



**Huntersville Ordinances Advisory
Board Agenda
January 6, 2022
3:30 p.m. – 5:00 p.m.
Location: VIRTUAL MEETING**

- NOTICE VIRTUAL MEETING -

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

A. Call to Order

B. Adoption of December 2, 2021 Minutes (Attachment 1)

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

D. Other Business

1. Discuss Minor Solar Energy Facilities on the front roof slope by-right
2. Recommendation on language for TA21-15, an amendment to allow rooftop amenity spaces to exceed the maximum building height on apartment building types and mixed-use building types and to add regulations for rooftop amenity spaces that exceed the maximum building height.
3. Recommendation on language for TA22-01, a text amendment to update the definition and initiation of Down Zoning in compliance with 160D state statutes.
4. Update on sewer capacity in eastern Huntersville
5. Discussion on Ordinance Advisory Board meetings being conducted in-person or virtually.

E. Adjourn



**Huntersville Ordinances Advisory
Board Minutes
December 2, 2021
3:30 p.m. – 5:00 p.m.
Location: VIRTUAL MEETING**

- NOTICE VIRTUAL MEETING -

A. Call to Order

Members present: Chairman M. Jones, Commissioner L. Munger, K. Jones, T. Finlay, J. Henson, B. Skelly, T. Taylor, J. Snv

Member absent: S. Moore

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

T. Taylor made a Motion to Approve the November 4, 2021, Minutes. J. Henson seconded the motion. The motion passed (6-0-2) with T. Finlay and J. Snv abstaining.

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

D. Other Business

1. Discussion on language for TA21-15, an amendment to allow rooftop amenity spaces to exceed the maximum building height on multi-family and mixed-use structures and to add regulations for rooftop amenity spaces that exceed the maximum building height.

K. Mielenz, Planner I reviewed the proposed amendment and indicated that staff has taken the feedback provided at the October meeting in conjunction with neighboring municipalities ordinances related to rooftop amenities to draft a proposed text amendment. Staff expressed that this text amendment will only add regulations for rooftop amenities that exceed the allowed building height, it does not add regulations for rooftop amenities that are below the allowed building height. This proposed ordinance is intended to be for resident use only of apartment building types and residential mixed-use types, not commercial or to be used by the commercial tenant in a mixed-use building type.

Staff reviewed that staff is comfortable with the proposed amendment which would be allowed for shopfront (mixed-use) and apartment building types in the NR, NC, HC, CI, CB, TC, TND, TOD-R & TOD-E zones. Staff reviewed the proposed amendments to Article 8.7 related to height limit.

L. Munger commented that he would be open to a setback when adjacent to Neighborhood Residential.

K. Jones commented that she agreed with L. Munger and a setback adjacent to Neighborhood Residential may be important to avoid a problem similar to Community School of Davidson.

J. Snv asked what prompted this text amendment. Staff shared that the question was posed by the North State Development regarding the Huntersville Town Center Mixed Use project. Staff liked

the proposed use and thought it could be a good addition to the ordinance, so the Planning Department is sponsoring the text amendment and reviewing it with the Board to see what your thoughts are on permitting this in the Town.

T. Taylor commented that he also agrees that there should be some separation of this use between single-family and rooftop structures.

B. Skelly agreed and asked if there is something similar in place from the research of neighboring municipalities. Staff responded that when referenced the research varied from not allowed to 200 to 400-foot setbacks.

M. Jones asked if expanding the amendment to include other types of buildings has been considered such as hotels and offices as an option to minimize impervious surface. Staff commented that this amendment is intended for residential use when you exceed your maximum height. Under the current ordinances other building types may include a rooftop amenity if it is in keeping with the allowed building height and in the future, it is possible this will be amended to allow additional building types as well. M. Jones responded that he would recommend a comprehensive look at all building types now versus the additional time spent in the future to possibly amend the ordinance again.

Staff reviewed the proposed height restriction of 15 feet and maximum of 1,000 square feet or 10 percent of floor area restriction which could change relative to the Mecklenburg County Building Code requirements.

K. Jones recommended a straight 15-foot height restriction regardless of the height of the building and asked if the fire code has been kept in consideration as well. Staff confirmed they will verify that the fire code is kept in consideration.

