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3.2.1 RURAL DISTRICT (R)

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

1. Permitted Uses.

Uses permitted by right.

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

Uses permitted with conditions.

- cemeteries, (9.7)
- religious institutions, (9.8)
- commercial communication towers, (9.9)
- duplexes up to 10% of dwelling units in development, (9.13)
- duplexes up to 10% of dwelling units in development, (9.13)
- essential services 1 and 2, (9.14)
- government buildings up to 5,000 sq. ft. of gross floor area; fire stations are permitted in government buildings up to 15,000 sq. ft. of gross floor area
- neighborhood and outdoor recreation, (9.21)
- parks, (9.29)
- plant nurseries, (9.46)
- riding academies and/or commercial stables, (9.33)
- schools, (9.35)
- transit shelters, (9.39)
- banquet facility, (9.59)
- dormitory for a bona fide farm, (9.62)

Uses permitted with Special Use Permit.

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- agricultural industry, (9.3)
- solar energy facility, major, (9.54)
- wind energy facility, major, (9.53)
- wind energy facility, minor, accessory (9.53)

2. **Permitted Building and Lot Types.**

- attached house
- civic building
- detached house

3. **Permitted Accessory Uses.**

- accessory dwelling, (9.1))
- daycare home (small), (9.11)
- home occupations, (9.19)
- marinas, (9.42)
- solar energy facility, minor residential (9.54)
- solar facility, minor non-residential (9.54)
- accessory uses permitted in all districts (8.11)

4. **General Requirements.**

1. **Frontage** on a public street is required for all lots in the Rural District except those comprising a Farmhouse Cluster (see Special Requirements, paragraph e), this section), those comprising a Conservation Subdivision (see Special Requirements, paragraph f), or those specifically exempted in Article 8.1.

2. **Development** in the Rural District shall meet the following standards:

1. Non-residential lots outside of planned developments and lots in exempt subdivisions not approved as Farmhouse Clusters or Conservation Subdivisions require a minimum lot size of 20,000 sq. ft. and a minimum lot width of 90'; no open space requirement. Further, individual lots of less than 20,000 sq. ft. and/or 90' width, existing prior to the effective date of this ordinance, are construed to be conforming.
2. Except as provided in a. above, Farmhouse Cluster and Conservation Subdivision Standards, density in the Rural zoning district shall be as

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follows:

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

3. For every 1% additional open space over 25%, density can be increased by .03 units per gross acre to a maximum of .90 units per gross acre.
4. Open space which is improved, dedicated and accepted by a public agency for public use shall be counted as 1.5 times the actual acreage as an incentive to provide improved public open space. Written proof of willingness to accept the open space by a public agency shall be presented at all stages of the approval process. Access shall at least consist of trails built to public standards meandering through the open space with public access points readily available and public access signs posted at those locations and where the trail intersects with roads shown on the Thoroughfare Plan. Other improvements, such as parks, shall be in accordance with applicable governmental standards.
5. In determining density permissible on a tract of land, fractions shall be dropped.
6. Lot sizes shall average at least 15,000 sq. ft., but in no case shall any lot be less than 8,000 sq. ft. The front yard setback for residential lots shall be a minimum of 25'. The side yard setback shall be 8' and the rear yard setback shall be a minimum of 25'.
7. Lot widths shall average at least 70' feet (excluding cul-de-sac lots), but in no case shall any lot be less than 60' wide. On cul-de-sac or turn-arounds, lots shall have at least 80% of the minimum lot width required when measured to a point 50' back from the street right-of-way. Further, these lots shall have a minimum 35' of frontage along the street right-of-way.

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8. In residential subdivisions, lots should not have a depth greater than 4 times the width at the build-to or setback line except where physical dimensions of the tract provide no other alternative layout or where the open space is for a required buffer. Emphasis shall be on quality of design as opposed to reduction of development costs.
 9. In order to preserve the low intensity development character found in the Rural zoning district, along existing state-maintained roads and future thoroughfares a visually opaque landscaped buffer of native vegetation at least 80 feet in width shall be required for major subdivisions unless a more restrictive buffer is established elsewhere in these regulations. The buffer shall be in common area and shall be counted towards meeting open space requirements.
 10. In major residential subdivisions, a landscaped median at least 20' in width shall be required at all entrances into the subdivision.
 11. Open space shall not be located in private residential lots, unless specifically allowed by this ordinance.
3. **Open Space.** Designated open space includes that parcel or parcels of land, which shall be set aside in perpetuity and shall have no buildings or permanent structures constructed within its perimeters except as provided for in this section. There are four types of open space in the Rural District – agriculture, common, natural, and recreation. Open space shall meet the provisions of this section and the provisions for open space established in Article 7, Part B.
1. Areas containing buildings and other impervious surfaces in excess of 100 sq. ft., shall not be counted as open space. This shall include, but not be limited to, barns, storage buildings, parking lots, clubhouses and tennis courts,
 2. Open Space that is dedicated and accepted by the general public shall be maintained and managed by the Town of Huntersville or Mecklenburg County. The town and county have the right to accept or deny the dedication of open space to the public.
 3. In ~~the~~ Minor Subdivisions and Conservation Subdivisions, open space may also include portions of private building lots subject to a conservation or open space easement.

