



**Huntersville Ordinances Advisory
Board Agenda
November 4, 2021
3:30 p.m. – 5:00 p.m.
Location: VIRTUAL MEETING**

- NOTICE VIRTUAL MEETING -

Virtual Meeting Information - Members of the public may view the meeting on RingCentral by logging on at <https://webinar.ringcentral.com/j/1498302616>, or by telephone: at (470)869-2200 with Webinar ID: 149 830 2616

- A. Adoption of October 7, 2021 Minutes**
- B. Comments from Audience (3 minutes per person allocation)**
- C. Other Business**
 - 1. Continuation of discussion for recommendation on TA21-14, an amendment to 1) revise definitions of major and minor subdivision definitions to allow property owners to administratively record new right-of-way and improvements to existing public streets and provide greater flexibility for sewer and water options for property owners 2) clarify existing requirements for Farmhouse Cluster Plans.
 - 2. TA 21-16 Amendment to Mountain Island Lake and Lake Norman Watershed regulations to comply with HB 218, effective November 1, 2021 (Attachment 1 - HB 218, Attachment 2 - Ordinance redline, Attachment 3 – Ordinance revision NOTE: AMENDMENT COMBINES CHANGES REQUIRED BY HB 218 WITH CHANGES REQUIRED BY SB 300 DISCUSSED LAST MONTH – STAFF WILL BE AVAILABLE TO ANSWER ANY QUESTIONS)
- D. Adjourn**



**Huntersville Ordinances Advisory
Board Minutes
October 7, 2021
3:30 p.m. – 5:00 p.m.
Location: VIRTUAL MEETING**

A. Call to Order

Attendance: M. Jones, T. Taylor, L. Munger, K. Jones, J. Henson, S. Moore, F. Gammon, T. Finlay (arrived at 3:43 p.m.), and B. Skelly

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

A. Adoption of September 2, 2021 Minutes (Attachment 1)

S. Moore made a Motion to Approve the September 2, 2021 Minutes. J. Henson seconded the motion. The motion passed (8-0).

B. Decision on amending the agenda to include item 5 under D. Other Business.

L. Munger made a Motion to Approve amending the agenda to include Item 5 – Discussion and possible recommendation on amendment to multiple ordinances to comply with SB 300, decriminalization of certain ordinances. S. Moore seconded the motion. The motion passed (8-0).

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

D. Other Business

1. Discussion on Rooftop Amenity Spaces and building height limits (amenity to comply with existing building height or establish special provisions for rooftop amenities? Attachment 2, 3).

J. Simoneau, Planning Director reviewed that a project proposed for Downtown Huntersville has proposed a design that would include a rooftop amenity for its residents. Staff determined a text amendment was reasonable to allow this type of feature within the Town. Staff reviewed the current ordinance Article 8.7 – height limitation and the research completed on surrounding municipalities relative to what is permitted and what is restricted such as ensuring privacy for adjacent neighbors, lighting, noise, size and height, and access standards.

K. Jones asked Staff if we know what the applicant in Downtown Huntersville is proposing to use the space for, what size is proposed and where it would be located. Staff responded it would be for resident use only, located on the Northeast corner nearest Discovery Place Kids and the size would be limited by building code which Staff understands may be a maximum of 750 square feet. She commented she would like to see staff focus on where they are allowed, lighting and noise provisions.

F. Gammon commented that he has seen many of these in other locations and they are an attractive amenity, he asked if we know what the applicant will use the space for and how the setbacks are calculated with the additional height. Staff commented that it will be for the residents to go sit outside, there is a proposed pergola to create some shade and if the building meets setback requirements, then it would qualify there would not be additional setback requirements.

T. Taylor commented that the building code has additional requirements when a rooftop area exceeds 10% of the total area which may be what would limit the applicant to 750 square feet. He is not opposed to rooftop amenities and would recommend focusing on what the use of the space is because this could be something they would quickly want to turn into a bar and that would create noise and light pollution concerns. Staff commented that our position is that commercial type uses would need to comply with the building height requirements as they exist now and this ordinance would address amenity uses only.

K. Jones commented that she is familiar with a rooftop space that works as a clubhouse type amenity for residents. It can be reserved or rented by the residents and unless there are specific rules regarding the noise and use it cannot be controlled. Staff thanked her for her feedback and said that will be useful in formulating the ordinance.

L. Munger asked where Staff would propose adding this amendment to the ordinance, if Staff considered applying this to residential and commercial zoning, and residential buildings that face a greenway. Staff commented that the amendment will be word smithed and the ordinance reviewed to determine all the references needed in the ordinance. The height will be measured from the street, not the greenway.

M. Jones asked if safety needs to be addressed relative to preventing a falling risk or objects going over the side and potential risks below. Staff stated that in their research they did notice setbacks from the building and all buildings are allowed to have balconies so there is always going to be a potential risk of something being thrown or falling. T. Taylor commented that the building code will require a 42-inch railing.

S. Moore recommended incentivizing this option as being able to count towards open space requirements for the developer to get them to think outside the box.

