



AGENDA
Ordinance Advisory Board Meeting
March 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/@townofhuntersvillenc28078>

1. Call to Order/Roll Call

1.A. Welcome new Board Members: Jacob Palillo, Michael Pollard, and Scott Harrington ()

2. Approval of Minutes

2.A. Consider approval of the February 2, 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 #TA22-15, 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.B. 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.C. Consider recommendation on petition #TA23-03 Minor Subdivision Changes, a request by the Town of Huntersville Planning Department for a text amendment to Article 2 Definitions: "Subdivision, Minor" to cap the amount of lots allowed within a minor subdivision and to Article 7.5 "Buffer Yards" to require buffers for minor subdivisions located within the R and TR zoning districts. (*Nathan Farber*)
- 4.D. Consider recommendation on petition #TA23-04, a request by the Huntersville Planning Department for text amendment to Article 9.54 Solar Energy Facilities to clean up the language. (*Nathan Farber*)

5. Other Business

6. Adjourn

Huntersville Ordinances Advisory Board Membership

Updated 02/22/2023

Amy Hallman (At Large), Chair
100 Cambridge Road
Huntersville, NC 28078
704-458-3735 (C)
atmhallman@gmail.com
(Term expires 2-28-2025; 1st term)

Kathy Jones (At Large), Vice-Chair
104 Walters Street
Huntersville NC 28078
704-575-1414 (H)
kathymariejones@bellsouth.net ,
(Term expires 2-28-2024; 1st term)

Matthew Jones (At Large)
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matthew.jones@forumcap.com
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Joseph Kluttz (At Large)
PO Box 3171
Huntersville NC 28070
704-560-4246 (C)
joseph.kluttz@gmail.com
(Term expires 2-28-2025; 1st term)

Harrison Whittaker (At Large)
13719 Bramborough Rd
Huntersville NC 28078
334-313-6648 (C)
hbwiii2000@yahoo.com
(Term expires 2-28-2025; 1st term)

Jake Palillo
17532 Sail View Road
Cornelius NC 28031
jpallilo@aol.com
704-363-7902
(Term expires 2-28-2026; 1st term)

Michael E. Pollard
13024 Hindcross Drive
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203-322-1010
mppollard1@aol.com
(Term expires 2-28-2026; 1st term)

Scott Harrington
13314 Union Square Drive
Huntersville NC 28078
917-445-5137
scottharrington1808@gmail.com
(Term expires 2-28-2026; 1st term)

Frank Gammon (Planning Board)
8912 Deerland Court
Huntersville NC 28078
704-408-6502 (C)
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NON-VOTING MEMBERS

Lance Munger (Town Board)
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Jack Simoneau, Planning Director
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Emily Sloop, Town Attorney
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Jacob Glass, Staff Attorney
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Tracy Barron, Executive Assistant
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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, February 2, 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 (arrived at 3:52 p.m.), H. Whittaker, T. Taylor, 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 January 5, 2023, Regular Meeting Minutes

Motion: K. Jones made a Motion to Approve the amended January 5, 2023, minutes. A. Hallman seconded the motion.

Vote: The motion passed unanimously (8-0).

Public Comments

No public comments.

Action Agenda

T. Finlay stated that he had a conflict of interest with Item 4A and requested to be recused.

Motion: F. Gammon made a Motion to recuse T. Finlay for Item 4A. A. Hallman seconded the motion.

Vote: The motion passed unanimously (8-0).

Item 4A: 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)

K. Mielenz, Planner I reviewed the proposed amendment as included in the attached exhibits.

The Board had discussion related to clarifying terms, placement, safety concerns, and code enforcement.

Motion: K. Jones made a Motion to Approve TA22-11 to amend Article 10, Signs to increase flexibility of sign regulations and codify current practices. A. Hallman seconded the motion.

Vote: The motion passed (7-0-1) with H. Whittaker abstaining.

Motion: A. Hallman made a Motion to Reinstate T. Finlay. H. Whittaker seconded the motion.
Vote: The motion passed unanimously (8-0).

Item 4B: 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)

K. Mielenz, Planner I presented the proposed amendment as included in the attached exhibit. Staff stated that they will be redrafting the amendment to simplify the penalty calculation. Staff indicated that the revision will be so extensive that they would recommend the Board limit discussion on this item until the new version is presented.

Item 4C: 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)

L. Speight, Senior Planner presented the proposed amendment as included in the attached exhibits.

H. Whittaker asked if the tree was placed on the homeowner's property who would be responsible for maintenance, replacement, and possible damages caused by the tree. Staff responded that currently the ordinance indicates the homeowner or homeowner's associated would be responsible as determined by that homeowner's association.