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4. Open space preservation shall be irrevocable. A metes and bounds description of the space to be preserved and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deeds when open space lands are not held entirely in common. Alternative means of permanent open space preservation may include acceptance by a land conservation trust or a unit of government. Private management alternatives which ensure the open space preservation required by this section will also be permitted. Restrictive covenants shall limit uses to the continuation of certain agricultural activities (pastureland, crop cultivation) or recreation uses that preserve the view from public streets of rural heritage features to be preserved. Upon verification by the town that restriction of development has been established by a permanent and irrevocable instrument, a letter so nothing shall be simultaneously issued to the property owner(s) and to the Mecklenburg County Tax Administrator, Office of Real Estate Appraisal.

4. Compatibility with Surrounding Development.

1. Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
 - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - A single-family detached house established on a lot of one acre or more that is created according to the provisions of Article 8.1, paragraph 1, need not adhere to the spacing, massing, scale, and street frontage relationships of existing buildings along an existing street or road, but shall, at a minimum, observe a front setback of 40

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feet and a lot width of 90 feet. This paragraph shall take precedence over the requirement of Article 4: Lot Types/Detached House for placement of a building on its lot.

- Nothing in this subsection shall be interpreted to conflict with the building design element provisions as found in N.C.G.S. 160D-702(b) for structures subject to the North Carolina Residential Code.

2. On new streets, allowable building and lot types will establish the development pattern.

5. See Section 8.16, Standards for Residential Lot Widths, Alleys, Garages and Parking in Residential Districts.

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

1. Minimum project size and frontage on public road: 10 acres with a minimum of 30 feet of frontage on a public road either by fee simple ownership or by exclusive easement.

2. There shall be no more than two farmhouse cluster developments permitted per tract.

3. Private drives shall be paved in accordance with the Town of Huntersville construction standards. The private street right-of-way or easement shall be sufficient width to accommodate drainage/water quality treatment associated with the private drive. Further, the recorded easement shall have at least 30' of frontage on a public street. In the event two farmhouse clusters are established, the private drive serving those farmhouse clusters may be connected provided:

1. The subdivision plat and associated deeds shall clearly state such drive shall remain private and will not be taken over by a public entity in the future unless such street complies with the construction standards of that public entity.

2. Where feasible, there shall be two means of ingress and egress into the combined farmhouse cluster development. Only in the event the original tract does not have the adequate frontage on a public road to

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obtain two driveway permits would one private drive be allowed to serve the combined farmhouse cluster development;

4. An association of all property owners shall be established for maintenance of all commonly held spaces, if any. Where there are no commonly held spaces except for a shared driveway or private street, a legally binding shared driveway and/or private street use and maintenance agreement shall be filed at the Register of Deeds of Mecklenburg County. Furthermore, the shared driveway or private road shall be shown, along with all appropriate and necessary easements, on a recorded plat and a note shall be attached thereto stipulating the use and maintenance of the driveway and referencing the recorded agreement(s).
5. The location of building sites shall be determined through a site analysis which identifies features listed in Article 7 to be preserved as open space;
6. No minimum lot size or width is required, so long as the project meets all other standards of the district. Detached garages in farmhouse clusters shall be placed in the side or rear yard of home lots. Farmhouse clusters must include an opaque vegetative buffer from the public street for the placement of detached garages in the side yard of home lots.
7. At least 50% of the tract shall be designated as open space. Open space preservation shall be irrevocable. A metes and bounds description of the space to be preserved and limits on use shall be recorded on the subdivision plat and on individual deeds when open space lands are not held entirely in common. Open space lands may be part of a deeded lot so long as it reflects an irrevocable conservation or open space easement requiring such portions of individual lots to remain and be used as open space as provided in this section.
8. Permitted uses of open space lands to be preserved shall correspond generally to physical conditions at the time of subdivision approval. Restrictive covenants shall limit uses to the continuation of certain agricultural activities (pastureland, crop cultivation) or recreation uses that preserve the view from public streets of rural heritage features to be preserved. For example, fields or pasture land preserved as required open space may continue to support cultivation or grazing; however existing woodlands may not be clear-cut. In order to ensure septic tanks are located

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on the most suitable soils, septic fields may be located in common open space provided a maintenance easement is established for access.