F. Gammon agreed with S. Moore's comment and suggested that it be dependent on what the rooftop amenity is being used for when considering counting it as open space.

2. Recommendation on TA21-11, an amendment to 1) standardize existing requirements for Special Use Permits and delete repetitive standards; and 2) amend definitions of major and minor variances from Watershed regulations and findings of fact required for variances from Watershed regulations to be consistent with the North Carolina Administrative Code (Attachment 4).

L. Speight, Planner II reviewed the proposed amendments which are being removed where duplicative and added to be consistent. No amendments represent new standards which must be met by the applicant, only an amendment to where you may find these standards within the ordinance. The second portion of the amendment related to major and minor variances to ensure that the ordinances are consistent with the North Carolina Administrative Code.

L. Munger confirmed that this amendment is housekeeping to keep us in compliance and not creating any substantive changes. E. Sloop, Town Attorney confirmed she worked with staff on all of these proposed amendments, and they are all compliance related.

M. Jones asked E. Sloop to state on the record that in her legal opinion these amendments are in compliance with special use permits statute case law and constitutional limits. E. Sloop commented that she drafted the edits and she would not do so if they were not in compliance with state law.

L. Munger made a Motion to Approve TA21-11 as presented by staff. T. Finlay seconded the motion. The motion passed unanimously (9-0).

3. Recommendation on revised language for TA21-08, an amendment to clarify S.W.I.M. Buffer Delineation methods (Attachment 5)

L. Speight, Planner II explained that the Board is hearing this amendment request again because there are additional articles that are being added to the text amendment. Article 8.17.12.(a)(2) and Article 8.17.12 (b)(1) and the definitions. These articles reference the method for delineation which is why they are being included in the proposed amendment.

M. Jones asked if the statement “methodology approved by the Town” does not currently include the Army Corps of Engineers and/or N.C. Division of Water Quality and expressed concerns with the clarity of the language. Staff confirmed that is not currently what we require. L. Munger recommended editing the wording to state, “methodology which has been approved by the Town.” E. Sloop commented that in her opinion it would work. J. Simoneau confirmed staff would be okay with that. M. Jones agreed that would read better.

L. Munger made a Motion to Approve TA21-08 with the noted amendments to the ordinance. B. Skelly seconded the motion. The motion was approved (8-1) with F. Gammon opposed.

4. Recommendation on TA21-14, an amendment to 1) revise definitions of major and minor subdivision definitions to allow property owners to administratively record new right-of-way and improvements to existing public streets and provide greater flexibility for sewer and water options for property owners 2) clarify existing requirements for Farmhouse Cluster Plans (Attachment 6).

L. Speight, Planner II discussed that there are two components to this amendment request. The first is to the definition of major and minor subdivisions. Staff has received maps where an individual is attempting to only record the dedication of new right-of-way or improvements to an existing street, many times this is a land requirement which technically are required to be processed as major subdivisions. Staff is recommending that this be moved to an administrative process. The removal of any right-of-way or easement for the purpose of water/sewer being included in the definition of a major subdivision. A minor subdivision would be amended to reflect that it is not anything exempt or a major subdivision. A clarification of the existing requirements for a Farmhouse Cluster so that those interested in this type of development may review the requirements in one location versus combining the ordinance requirements to determine how to proceed with this type of development.

K. Jones asked if the major and minor definitions would be changed as it relates to erosion and water run-off. Staff confirmed that there is no change to the water run off and erosion requirements, if installation of drainage improvements through one or more lots to serve or more other lots it would automatically be a major subdivision.

S. Moore asked if the Farmhouse Cluster must now go through Town Board for approval. Staff confirmed that is an existing requirement.

F. Gammon expressed similar concerns to K. Jones regarding the drainage improvements. Staff restated that there is no proposed change to the existing requirements for drainage improvements as it relates to minor or major subdivisions.

M. Jones asked if Staff could provide the Board with examples of what has necessitated these changes. Staff shared that one example has been commercial plats where the applicant is proposing to dedicate a new right-of-way and that is the only thing they are seeking to achieve with the plat. Due to the current definition in the ordinance, that is considered a major subdivision and they would have to go through the subdivision process. Staff has also seen where a minor subdivision of 3-5 lots have a nearby water/sewer access point that they would like to tap into; however, doing so would make it a major subdivision; requiring the developer to be well and septic. If the lot does not perc the small-scale development is not financially feasible which seems burdensome and an unnecessary hardship.

M. Jones asked for clarification on the definition of minor subdivisions items that are struck through and if that now means that those requirements will no longer be required. Staff reviewed the current ordinance and explained that the ordinance is written to state these five items are what a minor subdivision does not involve. These requirements are not changing and are not going away, the change in wording is to simplify and make the statement cleaner and more easily understood.

S. Moore recommended that a slide outlining the definition of a major subdivision would outline those five steps and the Board being able to see that would be helpful to show that this clean up is simply to remove the repetitive language. E. Sloop commented that the only three options are exempt, minor or major subdivision. This cleanup is simply to state that a minor subdivision is anything not a major subdivision or exempt.