H. Whittaker asked about developer requirements for yard trees and types of trees. Staff relayed the history behind the ordinances related to yard trees, varying sizes of side paths, how tree types were considered, and how placement of trees is now being considered to reduce damages.

H. Whittaker stated he is not opposed to this. He commented on the importance of clear communication and expectations so that homeowners would fully understand their financial responsibilities.

K. Jones asked how a homeowner may be affected if an existing neighborhood is retrofitted with curb and gutter. Staff responded that a yard tree requirement would not apply and retrofit streets are typically too tight to allow for street trees.

Commissioner Munger added that this is a layered issue which includes sidewalks being adjacent to roads leading people to park on sidewalks, sidewalks being further in leads to homeowners parking in their driveway and partially blocking the sidewalk. This leads to the focus being on the correct tree installed correctly for the size of the planting strip. He added that in Vermillion, the homeowner is responsible for replacing the street tree if it dies and must get approval from the homeowner's association for which type of tree he may plant in that location.

F. Gammon commented that he does not want to add more regulation and burden on the homeowners regarding trees and there should be greater education related to the current regulations and resident requirements.

H. Whittaker commented that moving the tree up into the homeowner's property and the line fills up with roots it would become the responsibility of the homeowner which could create a serious cost.

M. Jones asked staff about how the tree is planted. Staff confirmed that the note is on the plan requiring a specific method for tree planting however this is not inspected, and trees are often found planted incorrectly.

S. Trott, Director of Engineering for Town of Huntersville commented that in addition to sewer, water, power, gas, and telecommunication lines are also typically in the planting strip. Stormwater is publicly maintained and typically also within the planting strip. Additionally street signs, regulatory signs, streetlights are also in this area that can conflict with trees. Trees located can also create a sight distance issue so the number, size, spacing are a few of many factors that go into selecting the trees.

Item 4D: 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.

L. Speight, Senior Planner presented each section of the proposed amendment.

Staff confirmed ZO Article 14.2.3 would be amended as presented with the additional strike out of "for rezoning cases."

The Board had discussion related to when an applicant would be allowed to withdraw their plans, when they can resubmit, and how this would affect the timeline.

Motion: T. Taylor made a Motion to recommend approval of TA23-02 as presented by staff. T. Finlay seconded the motion.

Vote: The motion passed unanimously (9-0).

Item 5A: Acknowledge terms of service for Tim Taylor, Thomas Finlay & Brandy Skelley
Chairman Jones thanked all exiting Board members for their service.

Item 5B: Election of Chair and Vice-Chair

Nomination: F. Gammon nominated A. Hallman as Chair. H. Whittaker seconded the nomination. There were no other nominations.

Vote: The motion passed unanimously (9-0).

Nomination: A. Hallman nominated K. Jones as Vice-Chair. H. Whittaker seconded the motion. There were no other nominations.

Vote: The motion passed (8-1) with T. Finlay opposed.

Other Business

No other business.

Adjourn

Motion: J. Kluttz made a Motion to Adjourn. H. Whittaker seconded the motion.

Vote: The motion passed unanimously (9-0).

Approved this ____ day of _____ 2023.

Chairman or Vice Chairman

Board Secretary



TA22-15 BACKGROUND

A citizen e-mailed asking the Town to compare the dollar amount of our monetary penalties for disturbance/removal of required vegetation to other nearby communities as they felt ours seemed low in comparison.

The current penalty for removal/disturbance of required vegetation is \$2 per square foot of area damaged or destroyed, not to exceed \$30,000. This fee was imposed in 2003 and has not been increased since.

Staff researched penalties for removal/disturbance of required vegetation for Charlotte, Concord, Matthews, Cornelius, and Davidson. Based on the research conducted, staff recommends increasing the dollar per square foot from \$2 to \$5 to keep up with inflation and other communities.

Planning

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AN ORDINANCE TO AMEND THE TOWN OF HUNTERSVILLE ZONING ORDINANCE
ARTICLE 7 LANDSCAPING AND OPEN SPACE TO UPDATE 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 **in the designated area on the approved plans**, the developer may mitigate protected tree canopy removal by planting new trees **in another location** 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. In such cases, 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. To determine the amount of Tree Fund contribution in lieu of planting, a letter of estimation for the cost of the tree(s) to be mitigated plus the cost of installation shall be obtained from three separate companies; the average of the three estimates shall equal the total amount of Tree Fund contribution. 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 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. 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.

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. The area of the damaged or destroyed vegetation

shall be calculated in accordance with Article 7.4.2.c. If the area violated is required tree preservation and required undisturbed buffer, that shall constitute two separate violations. 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.