9. Private building lots, or any portion thereof, shall not be used to satisfy tree save requirements or open space requirements.
 10. The project shall provide an 80-foot landscaped buffer along the property street frontage. The buffer shall consist of:
 1. Vegetated plantings consisting of four (4) trees per 1,000 sq/ft of buffer area; 75% large maturing; 50% evergreen; 25% small maturing and five (5) shrubs per 1,000 sq/ft; 75% evergreen; or
 2. Softscape (i.e. street trees, meadow, or pastures) and hardscape elements (i.e. stone walls or split rail fencing). Residential structures must not be visible from ~~teh~~the public road using an opaque screening (Article 7.6.2).
 11. Where a farmhouse cluster would eliminate a planned street connection or a street connection indicated on a plan adopted by the Town of Huntsville or the Charlotte-Mecklenburg Thoroughfare Plan, and no alternate alignment can reasonably provide the connection, the design of the farmhouse cluster shall provide for said connection by the dedication of right-of-way for streets less than 70 feet in width and by the reservation of right-of-way for streets 70 feet or wider.
 12. A Farmhouse Cluster requires an approved **Farmhouse Cluster subdivision plan**, according to the requirements of the Huntersville Subdivision Ordinance including approval by the Planning Staff and shall meet all other requirements for review and approval, which may include preliminary plan approval prior to approval of a final plat.
6. **Special Requirements: Conservation Subdivisions.** A **Conservation Subdivision** permits single-family building lots to be divided from a parent tract(s) according to a streamlined subdivision approval process. The approval process, coupled with exemption from most zoning and subdivision requirements, is available to owners who voluntarily place conservation easements on their land in favor of an established lands conservancy. A land division can be approved as a Conservation Subdivision when the following conditions are met:
1. An irrevocable conservation easement held by a conservation organization is placed upon the tract(s) to be subdivided, and documentation of the

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conservation easement, including a boundary description of the area subject to the conservation easement is submitted with the subdivision application.

2. Limits on location and extent of land disturbance and building construction are set out in the conservation easement(s), which shall at a minimum preserve the rural appearance of the land when viewed from public roads and from abutting properties.
3. Treatment of floodplain(s) and required water quality buffers, as described in the conservation easement(s), conform to the minimum standards of the Huntersville Zoning and Subdivision Ordinances.
4. Minimum project size: 40 acres.
5. Maximum gross density: 1 dwelling unit per 20 acres.
6. No new public streets are to be created through the development process.
7. All parcels within the conservation subdivision will have frontage on an existing public road right-of-way or will be provided access to a permanent 20-foot wide access easement that connects to the public right-of-way. Permanent access easement(s) may be either exclusive or non-exclusive, however landlocked parcel(s) may not be created. Documentation of lot access shall be submitted with the subdivision application.
8. The holder of the conservation easement will be held responsible for enforcement of the terms of the conservation easement.
9. Where the parent tract(s) abuts or includes a segment of a thoroughfare that is shown on the adopted Comprehensive Transportation Plan and for which an engineered alignment has been selected, any right of way reservation required by the subdivision regulations shall be made, either by the filing of a deed or the filing of a plat map.
10. Documentation of the above, including a copy of the recorded conservation easement with metes and bounds description, shall be provided with the subdivision application and shall entitle the subdivider to choose to divide the property by deed, as a metes and bounds subdivision, or by final plat approval and recordation according to the requirements of Subdivision Ordinance Section 6.520 for a minor subdivision.
11. A Conservation Subdivision and the lots and homes built therein are exempt from the following ordinance provisions: • Requirement that each building lot

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- have frontage on a public street.
- Requirement to provide open space.
- Requirements of Article 4: Lot Types/Detached House, which section describes the placement of a building on its lot.
- Requirements for the placement and size of residential garages set out in Section 8.16, paragraphs .1 and .6. All other standards of Section 8.16 shall apply.
- Requirement to plant street trees along existing public road(s) where existing, mature trees are to be preserved as a condition of the conservation easement.
- Requirement to construct or escrow funds for sidewalks or alternative pedestrian paths along existing public road(s).