J. Snyder commented that he does not see a need to limit the floor area beyond building code and/or safety restrictions. If the developer meets those requirements and has a creative use for all the remaining allowed area, he doesn't see a reason to limit their ability to do that.

L. Munger agreed with the comments made that it should be a fixed 15-foot height restriction, the proposed floor area currently seems very restrictive and J. Snyder's comments seem more appropriate, and the setbacks should be determined by what it is directly adjacent to and not restrictive further than that as buildings with personal balconies do not incur additional setbacks.

M. Jones commented he agrees with the comments made that flexibility should be included in the floor area permitted.

Staff reviewed that the proposed access would be for resident use only and shall not be accessible to commercial tenants.

L. Munger commented that while he understands this limitation when the location is adjacent to residential he wonders if it should apply when the building is not located near residential, or if managing that this is limited to residents only is an area that Zoning should insert themselves into. Staff commented that this amendment is only relative to buildings that exceed the height limitation, not those in keeping which could have a rooftop bar or commercial use.

J. Snyder asked if this amendment having a provision for additional review based on location would create more flexibility to permit possible use without opening it all the way up.

Staff reviewed the proposed lighting and noise restrictions and stated that the existing lighting ordinances would also apply relative to type of lighting, placement, etc.

K. Jones asked for confirmation that the ordinances would protect any adjacent neighbors from light pollution. Staff stated that the existing lighting ordinances would address that.

T. Finlay asked if any setback distance would be addressed relative to lighting use and placement. Staff responded that this is also already addressed in the existing ordinances.

Staff commented that the wording for Urban Open Space has not yet been drafted but staff is working on that and will have it prepared for the January public hearing.

J. Sny expressed concern about a potential mixed-use development using this urban open space to reduce the amenities accessible to town homes because they are located within the required distance but may not actually have access to it as they are not residents of the building it is located above. Staff responded that if the townhome does not have access to the urban open space then it would not be counted for that location regardless of the distance, the resident must have access to it for it to count.

B. Skelly recommended a percentage cap on this counting towards Urban Open Space to prohibit strictly incorporating roof top space to subvert traditional Urban Open Space.

Staff reviewed the proposed definition of rooftop amenity space and commented on the additional wording that will be included in the version presented in January to identify open, covered or enclosed rooftop amenities.

J. Henson asked if the definition needs to include what is defined for Open Space. Staff agreed that it will need to include that, and the conversation and discussion is helpful to finalize the draft of the amendment.

M. Jones asked if the definition will only apply to rooftop amenities that exceed the allowed building height. Staff responded that the definition is intended to be for all rooftop amenities and will need to be improved so as not to seem to limit commercial uses for allowed building heights.

M. Jones asked if there has been any consideration to encourage or incentivize this use to reduce impervious area. Staff commented that we do not currently have that included but it could be considered.

J. Henson commented that the builder is incentivized because there will be less storm water requirement. Staff concurred and stated that the vast majority of current urban open spaces are not impervious as they are typically grass and trees.

M. Jones asked if a stormwater detention system can be placed on a roof. Staff commented that the water quality standards have flexibility for innovation included so if someone wanted to add a rooftop garden there may be an option to give them some credit and Staff will review that with the Stormwater Engineers.

Staff reviewed the amendments to allow the use in specific building types and then concluded with stating that they will return with this item for consideration of recommendation at the January 6, 2022 meeting.

E. Adjourn

L. Munger made a Motion to Adjourn. K. Jones seconded the motion. The motion passed unanimously (8-0).

§ 160D-914. Solar collectors.

(a) Except as provided in subsection (c) of this section, no local government development regulation shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property, and no person shall be denied permission by a local government to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property. As used in this section, the term "residential property" means property where the predominant use is for residential purposes.

(b) This section does not prohibit a development regulation regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the regulation does not have the effect of preventing the reasonable use of a solar collector for a residential property.