Section 4. This ordinance shall become effective upon adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: 03/02/23

PUBLIC HEARING: TBD

PLANNING BOARD: TBD

TOWN BOARD: TBD

TA22-15 Vegetation Penalty Comparison Table

	What is the penalty for removal/disturbance of required vegetation?	Tree fund that can be contributed to?	What is the mitigation requirement for vegetation removed/disturbed?
Huntersville	<u>Current:</u> \$2.00 for every square foot of area of damaged or destroyed vegetation, not to exceed \$30,000 (Article 7.9). <u>Proposed:</u> \$5.00 for every square foot of area of damaged or destroyed vegetation, not to exceed \$30,000. If the area violated is required tree save area and required undisturbed buffer, that shall constitute two separate violations.	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.
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 of required vegetation?	Tree fund that can be contributed 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 of required vegetation?	Tree fund that can be contributed 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 of required vegetation?	Tree fund that can be contributed 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.		



Memorandum

To: Huntersville Ordinance Advisory Board

From: Huntersville Planning Department

Re: TA 23-01 Street Trees

Per the directive of the Town of Huntersville Board of Commissioners the Planning Department, in cooperation with the Engineering and Public Works Departments, present the attached proposed text amendment to address the issues raised regarding street trees. Staff completed research of best practices for street trees and research of street tree planting standards for neighboring and comparable communities in the state of North Carolina. The proposed text amendment seeks to mitigate the challenges raised by the Engineering and Public Works Departments for future development while simultaneously working to meet the goals set in the Huntersville 2040 Community Plan.

**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. Small maturing sStreet trees are required to be within a minimum 7-foot planting strip located between the existing street and proposed sidewalk **and large maturing street trees are required to be within a minimum 9-foot planting strip 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 For lots greater than 50 feet in width with a front build-to-area depth of greater than 40 feet, in lieu of providing a 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

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 feet in width (minimum **for small maturing street trees), 9 feet in width (minimum for large maturing street trees) 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.

TA 23-01: STREET TREE PLANTING STRIPS AND SMALL MATURING YARD TREES

PUBLIC HEARING DATE:

PLANNING BOARD MEETING:

TOWN BOARD DECISION:

**AN ORDINANCE AMENDING ARTICLE 2 DEFINITIONS; SUBDIVISION, MINOR OF THE SUBDIVISION
ORDINANCE**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 2 “Definitions: Subdivision, Minor” of the Subdivision Ordinance be amended as follows:

Subdivision, Minor. A subdivision that is **not more than 5 lots**, not otherwise exempt from the provisions of this ordinance and that is not a “Major Subdivision” as that term is defined in this Ordinance.

For purposes of these regulations, Farmhouse Cluster developments are considered a minor subdivision, except as provided below. Farmhouse Cluster developments do not require a Sketch Plan, except as specifically set out hereinbelow. A Farmhouse Cluster Plan shall demonstrate compliance with requirements of the Zoning Ordinance and include the following: an “Existing Features (Site Analysis) Plan” as detailed in Section 6.300 (1)(1-14), (2), and (3) of this Ordinance; a Four-Step Process as detailed in Section 6.300 (3) of this Ordinance; and a Preliminary Plan as detailed in Section 6.400 of this Ordinance.

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 7.5 “Buffer Yards” of the Zoning Ordinance be amended as follows:

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

TA 23-03: Minor Subdivisions and Misc.

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
<u>R/ TR</u>	<u>Any minor residential subdivision</u>	<u>10 feet</u>	<u>Any existing trees located within the required buffer</u>	<u>Any existing shrubs located within the required buffer</u>

Huntersville Ordinance Advisory Board: July 7, 2022

Public Hearing Date: August 1, 2022

Planning Board Meeting: August 23, 2022

Town Board Meeting: September 19, 2022

TA 23-03: Minor Subdivisions and Misc.

TA23-03: Minor Subdivision Changes

Currently, Minor Subdivisions can have any number of lots created as long as it complies with the rest of the requirements of the zoning ordinance. This allows a loophole to get around the Major subdivision ordinance and thus having to provide infrastructure such as sidewalks and street trees. This also creates situations where long stretches of road are disrupted by a high number of curb cuts for driveways which disrupts the often rural characteristics of our roads, while also posing safety issues to drivers.

The Town of Huntersville is one of the few remaining Towns in Mecklenburg County that currently does not have any limitations on the number of lots allowed within a minor subdivision. Planning staff are proposing to limit Minor Subdivisions to no more than 5 lots. This ensures that property owners still have the full ability to subdivide their lots without going through the Major Subdivision process while also placing a safeguard against larger subdivisions avoiding the Major Subdivision process.