3.2.2 TRANSITIONAL RESIDENTIAL DISTRICT (TR)

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

1. Permitted Uses.

Uses permitted by right.

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

Uses permitted with conditions.

- cemeteries, (9.7)
- religious institutions, (9.8)
- duplexes up to 20% of dwelling units in development, (9.13)
- essential services 1 and 2, (9.14)
- government buildings up to 5,000 sq. ft. of gross floor area; fire stations are permitted in government buildings up to 15,000 sq. ft. of gross floor area
- neighborhood and outdoor recreation, (9.21)
- parks, (9.29)

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- plant nurseries, (9.46)
- riding academies and/or commercial stables, (9.33)
- schools, (9.35)
- transit shelters, (9.39)

Uses permitted with Special Use Permit.

- agricultural industry, (9.3)
- dormitory for a bona fide farm (9.62)
- energy facility, major, (9.54)
- wind energy facility, major, (9.53)
- wind energy facility, minor, accessory, (9.53)

2. Permitted Building and Lot Types.

- attached house
- civic building
- detached house

3. Permitted Accessory Uses.

- accessory dwelling, (9.1)
- daycare home (small), (9.11)
- home occupations, (9.19)
- marinas, (9.42)
- solar energy facility, minor residential (9.54)
- solar facility, minor non-residential (9.54)
- accessory uses permitted in all districts (8.11)

4. General Requirements.

1. **Frontage** on a public street is required for all lots in the Transitional Residential District except those comprising a Farmhouse Cluster (see Special Requirements, paragraph e), this section), those comprising a Conservation Subdivision (see Special Requirements, paragraph f), or those specifically ~~excepted~~[exempted](#) in Article 8.1.
2. **Development** in the Transitional Residential District shall meet the following standards:
 1. Non-residential lots outside of planned developments and lots in exempt subdivisions not approved as Farmhouse Clusters or Conservation Subdivisions require a minimum lot size of 20,000 sq. ft. and a minimum lot width of 90'; no open space requirement. Further,

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individual lots of less than 20,000 sq. ft. and/or 90' width, existing prior to the effective date of this ordinance, are construed to be conforming.

2. Except as provided in a. above, Farmhouse Cluster and Conservation Subdivision Standards, density in the Transitional zoning district shall be as follows:

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

3. For every 1% additional open space over 20%, density can be increased by .05 units per gross acre to a maximum of 1.5 units per gross acre.
4. Open space which is improved, dedicated and accepted by a public agency for public use shall be counted as 1.5 times the actual acreage as an incentive to provide improved public open space. In order to obtain credit the open space should align with the Town and County's future land use plans. Written proof of willingness to accept the open space by a public agency shall be presented at all stages of the approval process. Access shall at least consist of trails built to public standards meandering through the open space with public access points readily available and public access signs posted at those locations and where the trail intersects with roads shown on the Thoroughfare Plan. Other improvements, such as parks, shall be in accordance with applicable governmental standards.
5. In determining density permissible on a tract of land, fractions shall be dropped. In mixed use developments, areas used for nonresidential purposes shall be subtracted from the tract acreage to determine density permitted.
6. Lot sizes shall average at least 7,500 sq. ft., but in no case shall any lot be less than 6,000 sq. ft. The front yard setback for residential lots shall be a minimum of 20'. The side yard setback shall be 6' and the rear yard setback shall be a minimum of 25'.

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7. Lot widths shall average at least 60 feet (excluding cul-de-sac lots), but in no case shall any lot be less than 50' wide. On cul-de-sac or turn-arounds, lots shall have at least 80% of the minimum lot width required when measured to a point 50' back from the street right-of-way. Further, these lots shall have a minimum 25' of frontage along the street right-of-way. No more than 50% of the lots in a subdivision shall be one width. A 10' differential in lot widths is required. At least 2 lot widths shall be required for subdivisions of 50 or less lots and at least 3 lot widths shall be required for subdivisions over 50 lots in size.
 8. In residential subdivisions, lots should not have a depth greater than four (4) times the width at the build-to or setback line except where physical dimensions of the tract provide no other alternative layout or where the open space is for a required buffer. Emphasis shall be on the quality of design as opposed to reduction of development costs.
 9. In order to preserve the low intensity development character found in the Transitional Residential zoning district, along existing state-maintained roads and future thoroughfares a visually opaque landscaped buffer of native vegetation at least 80 feet in width shall be required for major subdivisions unless a more restrictive buffer is established elsewhere in these regulations. The buffer shall be in common area and shall be counted towards meeting open space requirements.
 10. In major residential subdivisions, a landscaped median at least 20' in width shall be required at all entrances into the subdivision.
 11. Open space shall not be located in private residential lots, unless specifically allowed by this ordinance.
3. **Open Space.** Designated open space includes that parcel or parcels of land, which shall be set aside in perpetuity and shall have no buildings or permanent structures constructed within its perimeters except as provided for in this section. There are five types of open space in the Transitional Residential District: urban, agricultural, common, natural, and recreational. Open space shall meet the provisions of this section and the provisions for open space established in Article 7, Part B.
1. Areas containing buildings and other impervious surfaces in excess of 100 sq. ft., shall not be counted as Open Space. This shall include,