(c) This section does not prohibit a development regulation that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground and that are any of the following:

- (1) On the facade of a structure that faces areas open to common or public access.
- (2) On a roof surface that slopes downward toward the same areas open to common or public access that the facade of the structure faces.
- (3) Within the area set off by a line running across the facade of the structure extending to the property boundaries on either side of the facade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Article 9.54 - Solar Energy Facilities

Any major or minor solar energy facility shall require approval from all applicable state and federal agencies as well as the affected energy provider.

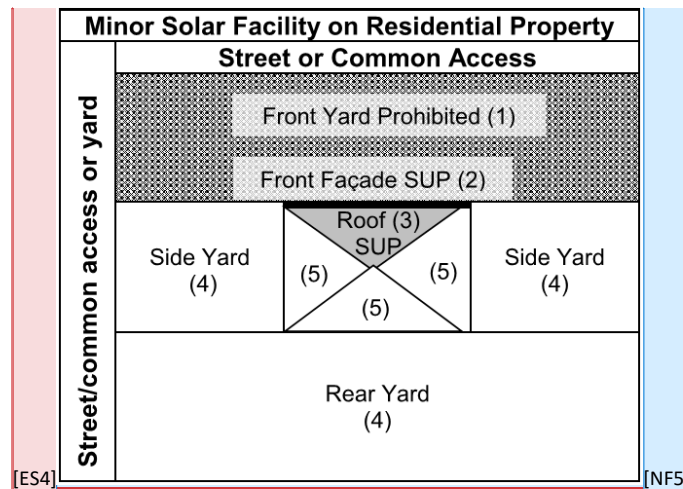
.1 Minor Solar Energy Facilities.

a. General Requirements for Minor Solar Energy Facilities. [ES1]

1. All minor free-standing facilities must comply with accessory structure setbacks and spacing as set forth in Article XX.
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.[ES2]
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.[ES3]

b. Residential Property (refer to illustration).



1. ~~(1)~~ Front yard placement, as depicted by area (1) in the above illustration, 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, as depicted by area (2) in the above illustration, is prohibited (if facing street

~~or common access) requires a Special Use Permit (SUP) 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, permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.~~

~~2.3.(3) Front roof slope placement that slopes downward, as depicted by area (3) in the above illustration, requires a Special Use Permit (SUP) 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, permitted as by-right accessory use in all districts subject to the issuance of a zoning permit.~~

~~3.4.~~ Side and rear yard placement as depicted by area (4) in the above illustration, is permitted as by-right accessory use in all districts subject to the issuance of a zoning permit.

~~4.5.~~ Side and rear roof slope placement, as depicted by area (5) in the above illustration, is permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.

c. ~~b.~~ Non-Residential Property^{[ES6][NF7]}.

~~1. (1) Placement of m~~ Minor free-standing solar facilities on non-residential property ~~is prohibited from facing common or public access when the placement would cause the solar facility to be visible by a person on the ground, shall require a Special Use Permit (SUP), permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.~~

2. Minor rooftop solar facilities on non-residential property are allowed on:

- (1) flat roofs;
- (2) roof slopes not facing a street and building; and
- on roof slopes facing the street when using integrated panels

~~c. c. Minor free-standing facilities must comply with accessory structure setbacks and spacing.~~

~~d. d. Minor free-standing facilities shall be a maximum of 5 feet in height as measured from the grade at the base of the structure to the apex of the structure.~~

~~e. Minor rooftop solar energy facilities shall not be considered as rooftop equipment on any building type and therefore, do not require screening and are not subject to any architectural standards that would prohibit reflective materials.~~

2 Major Solar Energy Facilities^{[ES8][NF9]}.

a. General Requirements for Major Solar Energy Facilities.

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 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.

4. Glare resistant solar panels shall be used if the solar facility is adjacent to any airport.

Rooftop major solar energy facilities should not be considered as rooftop equipment on any building type, and therefore, do not require screening and are not subject to any architectural standards that would prohibit reflective materials.^[ES10]

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.

a. Shall require the issuance of a Special Use Permit and in addition to the Special Use Permit requirements found in Article 11.4.10

Residential Property (refer to illustration in Article 9.54(b)(1) above).^{[ES11][NF12]}

— Front yard placement, as depicted by area (1) in the above illustration, 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.

— Placement on the façade of a structure that faces areas open to common or public access, as depicted by area (2) in the above illustration, 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.