Planning Staff is also proposing an amendment to Article 7.5 "Buffer Yards" that would require all minor subdivisions within the Rural and Transitional Residential zoning districts to provide a 10' vegetative buffer. This 10' buffer would only require the subdivision to keep any existing vegetation while not requiring new vegetation if none is currently existing. We believe doing this helps to protect next door neighbors from losing visual buffers while also not adding unnecessary burdens to the subdivision.

**AN ORDINANCE AMENDING ARTICLE 2 DEFINITIONS; SUBDIVISION, MINOR OF THE SUBDIVISION
ORDINANCE AND MINOR BUFFERS IN THE ZONING ORDINANCE**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 2 “Definitions: Subdivision, Minor” of the Subdivision Ordinance be amended as follows:

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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

TA 23-03: Minor Subdivisions and Misc.

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
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<u>R/ TR</u>	<u>Any minor residential subdivision</u>	<u>10 feet</u>	<u>Any existing trees located within the required buffer</u>	<u>Any existing shrubs located within the required buffer</u>

Huntersville Ordinance Advisory Board: July 7, 2022

Public Hearing Date: August 1, 2022

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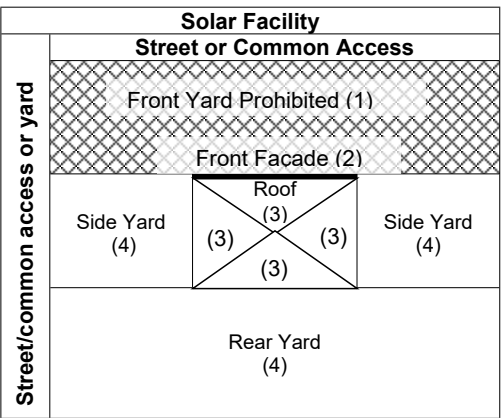
Town Board Meeting: September 19, 2022

TA 23-03: Minor Subdivisions and Misc.

AN ORDINANCE AMENDING ARTICLE 9.54 SOLAR ENERGY FACILITIES

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 9.54 Solar Energy Facilities of the Zoning Ordinance be amended as follows:

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 (refer to illustration).

a. General Requirements for Minor Solar Energy Facilities.

1. All minor free-standing facilities must comply with accessory structure setbacks and spacing as set forth in Article 8.8.
2. All minor free-standing facilities shall be a maximum of five (5) feet in height as measured from the grade at the base of the structure to the apex of the structure. This provision shall be waived for minor-free standing facilities on residential property if its application would prevent the reasonable use of a solar collector for the residential property.

All 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.

TA 23-04: Solar Energy Facilities

b. Residential Property.

1. Front yard placement is prohibited pursuant to N.C.G.S. § 160D-914(c)(3)) when the placement would cause the solar facility to be visible by a person on the ground.
2. Placement on the façade of a structure that faces areas open to common or public access is permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.
3. Placement on the roof is permitted as by-right accessory use in all districts subject to the issuance of a zoning permit.
4. Side and rear yard placement is permitted as by-right accessory use in all districts subject to the issuance of a zoning permit.

Commented [ES1]: Match statute. Leave in

c. Non-Residential Property.

1. Front yard placement is prohibited pursuant to N.C.G.S. § 160D-914(c)(3) when the placement would cause the solar facility to be visible by a person on the ground.
2. Placement of minor free-standing solar facilities on non-residential property in locations other than the front is permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.
3. Minor rooftop solar facilities on non-residential property are allowed on all roof slopes.

.2 Major Solar Energy Facilities (refer to illustration).

- a. General Requirements for Major Solar Energy Facilities Major solar energy shall require the issuance of a Special Use Permit in accordance with the requirements set forth in Article 11.4.10
1. The minimum lot size requirement for major solar facilities is 10 acres.
2. Setbacks for major solar energy facilities shall:
 - (1) meet the minimum required setbacks for the underlying zoning district for installations in the R and TR zoning districts.
 - (2) be a minimum of 20 feet from any property line in the SP zoning district.
3. Free standing major solar facilities shall be a maximum of eight (8) feet in height as measured from the grade at the base of the structure to the apex of the structure. This

TA 23-04: Solar Energy Facilities

provision shall be waived for major-free standing facilities on residential property if its application would prevent the reasonable use of a solar collector for the residential property.