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but not be limited to, barns, storage buildings, parking lots, clubhouses and tennis courts,

2. Open Space that is dedicated and accepted by the general public shall be maintained and managed by the Town of Huntersville or Mecklenburg County. The town and county have the right to accept or deny the dedication of open space to the public.
3. In ~~the Minor Subdivisions and~~ Conservation Subdivisions, open space may also include portions of private building lots subject to a conservation or open space easement.
4. Open space preservation shall be irrevocable. A metes and bounds description of the space to be preserved and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deeds when open space lands are not held entirely in common. Alternative means of permanent open space preservation may include acceptance by a land conservation trust or a unit of government. Private management alternatives which ensure the open space preservation required by this section will also be permitted. Restrictive covenants shall limit uses to the continuation of certain agricultural activities (pastureland, crop cultivation) or recreation uses that preserve the view from public streets of rural heritage features to be preserved. Upon verification by the town that restriction of development has been established by a permanent and irrevocable instrument, a letter so noting shall be simultaneously issued to the property owner(s) and to the Mecklenburg County Tax Administrator, Office of Real Estate Appraisal.

4. **Compatibility with Surrounding Development.**

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

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buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.

- A single-family detached house established on a lot of one acre or more that is created according to the provisions of Article 8.1, paragraph 1, need not adhere to the spacing, massing, scale, and street frontage relationships of existing buildings along an existing street or road, but shall, at a minimum, observe a front setback of 40 feet and a lot width of 90 feet. This paragraph shall take precedence over the requirement of Article 4: Lot Types/Detached House for placement of a building on its lot.

- Nothing in this subsection shall be interpreted to conflict with the building design element provision as found in N.C.G.S. 160D-702(b) for structures subject to the North Carolina Residential Code.

2. On new streets, allowable building and lot types will establish the development pattern.

5. See Section 8.16, Standards for Residential Lot Widths, Alleys, Garages and Parking in Residential Districts.

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

1. Minimum project size and frontage on public road: 10 acres with a minimum of 30 feet of frontage on a public road either by fee simple ownership or by exclusive easement.
2. There shall be no more than two farmhouse cluster developments permitted per tract.
3. Private drives shall be paved in accordance with the Town of Huntersville construction standards. The private street right-of-way or easement shall be of sufficient width to accommodate drainage/water quality treatment associated with the private drive. Further, the recorded easement shall have at least 30' of frontage on a public street. In the event two farmhouse clusters

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are established, the private drive serving those farmhouse clusters may be connected provided:

1. The subdivision plat and associated deeds shall clearly state such drive shall remain private and will not be taken over by a public entity in the future unless such street complies with the construction standards of that public entity.
2. Where feasible, there shall be two means of ingress and egress into the combined farmhouse cluster development. Only in the event the original tract does not have the adequate frontage on a public road to obtain two driveway permits would one private drive be allowed to serve the combined farmhouse cluster development;
4. An association of all property owners shall be established for maintenance of all commonly held spaces, if any. Where there are no commonly held spaces except for a shared driveway or private street, a legally binding shared driveway and/or private street use and maintenance agreement shall be filed at the Register of Deeds of Mecklenburg County. Furthermore, the shared driveway or private road shall be shown, along with all appropriate and necessary easements, on a recorded plat and a note shall be attached thereto stipulating the use and maintenance of the driveway and referencing the recorded agreement(s).
5. The location of building sites shall be determined through a site analysis which identifies features to be preserved as open space;
6. No minimum lot size or width is required, so long as the project meets all other standards of the district. Detached garages in farmhouse clusters shall be placed in the side or rear yard of home lots. Farmhouse clusters must include an opaque vegetative buffer from the public street for the placement of detached garages in the side yard of home lots.
7. At least 50% of the tract shall be designated as open space. Open space preservation shall be irrevocable. A metes and bounds description of the space to be preserved and limits on use shall be recorded on the subdivision plat and on individual deeds when open space lands are not held entirely in common. Open space lands may be part of a deeded lot so long as it reflects an irrevocable conservation or open space easement requiring such portions of individual lots to remain and be used as open space as provided in this section.