— Front roof slope placement that slopes downward, as depicted by area (3) in the above illustration, 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.

— Side and rear yard placement as depicted by area (4) in the above illustration, is permitted as by-right accessory use in all districts subject to the issuance of a zoning permit.

— Side and rear roof slope placement, as depicted by area (5) in the above illustration, is permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.

shall include the following:

b. 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.

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. [ES13]



Text Amendment Application

Date of Application 11/22/21

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

☐ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Article(s): 8.7, 12.2.1, 4, 37 Section(s): _____

see attached

Current Ordinance

see attached

Proposed Text

Reason for Proposed
Change

To establish standards for Rooftop Avenity
Spaces that exceed the allowed maximum building
height. Also to define a Rooftop Avenity Space.

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 Hiebing Date 11/22/21Title 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: 11/22/21Staff Initials: KIM

Occupiable Roof Criteria per Building Code

- The roof of a building that has a portion of, or all, to be used in the way you have described is an Assembly A-3 Occupancy per 303.4-2018 NCBC.
 - Proposed roof top Assembly areas that do not have a roof covering are still Assembly A-3 Occupancies.
 - A-3 Occupancies that are located somewhere other than on the *Level Of Exit Discharge* shall be sprinklered per 903.2.1.2(3)-2018 NCBC; this Code section involves the Code term *Fire Area*.

FIRE AREA. The aggregate floor area enclosed and bounded by *fire walls, fire barriers, exterior walls or horizontal assemblies* of a building. Areas of the building not provided with surrounding walls shall be included in the *fire area* if such areas are included within the horizontal projection of the roof or floor next above.

- A project with no roof covering over their A-3 area would not have to be included in the *Fire Area* and therefore not required to have sprinklers.
 - However, it is possible that a roof covering of some kind could be installed over the A-3 area(s) at a later time, thus requiring plan review, permitting through MCCE, and sprinklers.
- Another consideration is the type of roof structure above the A-3 area
 - Canopies are regulated per Section 3105-2018 NCBC and canopies greater than 15' as measured perpendicular to the wall attachment are no longer considered canopies but are additions which trigger other Code requirements for existing building projects.
- Under the present code, an occupied roof is not a story unless it has a roof structure over it.
 - Once a roof is involved, we have two reference points to establish a story – a floor and a roof. If the occupiable area has some kind of a roof, canopy, overhang, etc... it shall be considered to be a story. A roof would include fabric canopies (but not open trellis's where protection from the weather is not provided) and if the fabric canopy can trap smoke and hot gases and is permanently affixed to the building.
 - The Code definition of a Story is:

STORY. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above (see "*Basement*," "*Building height*," "*Grade plane*" and "*Mezzanine*"). A story is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.
 - Roof top structure and penthouse information from the code:

ROOFTOP STRUCTURE. A structure erected on top of the *roof deck* or on top of any part of a building.

[BG] 1510.2.3 Use limitations. Penthouses shall not be used for purposes other than the shelter of mechanical or electrical equipment, tanks, or vertical shaft openings in the roof assembly.

❖ The use of the penthouse is also limited. Regardless of height or area, roof structures used for anything except sheltering electrical or mechanical equipment or vertical shaft openings must be considered as an additional story.

- Exits: An Assembly occupancy on a rooftop always requires 2 exits. If the building is over 2 stories, any occupancy on the roof would require 2 exits at least.
- Accessibility: If the occupiable roof area is over 3,000 sf and requires an Accessible Route, an elevator is required.
- Allowable # of stories is based upon Occupancy Group/Classification and Construction Type under Table 504.4-2018 NCBC

**AN ORDINANCE TO AMEND ARTICLE 8.7: HEIGHT LIMITATION; 12.2.1: GENERAL DEFINITIONS;
ARTICLE 4: BUILDING AND LOT TYPES: APARTMENT BUILDING; ARTICLE 4: BUILDING AND LOT
TYPES: SHOPFRONT BUILDING; ARTICLE 7.10 OPEN SPACE; AND ARTICLE 7.11 URBAN,
AGRICULTURAL, COMMON, NATURAL, & RECREATIONAL OPEN SPACE OF THE ZONING
ORDINANCE TO ADD STANDARDS FOR ROOFTOP AMENITIES SPACES THAT EXCEED THE
MAXIMUM BUILDING HEIGHT**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 8.7: Height Limitation of the Zoning Ordinance is hereby amended as follows:

- .1 The height of habitable buildings and components is controlled by building type (Article 4).
- .2 Structures and structural components not intended for human occupancy (including towers, steeples, flagpoles, chimneys, water tanks or similar structures) may exceed the height limit of buildings. Further, towers primarily used for manufacturing purposes that may also be occupied may exceed the height limit of buildings. Components of civic buildings which extend above the height limit shall follow the standards for the civic building type (Article 4). When adjacent to a lot or lots located in a residential district, any part of a non-civic structure which extends above the height limit must be separated from the residential lot by a distance equal to its height measured from the ground. In all other instances, any part of a non-civic structure which extends above the height limit must be separated from lot lines by a minimum distance of one foot for every four feet in height measured from the ground.
- .3 The height limitations of this section shall not apply to public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.
- .4 Commercial communication towers, where permitted, may exceed the height limit for structures when the standards of Section 9.9 are met.

.5 Rooftop Amenity Spaces & Exceedance of Maximum Building Height

The intent of these rooftop amenity space regulations is to allow rooftop amenity spaces for residents of an apartment building type or mixed-use building type to exceed the maximum building height allowed subject to the below standards:

- a. **Location.**
 - i. **Rooftop Amenity Spaces shall be separated by a distance of at least 100 feet from property lines of a single-family residential use when such single-family residential use is located in the R, TR, NR, or GR zoning district.**
 - ii. **The rooftop amenity space shall be set back from any building edge.....**
 - i. ***Option 1.*** A distance equal to the tallest point of the rooftop amenity space.
 - ii. ***Option 2.*** A distance of at least 10’.
 - iii. ***Option 3.*** No setback requirement (recommended by Staff).
- b. **Size and Height.**

- i. The height of the rooftop amenity space and structures therein shall not exceed 15 feet above the proposed building height; and
 - ii. The area of the rooftop amenity space, measured to the outermost exterior element, shall not exceed 1,500 square feet.
- c. Access.
 - i. Rooftop amenity spaces shall be available to all residents of dwelling units in a building, but not to commercial tenants of a mixed-use building.
- d. Lighting and Noise.
 - i. Rooftop Amenity Spaces shall adhere to the lighting standards set in the Zoning Ordinance under Article 8.26.
 - ii. Rooftop Amenity Spaces shall adhere to the noise standards set in the Town Code of Ordinances under Title IX, Chapter 93, Article III. Noise.
 - iii. The use of sound amplifying equipment shall be prohibited.
 - iv. All exterior lighting associated with rooftop amenity spaces shall be on a timer that turns the lights off at 11:00 p.m., except for necessary lighting for site security.
- e. Open Space.
 - i. Rooftop Amenity Spaces may count towards Urban Open Space requirements in accordance with Articles 7.10 and 7.11.

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 12.2.1: General Definitions of the Zoning Ordinance is hereby amended as follows:

Rooftop Amenity Spaces. A covered, uncovered, or enclosed space on a building rooftop that is intended to be an accessory use for building occupants.

Section 3. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 4: Building and Lot Types: Apartment Building of the Zoning Ordinance is hereby amended as follows:

Permitted Heights and Uses

1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
2. The height of parapet walls may vary depending upon the need to screen mechanical equipment.
3. Building height to the ridge may vary depending on the roof pitch.
4. Permitted uses are indicated above.

5. Rooftop Amenity Spaces for Apartment Building Types may exceed the maximum building height in accordance with Article 8.7.

Section 4. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 4: Building and Lot Types: Shopfront Building of the Zoning Ordinance is hereby amended as follows:

Description

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

Permitted Heights and Uses

1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
2. The height of parapet walls may vary depending upon the need to screen mechanical equipment.
3. Building height to the ridge may vary depending on the roof pitch.
4. Permitted uses are indicated above, and are further controlled by district regulations.
5. Where an existing residential building converts to a mixed-use building, at least 40% of the habitable floors area shall be residential.
- 6. Rooftop Amenity Spaces for residents of Mixed-Use Building Types may exceed the maximum building height in accordance with Article 8.7.**

Section 5. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 7.10 Open Space – Purpose, Intent, and Definitions of the Zoning Ordinance is hereby amended as follows:

7.10 Open Space – Purpose, Intent and Definitions

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

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

pavement. The creation of compact neighborhoods accessible to open space amenities aid strong community identity.