Staff stated that they would bring this to a future meeting with the requested additional information for the Board's review.

M. Jones made a Motion to Continue the item to the November meeting with clarified aspects of the presentation so the Board can better identify how these amendments fit with the ordinance. F. Gammon seconded the motion. The motion passed unanimously (9-0).

5. Discussion and possible recommendation on amendment to multiple ordinances to comply with SB 300, decriminalization of certain ordinances (Attachment 7).

E. Sloop, Town Attorney stated that the proposed amendments are being made to comply with the new legislation. It is now a requirement to make these edits.

M. Jones stated that he has not read SB 300 but if this is to come in compliance that sounds like a necessary amendment.

L. Munger asked for clarification on the tree save policy and asked if there was any conflict with this legislation. E. Sloop responded that this does not affect the protocols, this legislation deals more directly with the enforcement options available to the Town.

L. Munger made a Motion to Approve the recommendations to amend multiple ordinances to comply with SB 300 decriminalization of certain ordinances. T. Taylor seconded the motion.

F. Gammon commented he has also not had time to review SB 300 and these amendments may just be to be in compliance with that but when the SB 160D changes were proposed there was enough time provided for the Board to review it and in this case there was not so he will not be able to support it at this time.

E. Sloop stated that to summarize SB 300 it decriminalized many ordinances meaning that a

misdemeanor charge cannot be issued for a violation for these enumerated ordinances. The proposed amended ordinances have removed a misdemeanor as an enforcement option, there have been no substantive changes.

T. Finlay asked if there is a timeline to come in compliance with SB 300. E. Sloop stated it should be done as soon as possible.

M. Jones asked if the Board should call a special meeting to ensure they understand the proposed changes. J. Simoneau responded that with 160D there were extensive changes throughout the ordinance, with SB 300 it is only to decriminalize and remove a singular enforcement method.

The motion passed (5-4) with M. Jones, K. Jones, S. Moore, F. Gammon opposed. F. Gammon commented that he was opposed due to not having enough time to review SB 300.

E. Adjourn

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

ordinance as to the property acquired, either prior to the commencement of any development of the property acquired, or prior to the issuance of any building permit on the property acquired, or within six months following the date of acquisition, whichever occurs first.

Subdivision, Conservation

A tract of land 40 acres or more that is subdivided into single family building lots at a gross density not exceeding 1 dwelling unit per 20 acres, where no new streets are created through the development process and use of the land is restricted by an irrevocable conservation easement held by a conservation organization authorized by N.C.G.S. 121-35(1) et seq.

Subdivision, Limited.

A subdivision that is not otherwise exempt from the provisions of this ordinance and where the tract or parcel of land retained by the owner submitting the land for subdivision approval is in excess of ten (10) acres. For such subdivisions the owner shall be required to plat only the parcel(s) to be transferred or leased and only said parcel(s) shall be subject to the requirements of this ordinance.

Subdivision, Major.

A subdivision **not otherwise exempt from these regulations that involves any of the following:**

1. The creation of any new public street or street right-of-way, or improvements to an existing street.
2. A future public school, park, greenway, or open space site shown in any adopted plan or policy document.
3. The extension of any needed right-of-way or easement for the water or sewer system operated by Charlotte-Mecklenburg Utility Department.
4. The installation of drainage improvements through one or more lots to serve one or more other lots.
5. The installation of a private wastewater treatment plant or a private water supply system for more than one lot or building site.

Subdivision, Minor.

A subdivision **that is not otherwise exempt from the provisions of this ordinance and that does not involve any of the following:** A subdivision that is not exempt and not a major subdivision.

1. The creation of any new public street or street right-of-way, or improvements to an existing street.
2. A future public school, park, greenway, or open space site shown in any adopted plan or policy document.
3. The extension of any needed right-of-way or easement for the water or sewer system operated by Charlotte-Mecklenburg Utility Department.
4. The installation of drainage improvements through one or more lots to serve one or more other lots.
5. The installation of a private wastewater treatment plant or a private water supply system for more than one lot or building site.

For purposes of these regulations, Farmhouse Cluster developments are considered a minor subdivision and require Town Board approval.

AN ORDINANCE TO AMEND SECTIONS 2.100: DEFINITIONS, SECTION 6.300: SKETCH PLAN REQUIRED FOR MAJOR SUBDIVISIONS, SECTION 6.310: SKETCH PLAN NOT REQUIRED FOR MINOR SUBDIVISIONS, SECTION 6.520: EXCEPTIONS: WHEN PRELIMINARY PLAN NOT REQUIRED TO REMOVE RECORDATION OF STREET RIGHT OF WAY OR IMPROVEMENTS FROM MAJOR SUBDIVISION CATEGORY AND CLARIFY REQUIREMENTS FOR FARMHOUSE CLUSTER PLAN

Subdivision, Minor.