4. Town of Huntersville to be given copies of any lease agreement and plan for removal of facility/equipment.
5. Major Solar Energy Facilities shall be exempt from any parking requirements in the Huntersville Zoning Ordinance if there is no commercial or office building component.
6. An existing features plan as described in Article 6.300.1.14 of the Subdivision Ordinance must be submitted with the application for the above-described Special Use Permit. Placement of solar panels shall be based on preserving existing features to the extent practical.

b. Residential Property

Major solar energy facilities on residential property shall require the issuance of a Special Use Permit in accordance with the requirements set forth in Article 11.4.10.

1. An existing features plan as described in Article 6.300.1.14 of the Subdivision Ordinance must be submitted with the application for the above-described Special Use Permit. Placement of solar panels shall be based on preserving existing features to the extent practical. Front yard placement is prohibited pursuant to N.C.G.S. § 160D-914(c)(3) when the placement would cause the solar facility to be visible by a person on the ground.
2. Placement on the façade of a structure that faces areas open to common or public access is prohibited pursuant to N.C.G.S. § 160D-914(c)(1) when the placement would cause the solar facility to be visible by a person on the ground.
3. Front roof slope placement that slopes downward is prohibited pursuant to N.C.G.S. § 160D-914(c)(2) when the placement would cause the solar facility to be visible by a person on the ground.

Notwithstanding this subsection, a Special Use Permit shall be granted if the regulations have the effect of preventing the reasonable use of a major solar energy facility on a residential property, except as provided in N.C.G.S. § 160D-914.

c. Non-Residential Property:

Major solar energy facilities on non-residential property shall require the issuance of a Special Use Permit in accordance with the requirements set forth in Article 11.4.10.

TA 23-04: Solar Energy Facilities

Huntersville Ordinance Advisory Board: July 7, 2022

Public Hearing Date: August 1, 2022

Planning Board Meeting: August 23, 2022

Town Board Meeting: September 19, 2022

TA 23-04: Solar Energy Facilities

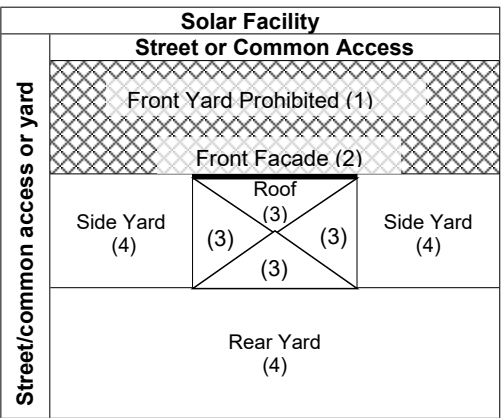
TA23-04: Solar Energy Facilities Fix

In May of last year, the Town Board approved changes to Solar Energy Facilities Article 9.54 which removed SUP requirements for Minor Solar facilities and brought the ordinance into compliance with 160D. Planning Staff is now back again in order to make minor adjustments to the Major Solar facilities section of the ordinance. Currently the ordinance splits Major facilities into residential and non-residential sections. What we overlooked was that this was repetitive and unnecessary as Major Solar facilities are already permitted in some residential zoning districts and by adding a residential section, we made it harder for stand alone solar facilities to exist. This text amendment merely removes the residential and non-residential sections and treats major solar energy facilities as standalone uses. All of the previously used general requirements still apply and the SUP process is still required.

AN ORDINANCE AMENDING ARTICLE 9.54 SOLAR ENERGY FACILITIES

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 9.54 Solar Energy Facilities of the Zoning Ordinance be amended as follows:

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TA 23-04: Solar Energy Facilities

b. Residential Property.

1. Front yard placement is prohibited pursuant to N.C.G.S. § 160D-914(c)(3)) when the placement would cause the solar facility to be visible by a person on the ground.
2. Placement on the façade of a structure that faces areas open to common or public access is permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.
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TA 23-04: Solar Energy Facilities

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4. Town of Huntersville to be given copies of any lease agreement and plan for removal of facility/equipment.
5. Major Solar Energy Facilities shall be exempt from any parking requirements in the Huntersville Zoning Ordinance if there is no commercial or office building component.
6. An existing features plan as described in Article 6.300.1.14 of the Subdivision Ordinance must be submitted with the application for the above-described Special Use Permit. Placement of solar panels shall be based on preserving existing features to the extent practical.

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Notwithstanding this subsection, a Special Use Permit shall be granted if the regulations have the effect of preventing the reasonable use of a major solar energy facility on a residential property, except as provided in N.C.G.S. § 160D-914.

c. Non-Residential Property:

Major solar energy facilities on non-residential property shall require the issuance of a Special Use Permit in accordance with the requirements set forth in Article 11.4.10.

TA 23-04: Solar Energy Facilities

Huntersville Ordinance Advisory Board: July 7, 2022

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