.1 Open Space Typologies Defined

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

Reference Article 12: Definitions for subdivision, large lot.

.2 All zoning districts, except Rural, require Urban Open Space to be incorporated into the design. All open space areas outside of landscape and BMP (stormwater) easements and lots that are not specified as Urban Open Space shall meet one or a combination of the remaining four open space typologies, Agricultural, Common, Natural and Recreational. Article 3 and Article 7.11 shall be referenced for further information.

.3 Rural Zoning shall incorporate a combination of Agricultural, Common, Natural, or Recreational open space typologies. Article 3.2.1 and Article 7.11 shall be further referenced.

.4 Below is a table outlining what types of open space options are available to meet zoning district standards.

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

Section 6. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 7.11 Urban, Agricultural, Common, Natural and Recreational Open Space of the Zoning Ordinance is hereby amended as follows:

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

.1 Urban Open Space:

(a) Urban Open Space is defined as all areas not divided into private or civic building lots, streets, right-of-way, parking or easements.

(b) Urban Open Space shall be planned and improved, accessible and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and may contain one or more of the following improvements: landscaping, walls, fences, walks, statues, fountains, ball fields,

and/or playground equipment. Walls and fences shall be made of brick, stone, wrought iron, or wood and shall not exceed 3.5 ft. in height. (Exceptions: fences used in conjunction with ball fields.) Urban Open Space shall conform to one of the Urban Open Space types described in this section, or to a minor variation of same.

(c) In major subdivisions and multi-building developments in all zoning districts except Rural, urban open space shall be integrated into the design of the site. Such open space, whether on-site or off-site, shall be located within $\frac{1}{4}$ mile of each building lot as measured along the rights-of-way of streets providing access between the two. In large-lot subdivisions such urban open space shall be integrated into the design of the site so that, whether located on-site or off-site, such open space is located within $\frac{1}{2}$ mile of all building lots, as measured along the rights-of-way of streets providing access between the two.

(d) Urban Open Space features should provide focal points for the neighborhood. A central square or green, for example, may comprise a majority of the open space. There should be a hierarchy of open space within new neighborhoods to serve the needs of all residents.

(e) No more than twenty-five (25) percent of each above ground water quality/quantity treatment system (BMP) within an urban open space area can be used. Any above ground BMPs located within an Urban Open Space must add to the overall quality of the open space, rather than detract from area devoted to BMP. To exceed the twenty-five (25) percent limitation a design may be submitted to the Planning Board for review and approval. Such BMP design shall incorporate a combination of the following design elements; but not limited to, pathways, boardwalks, ponds with fountains, and landscape material. Underground BMPs are not limited.

(f) Urban Open Space types include Community Garden, Forecourt, Green, Greenbelt, Greenway, Park, Parkway, Pedestrian Passage, Plaza, Promenade, Square, ~~and~~ Woonerf, and Rooftop Amenity Space, and are characterized as described below or to a minor variation of same.

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



area. Community Gardens shall be a minimum of 500 sq. ft.	
<u>Forecourts</u> are open space areas which act as buffers between residential buildings and non-residential buildings or streets. Forecourts are entirely bounded by streets. It is recommended that forecourts be planted parallel to all street ROW's with one tree species. Such plantings shall be a minimum of 10 ft. on center and a maximum of 30 ft. on center.	
<u>Greenbelts</u> run along the perimeter of a neighborhood or town and serve to buffer from surrounding non-compatible uses such as a highway corridor, industrial district, or from agricultural areas or adjacent towns. Greenbelts are left natural, but may include walking trails or passive recreation. In addition, schools located adjacent to Greenbelts can provide all recreational and athletic fields within the greenbelt. Streets bordering greenbelts shall match the Residential Street standards in Article 5 and the Huntersville Engineering Standards and Procedures Manual.	 