A subdivision that is not otherwise exempt from the provisions of this ordinance and that **is not a "Major Subdivision" as that term is defined in this Ordinance.** does not involve any of the following: **Rewording for brevity.**

- ~~1. The creation of any new public street or street right of way, or improvements to an existing street.~~
- ~~2. A future public school, park, greenway, or open space site shown in any adopted plan or policy document.~~
- ~~3. The extension of any needed right of way or easement for the water or sewer system operated by Charlotte-Mecklenburg Utility Department.~~
- ~~4. The installation of drainage improvements through one or more lots to serve one or more other lots.~~
- ~~5. The installation of a private wastewater treatment plant or a private water supply system for more than one lot or building site.~~

AN ORDINANCE TO AMEND SECTIONS 2.100: DEFINITIONS, SECTION 6.300: SKETCH PLAN REQUIRED FOR MAJOR SUBDIVISIONS, SECTION 6.310: SKETCH PLAN NOT REQUIRED FOR MINOR SUBDIVISIONS, SECTION 6.520: EXCEPTIONS: WHEN PRELIMINARY PLAN NOT REQUIRED TO REMOVE RECORDATION OF STREET RIGHT OF WAY OR IMPROVEMENTS FROM MAJOR SUBDIVISION CATEGORY AND CLARIFY REQUIREMENTS FOR FARMHOUSE CLUSTER PLAN

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Section 2.100: Definitions of the **Subdivision Ordinance** is hereby amended as follows:

Subdivision, Major.

A subdivision not otherwise exempt from these regulations that involves any of the following:

1. The creation of any new public street, **but does not include the public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors or the location of public utility rights-of-way, or street right of way, or improvements to an existing street.**
2. A future public school, park, greenway, or open space site shown in any adopted plan or policy document.
3. ~~The extension of any needed right of way or easement for the water or sewer system operated by Charlotte-Mecklenburg Utility Department.~~
4. The installation of drainage improvements through one or more lots to serve one or more other lots.
5. The installation of a private waste water treatment plant or a private water supply system for more than one lot or building site.

1. Clarifying that it currently **not considered a major subdivision** when NCDOT or the Town purchase land for street improvements, new streets, or public utility r/w. This is also already included in the current list of exempt subdivisions.

2. Proposing to remove the requirement that when new street r/w is dedicated and reserved it will no longer be considered a major subdivision requiring Town Board approval.

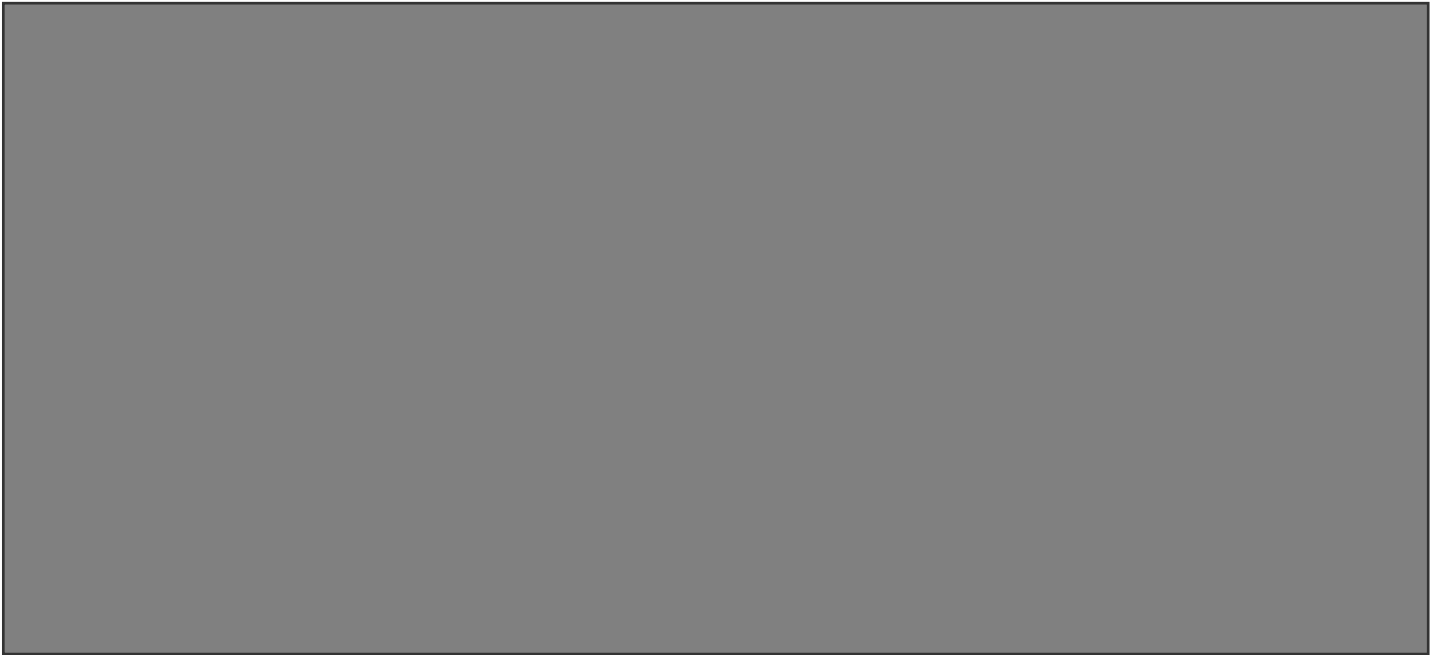
3. Proposing to remove the requirement that when improvements to existing streets need to be recorded by plat it will no longer be considered a major subdivision requiring Town Board approval.

