon the date of adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: February 2, 2023

PUBLIC HEARING DATE: March 6, 2023

PLANNING BOARD MEETING: March 28, 2023

TOWN BOARD DECISION: April 1, 2023

TA22-15 Vegetation Penalty Comparison Table

	What is the penalty for removal/disturbance to required vegetation?	Tree fund that a developer can contribute to?	What is the mitigation requirement for vegetation removed/disturbed?
Huntersville	\$2.00 for every square foot of area of damaged or destroyed vegetation, not to exceed \$30,000 (Article 7.9).	Yes	Any tree, shrub, or required vegetation that has been removed or destroyed shall be replaced in accordance with an approved re-vegetation plan. For Specimen Tree Mitigation: plant 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. Tree Canopy Mitigation: plant new trees on the site whose canopy equals that of the canopy to be removed (new tree canopy credits are described above).
Charlotte	1. Failure to plant replacement trees in accordance with Article 20 shall be \$50 for each tree not planted. 2. Injury or destruction that results in the total loss of the tree or shrub, the maximum civil penalty for each tree injured or destroyed shall not exceed \$20,000. 3. Injury or destruction that does not result in total loss of the trees, the maximum penalty shall not exceed \$1,000. 4. Failure to install or maintain required tree protection measures, shall be a penalty of \$1,000.	Yes 3 different types of tree mitigation funds: Tree Conservation, Street Tree Planting, & Canopy Care	Site brought up to compliance with the requirements of Section Article 20, Sections 20.12 through 20.18. A nonmonetary penalty, in the form of increased or additional planting requirements, may be assessed in addition to or in lieu of any monetary penalties.
Concord	First Offense: civil penalty of \$100.00 for each day that each violation remains. Repeat Offense: civil penalty of \$300.00, each day the repeat violation remains is a civil penalty of \$300.00.	No	1. If tree save area affected is less than 1 acre and tree stumps are present, replace at a 1:1 ratio each removed, damaged, or dead tree with a tree of the same species. 2. If tree save area affected is less than 1 acre and tree stumps are not present, replant trees in the affected area based on Section 11.9.4.(D). 3. If tree save area affected is 1 acre or more, replant trees in the affected area based on Section 11.9.4.(D). 4. Trees planted within the tree save area during site development/redevelopment activity and that die within one (1) year of construction completion shall be removed and replaced by the applicant. Section 11.9.4.D: If the tree save area does not meet the minimum required percentage of open space, then additional trees must be planted at a spacing of 35 feet by 35 feet.

TA22-15 Vegetation Penalty Comparison Table

	What is the penalty for removal/disturbance to required vegetation?	Tree fund that a developer can contribute to?	What is the mitigation requirement for vegetation removed/disturbed?
Matthews	1. The destruction or removal of required vegetation up to 12" DBH, subject to civil penalty of \$2.00 per square foot, not to exceed \$50,000. 2. Destruction or removal of a tree greater than 12" DBH, subject to civil penalty equal to the amount of the value of the tree as listed in the most current edition of The Guide for Plant Appraisal. 3. If a developer and/or property owner failed to plant the required trees/shrubs after warning received, a citation of \$500.00 per tree/shrub not installed may be issued per day of ongoing violation, not to exceed \$20,000 per day of violation. Any penalties shall be in addition to, and not in lieu of, compliance to all requirements and payment of any financial penalties.	Yes	1. If a Protected Tree is destroyed or dies within 3 years after completion of construction, replacement trees of total equal diameter shall be planted on the site. 2. Any Protected Tree dying after the initial three (3) years shall be replaced with planted tree(s) of an approved species, with either a single tree of equal caliper to the lost tree or multiple new trees each with a minimum of two inch (2") caliper (for large maturing trees) or a minimum of one and one-half inch (1½") caliper (for small maturing trees). It is the intent of these mitigation provisions that a replacement tree will be located where the Protected Tree had grown prior to death or destruction.
Cornelius	First Offense: civil penalty of \$100.00 2nd Offense: civil penalty of \$200.00 3rd & Subsequent Offense: civil penalty of \$500.00	No	All disturbed landscaped areas and vegetation shall be replanted to meet the standards of Section 9 as well as the approved site plan. Trees or vegetation that die within one year of construction completion, because of contractor negligence, shall be removed and replaced with new vegetation of equal or greater in size. Replace damaged or destroyed significant vegetation with an equal amount of new vegetation according to the size of vegetation removed. Any tree with a caliper of at least 8" which is damaged or removed shall be replaced with one or more trees which have a caliper of at least 2 1/2" and a cumulative caliper equal to or greater than the original tree. Trees damaged or destroyed less than 8" in diameter shall be replaced to satisfy the performance criteria of this Section.