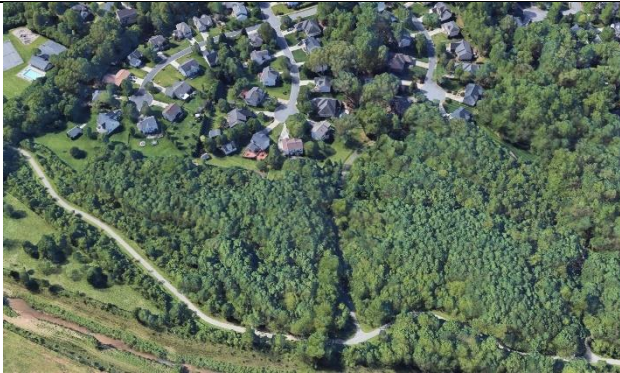
A **Green** is typically landscaped with trees at the edge and an open expanse of grass in the center that is externally surrounded directly or indirectly by buildings.



Green continued.



Greenways are generally linear in nature and may bisect or border developments. They are designed to incorporate natural settings such as creeks and significant stands of trees with neighborhoods. Recreational uses shall be provided, at a minimum, trails for walking, jogging and/or bicycling. A greenway may be bound by a public street, but not required. Greenways



dedicated to Town/County as identified on the adopted greenway plan will be counted toward tree save area, if relevant. Upon completion of the publicly dedicated greenway any trees removed due to construction are not required to be replaced.



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

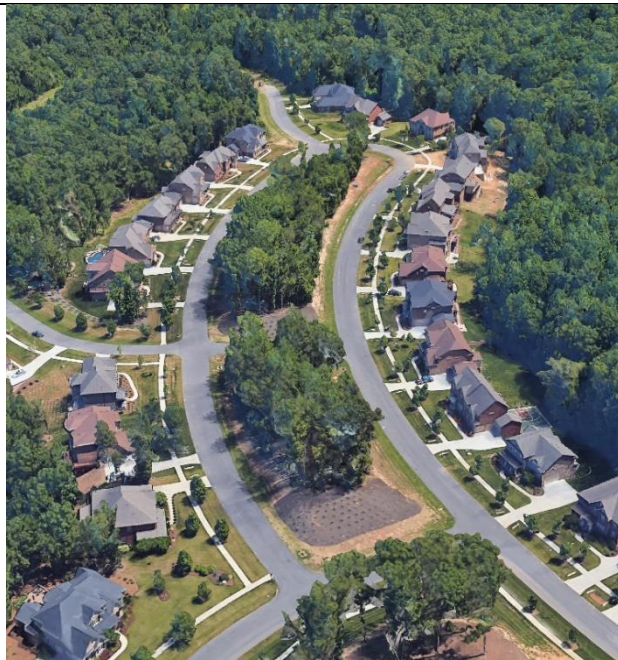
Where mini parks are not used, the minimum size shall be 1 acre and



maximum size 3 acres. Maximum park size may exceed 3 acres, if through design, the park creates a central open space, which services an entire neighborhood or group of neighborhoods; or incorporates physical features, which are an asset to the community (i.e. lake, high ground, significant stand of trees).



Parkways are open spaces designed to incorporate natural settings such as creeks and significant stands of trees within a neighborhood. Parkway may be entirely bounded by streets or pedestrian ROW's within developed areas. Parkway differs from parks and squares in that their detailing is natural (i.e. informally planted). Parkway are used for walking, jogging or bicycling. In addition, small scale recreational features such as playground area or soccer field are appropriate in parkways. Streets bordering the parkway shall match the Residential Street standards in Article 5 and the Huntersville Engineering Standards and Procedures Manual.



Parkways continued.



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



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

Pedestrian passageways continued.