Remove this from the definition of a major subdivision to allow minor subdivisions to extend r/w or easements to have water and sewer. The current Ordinance would make a small scale development go through the major subdivision process requiring Town Board approval.

TA 21-14: Definitions of Major and Minor Subdivisions, Farmhouse Cluster Plan Requirements

AN ORDINANCE TO AMEND SECTIONS 2.100: DEFINITIONS, SECTION 6.300: SKETCH PLAN REQUIRED FOR MAJOR SUBDIVISIONS, SECTION 6.310: SKETCH PLAN NOT REQUIRED FOR MINOR SUBDIVISIONS, SECTION 6.520: EXCEPTIONS: WHEN PRELIMINARY PLAN NOT REQUIRED TO REMOVE RECORDATION OF STREET RIGHT OF WAY OR IMPROVEMENTS FROM MAJOR SUBDIVISION CATEGORY AND CLARIFY REQUIREMENTS FOR FARMHOUSE CLUSTER PLAN

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Section 2.100: Definitions of the **Subdivision Ordinance** is hereby amended as follows:



Subdivision, Minor.



For purposes of these regulations, Farmhouse Cluster developments are considered a minor subdivision, **except as provided below**, and require Town Board approval. **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 Section 6.300: Sketch Plan Required for Major Subdivisions of the Subdivision Ordinance is hereby amended as follows:

14. an "Existing Features (Site Analysis) Plan" shall be submitted as part of the sketch plan application **and for Farmhouse Cluster developments** in order to determine significant features to be preserved. It is recommended a pre-application meeting with the administrator be held to review the Existing Features Plan prior to submission of the sketch plan. The Existing Features (Site Analysis) Plan analyzes each site's special features, as they form the basis of the design process for open space lands, building locations, street alignments, and lot lines. Detailed requirements for Existing Features Plans at the minimum must include:

(a) the location and area calculations of constraining features including wetlands, slopes over 25%, watercourses, intermittent streams and floodways, S.W.I.M. buffers (outside of floodways), watershed buffers, and all rights-of-way and easements (current and future);

(b) the location of significant features such as woodlands, tree lines, specimen and heritage trees, open fields or meadows, scenic views into or out of the property, watershed divides and drainage ways; existing structures, cemeteries, roads, tracks and trails; significant wildlife habitat; prime agricultural farmland; historic, archeological and cultural features listed (or eligible to be listed) on national, state or county registers or inventories; and aquifers and their recharge areas;

(c) the location of existing or planned utility easements (above and below ground) to include, but not limited to power/transmission, water, sewer, gas, phone, and cable;

(d) a topographical map showing original contours at intervals of not less than four feet and existing tree lines;

Section 3. Be it ordained by the Board of Commissioners of the Town of Huntersville that Section 6.310: Sketch Plan Not Required for Minor Subdivisions of the Subdivision Ordinance is hereby amended as follows:

6.310 SKETCH PLAN NOT REQUIRED FOR MINOR SUBDIVISIONS

A sketch plan shall not be required for a Minor Subdivision, **except for Section 6.300(1)(14) and Section 6.300(3), which are required for Farmhouse Cluster developments.**

The Zoning Ordinance currently states, "A Farmhouse Cluster requires an approved Farmhouse Cluster subdivision plan, **according to the requirements of the Huntersville Subdivision Ordinance** including approval by the Town Board and shall meet all other requirements for review and approval, which may include preliminary plan approval prior to approval of a final plat." **The Subdivision Ordinance does not currently list the requirements for a farmhouse cluster plan. This amendment proposes to list the requirements for a farmhouse cluster plan.** The items listed are what have been provided for the past two farmhouse cluster plans to show compliance with the requirements for the R and TR zoning districts; Farmhouse Cluster standards; and Transportation, Erosion Control, Storm Water, and Storm Drainage regulations.

Section 4. Be it ordained by the Board of Commissioners of the Town of Huntersville that Section 6.520: Exceptions, When Preliminary Plan Not Required of the **Subdivision Ordinance** is hereby amended as follows:

The required preliminary plan may be waived by the Planning Director or Designee for subdivisions defined as Minor Subdivisions or divisions of land qualifying for Expedited Subdivision Review in Section 2.100 of these regulations provided:

1. A plat of the tract being subdivided, accompanied by two (2) applications signed by the owner or his duly authorized agent has been filed with the Planning Director or Designee, and the required fee submitted; and
2. The subdivider, has provided topographic information to determine flood elevations whenever the property proposed to be subdivided, or re-subdivided, is traversed by or adjacent to a known watercourse.