TA22-15 Vegetation Penalty Comparison Table

	What is the penalty for removal/disturbance to required vegetation?	Tree fund that a developer can contribute to?	What is the mitigation requirement for vegetation removed/disturbed?
Davidson	1. Penalties range from \$50.00 to \$ 1,000.00 or more, per tree, or \$ 5.00 to \$10.00 per square foot disturbed. 2. Required Installations: Failure to plant original or replacement trees and vegetation in accordance with this chapter shall be \$100.00 for each tree and \$50.00 for each shrub/other vegetation not planted. 3. Total Loss: The intentional or grossly negligent injury or damage that results in the total loss of the tree or shrub/vegetation shall be assessed according to the following: • Penalties for losses in areas regulated by approved plans (Master Plans, Conditional Master Plans, Individual Building or other site plans); in designated tree save or preservation areas; outside of site areas approved for pre-application clearing; or, within the public right-of-way: ○ Tree: \$500 per Caliper Inch ○ Shrub: \$100 per Shrub ○ Vegetated Cover: \$10 per SF of Disturbed Area ○ Specimen Tree: \$500 per Caliper Inch up to 24 inches; \$800 per Caliper Inch over 24 inches ○ Note: The maximum civil penalty for each tree injured, damaged or destroyed shall not exceed \$25,000. • Penalties for losses in areas not regulated by an approved plan, including permits (i.e., permits filed after cutting or permits incorrectly executed): ○ 1st Citation for Tree: \$50 ○ 2nd & Subsequent Citation for Same Offense: \$500 per Tree ○ 1st Citation for Specimen Tree: Warning \$100 ○ 2nd & Subsequent Citation for Same Offense: \$1,000 per Tree 4. Partial Damage: The intentional or grossly negligent injury or damage to trees and shrubs/vegetation protected by this ordinance that do not result in the total loss	Yes	All landscaped areas, trees, and vegetation required by this ordinance which are disturbed or damaged shall be replanted to meet the standards of this ordinance as well as the approved site/master plan or permit. 1. New Vegetation: New trees or vegetation required as part of an approved plan that are damaged or die shall be removed and replaced with new vegetation of equal or greater size according to the standards of this ordinance. 2. Existing Vegetation: Where the trees or vegetation that have been disturbed or damaged existed on the site at the time the development application was filed, all replacement trees and vegetation shall meet the standards set forth in this ordinance and take into account any unique site conditions as well as significant vegetation remaining within the landscaped area.

TA22-15 Vegetation Penalty Comparison Table

	What is the penalty for removal/disturbance to required vegetation?	Tree fund that a developer can contribute to?	What is the mitigation requirement for vegetation removed/disturbed?
Davidson	of the trees or shrub/vegetation shall be assessed according to the following: • Penalties for partial damage in areas regulated by approved plans; in designated tree save or preservation areas; or, within the public right-of-way: ○ Tree: \$500 per Tree ○ Shrub: \$50 per Shrub ○ Vegetated Cover: \$5 per SF of Disturbed Area ○ Specimen Tree: \$1,000 per Tree 5. Tree Protection Measures: Failure to install or maintain required tree protection measures shall be punishable up to \$1,000 per violation.		

**AN ORDINANCE TO AMEND ARTICLE 7, STREET TREE PLANTING STRIPS AND
SMALL MATURING YARD TREE OPTION**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 7.7, Section 2 of the Zoning Ordinance is hereby amended by modifying the minimum width of planting strips located between the existing street and proposed sidewalk as follows:

2. Spacing and Location of Street Trees. Street trees are required to be within a minimum ~~7-9-~~ foot planting strip located between the existing street and proposed sidewalk.¹ 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.

¹ In lieu of providing a 9-foot planting strip located between the existing street and proposed sidewalk, the development may provide a minimum 5-foot green zone and one front-yard tree in addition to the required supplemental landscaping provisions for residential lots in the following section.

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 7.7, Section 3 of the Zoning Ordinance is hereby amended by modifying the permitted types of yard trees as follows:

Supplemental Landscaping Provisions for Residential Lot Trees.

1. **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:

Lot Size	Required Number of Canopy Trees
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
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2. **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.
3. **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. **In cases where the front build-to range or setback is 20 feet or less small-maturing trees may be permitted.** All trees shall be listed as an approved tree on *The Town of Huntersville Tree and Shrub List*.

Section 3. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 5.5, Elements of Street Design, d, 1, a of the Zoning Ordinance is hereby amended by modifying the curb and gutter section as follows:

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:
 1. Curb and gutter section – ~~7~~ **5** feet in width (minimum), **9 foot option per Article 7**;
 2. Ditch section – 6 feet minimum outside the swale;
 3. Industrial Streets – 10 feet in width;
 4. Alleys – not required.

Section 4. This ordinance shall become effective upon adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: 2/2/23

PUBLIC HEARING DATE: 4/3/23

PLANNING BOARD MEETING: 4/25/23

TOWN BOARD DECISION: 5/15/23

**AN ORDINANCE TO AMEND ARTICLE 14.2.3, TIA REFERENCE NO LONGER
APPLICABLE PER ADMINISITRATIVE REVIEW OF SKETCH PLANS AND OTHER
MISCELLANEOUS REVISIONS**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 14, Section 2 of the Zoning Ordinance is hereby amended by modifying the requirements for a draft TIA as follows:

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 scoping. Once the TIA scoping is complete, the applicant may proceed with the TIA, 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 the Town Board Public Hearing ~~(for rezoning cases) or as provided in the Subdivision Ordinance.~~ Resubmittals of TIAs **for rezoning cases** shall be submitted a minimum of 20 business days prior to the scheduled Town Board final action. **In all other cases, the draft TIA and any resubmittals shall be submitted as provided in the most recent version of the Town of Huntersville TIA Process and Procedures Manual.** The final sealed TIA shall be completed and accepted by Town staff prior to final action by the Town Board or permit issuing authority.

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 11.4, Section 4 of the Zoning Ordinance is hereby amended by modifying the requirements for a the withdrawal of amendment petitions:

4. Withdrawal or Amendment of Petition.

1. A petition filed according to this section may be withdrawn by the petitioner at any time up to the date of the ~~public hearing~~ **final action** on the petition.

Section 3. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 11.8, Section 1 of the Zoning Ordinance is hereby amended by modifying the requirements for a withdrawal of zoning amendments:

8. Effect of Denial of Petition.

1. **Any** petition for the reclassification of property that has been **withdrawn**, 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.

2. The Town Board may allow re-submission of a petition **for the reclassification of property** 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.
3. 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.

Section 4. This ordinance shall become effective upon adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: 2/2/23

PUBLIC HEARING DATE: 4/3/23

PLANNING BOARD MEETING: 4/25/23

TOWN BOARD DECISION: 5/15/23