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



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



Geometrical tree planting layouts for internal plantings are encouraged. A close can function as a square.	
A <u>Woonerf</u> is an access way where the primary use is by pedestrian and bicycles with secondary use by vehicles. By removing curbs and any indication of a car travel line, while at the same time adding landscaping and street furniture, the public realm for pedestrians is expanded into what was the street. Parking areas shall be dispersed.	
<u>A Rooftop Amenity Space is a covered, uncovered, or enclosed space on a building rooftop that is intended to be an accessory use for residents of apartment building type or mixed-use building type. Rooftop Amenity Space must be accessible to all residents in a development to count towards Urban Open Space. Maximum of 1,500 SF of Rooftop Amenity Space able to count towards Urban Open Space requirements. Rooftop Amenity Space improvements shall include, but are not limited to, seating, landscape materials, and lighting. Rooftop Amenity Space improvements can include, but are not limited to, shade structures, fountains, sculptures, and other decorative elements.</u>	

Section 7. That this ordinance shall become effective immediately.



Text Amendment Application

Date of Application 12/30/21

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

☒ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Article(s): 11.4.3, 11.4.9, 3 Section(s): _____

see attached 12.2.1

Current Ordinance

see attached

Proposed Text

Reason for Proposed
Change

Update the definition of down-zoning to comply with 160 D. Update language on down-zoning initiation to comply with 160 D.

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.

Applicant

Printed Name Town of Huntersville Planning Department

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

Signature Kayleigh Miley Date 12/29/21

Title Planner I Email Kmielenz@huntersville.org

Address 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: 12/30/21

Staff Initials: KIM

**AN ORDINANCE TO AMEND ARTICLE 11.4.3 (a) AND ARTICLE 11.4.9 OF THE
ZONING ORDINANCE TO CLARIFY DOWN-ZONING PROCESS CONSISTENT WITH
N.C.G.S. 160D-601(d) AND AMEND THE DEFINITION OF DOWN-ZONING IN
ARTICLE 12.2.1 OF THE ZONING ORDINANCE**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 11.4.3(a) and 11.4.3 (a)(1) of the Zoning Ordinance is hereby amended as follows:

.3 Initiation

a) Any amendment to the Zoning Ordinance text or Zoning Map, except for the classification of property to a conditional zoning district or MH Overlay **or to down-zone property as defined by N.C.G.S. 160D-601** may be initiated:

1) By the Town Board, Huntersville Ordinances Advisory Board, or the Planning Board on its own resolution;

2) By the property owner(s), upon filing an official petition, submitting the fee established by the Town Board, and providing a list of adjoining properties including tax parcel numbers and the name and address of each owner, provided in digital form if possible;

3) By someone other than the property (if not a request to down-zone property) owner following:

(a) filing of an official petition and submission of the established fee by the initiating party; and in addition, for a map amendment, providing a list of adjoining properties including tax parcel numbers and the name and address of each owner, or, for a text amendment, submitting the prepared text and rationale for seeking the amendment;

(b) preliminary evaluation by the Planning Board to evaluate consistency of the proposal with the objectives and policies of plans adopted by the Town of Huntersville; and

(c) determination by the Town Board whether the petition should be granted a public hearing or rejected.

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 11.4.9 of the Zoning Ordinance is hereby amended as follows:

.9 When Development Not Begun Within **2** ~~3~~ Years

It is intended that property shall be reclassified to a conditional zoning district or a MH Overlay district only in light of firm development plans for the property. Therefore, two years after the date of approval of any petition for a conditional zoning district, or MH Overlay district, the Planning Board shall examine the progress made toward developing the property in accordance with the approved petition and any conditions attached thereto. If the Planning Board

determines that construction has not commenced in furtherance of the approved petition and conditions, the Planning Board may, at its discretion, initiate a rezoning to the general zoning district consistent with the most detailed plan adopted for the area which includes the property, according to the procedures of Section 11.4, Amendment Process **so long as the rezoning would not result in a down-zoning as defined by N.C.G.S. 160D-601(d).**

Section 3. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 12.2.1 of the Zoning Ordinance is hereby amended as follows:

Down-zoning. ~~Down-zoning means a zoning ordinance~~ **Any amendment to the zoning ordinance or zoning map** that affects an area of land in one of the following ways:

- (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town Board.

Section 4. That these amendments shall become effective upon approval by the Town Board of Commissioners.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: January 6, 2021

PUBLIC HEARING DATE: March 2022

PLANNING BOARD MEETING: March 2022

TOWN BOARD DECISION: April 2022