The required preliminary plan may also be waived by the Planning Director for those subdivisions, including Limited Subdivisions, which do not involve the dedication of a new street, ~~improvement to or right of way for an existing street,~~ or site designated for a future public facility.

However, a final plat must be prepared and recorded as provided in Section 6.600.

Section #. That this ordinance shall become effective **TBD**

HUNTERSVILLE ORDINANCE ADVISORY BOARD: **October 7, 2021**

PUBLIC HEARING DATE: **Tentative**

PLANNING BOARD MEETING: **Tentative**

TOWN BOARD DECISION: **Tentative**



Text Amendment Application

Date of Application: 10/22/21

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

____ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

X__ Revision/Modification to text of **Zoning Ordinance / Subdivision Ordinance / Other**

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): See attached Article(s): _____ Section(s): _____

Current Ordinance

See attached

Proposed Text

See attached.

**Reason for Proposed
Change**

Mandated by Senate Bill 300 & S.L. 2021-138 to remove criminal penalty from ordinances adopted under Article 18 of G.S. 153A (Planning and Regulation of Development) or 160D of the General Statutes, except those ordinances related to unsafe buildings. Mandated by House Bill 218 to allow an applicant to exceed the allowable built-upon area (density) under the water supply watershed rules if all circumstances are met.

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

ApplicantPrinted Name Town of Huntersville Planning Department☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____Signature Kayleigh Mielenz Date 10/22/21Title Planner I Email Kmielenz@huntersville.orgAddress of Applicant 105 Gilead Rd, 3rd Floor, Huntersville, NC 28078**Property Owner (if different than applicant)**

* Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

**Town of Huntersville
Planning Department**
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: 10/22/21Staff Initials: KIM

AN ORDINANCE TO AMEND SUBSECTION 1 OF SECTION 9.000 OF THE SUBDIVISION ORDINANCE, SECTION 8.17.25(B) OF THE ZONING ORDINANCE, SECTION 8.17.25(B)(3) OF THE ZONING ORDINANCE, SECTION 11.2.3(A) OF THE ZONING ORDINANCE, SECTION 151.02 OF THE FLOOD DAMAGE PREVENTION ORDINANCE, SECTION 151.34 OF THE FLOOD DAMAGE PREVENTION ORDINANCE, SECTION 151.48(E) OF THE FLOOD DAMAGE PREVENTION ORDINANCE, AND SECTIONS 110.99 OF TITLE XI, 150.01, 150.16(C), 150.16, 151.16(E), 158.18, 150.20, 150.23, AND 150.99(B) OF THE TOWN CODE OF ORDINANCES TO REMOVE CRIMINAL PENALTY FROM ORDINANCES ADOPTED UNDER ARTICLE 18 OF G.S. 153A (PLANNING AND REGULATION OF DEVELOPMENT) OR 160D OF THE GENERAL STATUTES, EXCEPT THOSE ORDINANCES RELATED TO UNSAFE BUILDINGS.

AND, AN ORDINANCE TO AMEND SUBSECTION E OF SECTION 8.17.3, SECTION E OF ARTICLE 3.3.2-A CRITICAL AREAS OF THE ZONING ORDINANCE, SECTION E OF ARTICLE 3.3.2-B PROTECTED AREAS OF THE ZONING ORDINANCE, AND SECTION E OF ARTICLE 3.3.3-A CRITICAL AREA OF THE ZONING ORDINANCE TO ALLOW AN APPLICANT TO EXCEED THE ALLOWABLE BUILT-UPON AREA (DENSITY) UNDER THE WATER SUPPLY WATERSHED RULES IF ALL CIRCUMSTANCES ARE MET.

Section 1. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that subsection 1 of Section 9.000 of the Town of Huntersville Subdivision Ordinance, Enforcement, is hereby amended as follows:

1. After the effective date of this ordinance, any person who, being the owner or the agent of the owner of any land located within the area of jurisdiction of this ordinance, subdivides land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the Office of the Register of Deeds of Mecklenburg County shall, ~~upon conviction, be guilty of a Class 1 misdemeanor, which shall result in the assessment of a civil penalty be punishable by a fine not to exceed of \$500.00 per offense and may result in other enforcement actions as allowed by law. , or imprisonment for not more than 30 days for each and every offense.~~ The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The Town of Huntersville through the Town Attorney may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. All administrative actions relating to such land, including the issuance of any grading, construction, building, or occupancy permit will be suspended. This ordinance will not affect the sale or transfer of any land, a plat of which was recorded prior to the effective date of this ordinance. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected,

and warn that failure to correct the violation within the time period will result in assessment of a civil penalty or other enforcement action as allowed by law. Each day's continuing violation shall be a separate and distinct offense.

Section 2. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 8.17.25(b) of the Town of Huntersville Zoning Ordinance is hereby amended as follows:

Remedies and Penalties. The remedies and penalties provided for violations of this ordinance, ~~whether civil or criminal~~, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

Section 3. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 8.17.25(b)(3) of the Town of Huntersville Zoning Ordinance is hereby deleted and amended as follows:

~~Criminal Penalties Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.~~

Section 4. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 11.2.3(a) of the Town of Huntersville Zoning Ordinance, Enforcement Remedies and Penalties for Violation, is hereby amended as follows:

- (a) **Criminal.** Any person, firm, or corporation convicted of violating the provisions of this ordinance related to unsafe buildings, Section 11.2.3(f), or 11.3.2(h)(4) shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed five hundred dollars (\$500) and/or imprisoned for a period not to exceed twenty (20) days. Each day of violation shall be considered a separate offense, provided that the violation of this ordinance is not corrected within thirty (30) days after notice of said violation is given.

Section 5. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 151.02 of the Flood Damage Prevention Ordinance, Statutory Authorization, is hereby amended as follows:

The Legislature of the State of North Carolina has in G.S. Chapter 143, Art. 21, Part 6; Chapter 160D ~~160A, Art. 19~~, Parts 3, 5, and 8; and Chapter 160A, Art. 8, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Section 6. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 151.34 of the Flood Damage Prevention Ordinance, Penalties for Violation, is hereby amended as follows:

Violation of the provisions of this ordinance or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of Floodplain Development Permits, Variances or special exceptions, shall constitute a misdemeanor and shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days, but only if the violation is not related to Article 19 of Chapter 160A of the North Carolina General Statutes or a violation of Chapter 160D of the North Carolina General Statutes. ~~Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be~~

~~fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days.~~
Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Huntersville or the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to seeking injunctive relief, orders of abatement, or other similar equitable relief

Section 7. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 151.48(E) of the Flood Damage Prevention Ordinance, Corrective Procedures, is hereby amended as follows:

(E) Failure to comply with order. If the owner or occupant of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Board of Adjustment following an appeal, he/she ~~shall be guilty of a misdemeanor and shall be punished in the discretion of the court. In addition, the owner or occupant shall be subject to civil enforcement as described in Article II, Section 14.~~

Section 8. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 110.99 of Title XI of the Town of Huntersville Code of Ordinances, Penalty, is hereby amended as follows:

~~(A) Criminal penalty. Any person who violates any of the following provisions of this chapter shall be guilty of a misdemeanor as provided in G.S. § 14-4 and, upon conviction, shall be subject to a maximum fine of \$500.00 or imprisonment, or both: Sections 110.20(B)(9)(a), 110.23, 110.26(D), 110.27(E), 110.30(C), 110.45, 110.46(C) and (D), 110.47(B) and 110.48(B) and (C). Each violation shall be considered a separate and distinct offense, and each day of continued violation shall be considered as a separate offense. The issuance of a notice of violation or a suspension or revocation of a sexually oriented business license shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the issuance of a notice of violation or a suspension or revocation of the license.~~

~~(A)(B) Civil injunction.~~ In addition to the issuance of a notice of violation and, the suspension or revocation of a sexually oriented business license, ~~or a prosecution for criminal violations,~~ any person who violates this chapter may be subject to all civil and equitable remedies stated in G.S. § 160A-175.

Section 9. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 150.01 of the Town of Huntersville Code of Ordinances, Findings; purpose, is hereby amended as follows:

- (A) Pursuant to G.S. § ~~160A-441~~160D-1201, it is hereby found and declared that there exist in the town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health and otherwise inimical to the welfare of the residents of the town.
- (B) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. § 160DA, Article 19, ~~Part 6~~, it is the purpose of this chapter to establish

minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § ~~160A-444~~160D-1205.

Section 10. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 150.16(c) of the Town of Huntersville Code of Ordinances, Administrative Procedure, is hereby amended as follows:

(3) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter, or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the Inspector to vacate and close, and remove or demolish the same within the time specified therein, the Inspector shall submit to the Board of Commissioners may adopt an ordinance at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. § ~~160A-446(g)~~ 160D-1208.

(4) *In rem remedy.* After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding division (1), the Inspector shall submit to the governing body an ordinance ordering the Inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, or vacated and closed and removed or demolished, as provided in the original order of the Inspector, and pending such removal or demolition, to placard such dwelling as provided by G.S. § ~~160A-443~~ 160D-1203 and Section 150.17 of this chapter.

Section 11. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 150.16(d) of the Town of Huntersville Code of Ordinances, Appeals from orders of Inspector, is hereby amended as follows:

(1) An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. Any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the Inspector and with the town's Zoning Board of Adjustment, hereinafter referred to as "Board", a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the Board all the paper constituting the record upon which the decision appealed from was made. When appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in force until modified or reversed. When any appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him or her, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his or her requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one-days written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. § ~~160A-446(f)~~ 160D-1208 and division (E) of this section.

Section 12. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 150.16(e) of the Town of Huntersville Code of Ordinances is hereby amended as follows:

(E) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise, as provided in G.S. § ~~160A-446(e)~~ 160D-1208(c). In addition, any person aggrieved by an order issued by the Inspector or a decision rendered by the Board shall also have the right, within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. § ~~160A-446(f)~~ 160D-1208(d).

Section 13. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 150.18 of the Town of Huntersville Code of Ordinances, In rem action by Inspector; placarding, is hereby amended as follows:

- (A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this chapter, and upon adoption by the governing body of the town of an ordinance authorizing and directing him or her to do so, as provided by G.S. § ~~160A-443(5)~~ 160D-1203(4) and § 150.16(C) of this chapter, the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the governing body and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor.
- (B) Each such ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § ~~160A-443(5)~~ 160D-1203(7).

Section 14. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 150.20 of the Town of Huntersville Code of Ordinances, Costs a lien on premises, is hereby amended as follows:

As provided by G.S. § ~~160A-443(6)~~ 160D-1203(7), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to Section 150.18 of this chapter shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority and be enforced and the costs collected as the lien for special assessments provided by G.S. § 160A, Article 10.

Section 15. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 150.23 of the Town of Huntersville Code of Ordinances, Lis Pendens, is hereby amended as follows:

Sec. 150.23- Lis Pendens Reserved

~~Upon issuance of a complaint and notice of hearing or an order pursuant thereto, a notice of lis pendens, with a copy of the complaint and notice of hearing or order attached thereto, may be filed in the office of the clerk of superior court of the county. The notice of lis pendens and a copy of the complaint and the notice of hearing or order attached thereto shall be indexed and cross-indexed in accordance with the indexing procedures of G.S. § 1-117. From the date and time of indexing, the~~

~~complaint and notice of hearing or order shall be binding upon successors and assigns of the owners of and parties in interest in the dwelling at the time of filing in accordance with G.S. § 160A-445. The notice of lis pendens shall remain in full force and effect until cancelled. The notice of lis pendens shall be cancelled upon compliance with the order. Upon receipt of notice of cancellation from the town, the Clerk of Superior Court shall cancel the notice of lis pendens.~~

Section 16. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 150.99(B) of the Town of Huntersville Code of Ordinances, Penalty, is hereby amended as follows:

(B) The violation of any provision related to unsafe buildings in ~~of~~ this chapter shall constitute a misdemeanor, as provided by G.S. § 14-4.

Section 17. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that subsection (e) of Section 3.3.2-A, Built-Upon Area (BUA) Development Standards, is hereby amended as follows:

Notwithstanding the above, an applicant shall be allowed to exceed the allowable Built-Upon Area (density) under the water supply watershed rules if all of the following circumstances apply:

- (1) The property was developed prior to October 1, 1993, the effective date of the local water supply watershed program.
- (2) The property has not been combined with additional lots after January 1, 2021.
- (3) The property has not been a participant in a density averaging transaction as provided in Section 3.3.2-A(h).
- (4) The current use of the property is nonresidential.
- (5) In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, State, and federal laws and regulations.
- (6) The remaining vegetated buffers on the property are preserved in accordance with Section 3.3.2-A(f).

Section 18. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that subsection (e) of Section 3.3.2-B, Built-Upon Area (BUA) Development Standards, is hereby amended as follows:

Notwithstanding the above, an applicant shall be allowed to exceed the allowable Built-Upon Area (density) under the water supply watershed rules if all of the following circumstances apply:

- (1) The property was developed prior to October 1, 1993, the effective date of the local water supply watershed program.
- (2) The property has not been combined with additional lots after January 1, 2021.
- (3) The property has not been a participant in a density averaging transaction as provided in Section 3.3.2-B(i).
- (4) The current use of the property is nonresidential.

- (5) In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, State, and federal laws and regulations.
- (6) The remaining vegetated buffers on the property are preserved in accordance with Section 3.3.2-B(f).

Section 19. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that (e) of Section 3.3.3-A, Built-Upon Area (BUA) Development Standards, is hereby amended as follows:

Notwithstanding the above, an applicant shall be allowed to exceed the allowable Built-Upon Area (density) under the water supply watershed rules if all of the following circumstances apply:

- (1) The property was developed prior to October 1, 1993, the effective date of the local water supply watershed program.
- (2) The property has not been combined with additional lots after January 1, 2021.
- (3) The property has not been a participant in a density averaging transaction as provided in Section 3.3.3-A(i).
- (4) The current use of the property is nonresidential.
- (5) In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, State, and federal laws and regulations.
- (6) The remaining vegetated buffers on the property are preserved in accordance with Section 3.3.3-A(f).

Section 20. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that subsection e of Section 8.17.3, Exceptions to Applicability, is hereby amended as follows:

- e) This Article shall not require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment. Provided, however, a property owner may voluntarily elect to treat all stormwater from preexisting development or redevelopment activities described herein for the purpose of exceeding allowable density under the applicable water supply watershed rules as provided in as provided in G.S. 143-214.5(d3) and as further described in Article 3.

Section 21. Effective Date.

This ordinance shall become effective upon the date of adoption.

Timeline

Recommendation by HOAB: 10/07/21 & 11/04/21

Proposed Call for Public Hearing: 11/01/21

Proposed Recommendation by Planning Board: 12/21/21

Proposed Final Decision by Town Board: 01/08/22