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8. Permitted uses of open space lands to be preserved shall correspond generally to physical conditions at the time of subdivision approval. Restrictive covenants shall limit uses to the continuation of certain agricultural activities (pastureland, crop cultivation) or recreation uses that preserve the view from public streets of rural heritage features to be preserved. For example, fields or pasture land preserved as required open space may continue to support cultivation or grazing; however existing woodlands may not be clear-cut. In order to ensure septic tanks are located on the most suitable soils, septic fields may be located in the common open space provided a maintenance easement is established for access.
 9. Private building lots, or any portion thereof, shall not be used to satisfy tree save requirements or open space requirements.
 10. The project shall provide an 80-foot landscaped buffer along the property street frontage. buffer shall consist of:
 1. Vegetated plantings consisting of four (4) trees per 1,000 sq/ft of buffer area; 75% large maturing; 50% evergreen; 25% small maturing and five (5) shrubs per 1,000 sq/ft; 75% evergreen; or
 2. Softscape (i.e. street trees, meadow, or pastures) and hardscape elements (i.e. stone walls or split rail fencing). Residential structures must not be visible from the public road using an opaque screening (Article 7.6.2).
 11. Where a farmhouse cluster would eliminate a planned street connection or a street connection indicated on a plan adopted by the Town of Huntsville or the Charlotte-Mecklenburg Thoroughfare Plan, and no alternate alignment can reasonably provide the connection, the design of the farmhouse cluster shall provide for said connection by the dedication of right-of-way for streets less than 70 feet in width and by the reservation of right-of-way for streets 70 feet or wider.
 12. A Farmhouse Cluster requires an approved **Farmhouse Cluster subdivision plan**, according to the requirements of the Huntersville Subdivision Ordinance including approval by the Planning Staff and shall meet all other requirements for review and approval, which may include preliminary plan approval prior to approval of a final plat.
6. **Special Requirements: Conservation Subdivisions.** A **Conservation Subdivision** permits single-family building lots to be divided from a parent tract(s) according to a

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streamlined subdivision approval process. The approval process, coupled with exemption from most zoning and subdivision requirements, is available to owners who voluntarily place conservation easements on their land in favor of an established lands conservancy. A land division can be approved as a Conservation Subdivision when the following conditions are met:

1. An irrevocable conservation easement held by a conservation organization is placed upon the tract(s) to be subdivided, and documentation of the conservation easement, including a boundary description of the area subject to the conservation easement is submitted with the subdivision application.
2. Limits on location and extent of land disturbance and building construction are set out in the conservation easement(s), which shall at a minimum preserve the rural appearance of the land when viewed from public roads and from abutting properties.
3. Treatment of floodplain(s) and required water quality buffers, as described in the conservation easement(s), conform to the minimum standards of the Huntersville Zoning and Subdivision ordinances.
4. Minimum project size: 40 acres.
5. Maximum gross density: 1 dwelling unit per 20 acres.
6. No new public streets are to be created through the development process.
7. All parcels within the conservation subdivision will have frontage on an existing public road right-of-way or will be provided access to a permanent 20-foot wide access easement that connects to the public right-of-way. Permanent access easement(s) may be either exclusive or non-exclusive, however landlocked parcel(s) may not be created. Documentation of lot access shall be submitted with the subdivision application.
8. The holder of the conservation easement will be held responsible for enforcement of the terms of the conservation easement.
9. Where the parent tract(s) abuts or includes a segment of a thoroughfare that is shown on the adopted thoroughfare plan and for which an engineered alignment has been selected, any right of way reservation required by the subdivision regulations shall be made, either by the filing of a deed or the filing of a plat map.

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10. Documentation of the above, including a copy of the recorded conservation easement with metes and bounds description, shall be provided with the subdivision application and shall entitle the subdivider to choose to divide the property by deed, as a metes and bounds subdivision, or by final plat approval and recordation according to the requirements of Subdivision Ordinance Section 6.520 for a minor subdivision.
11. A Conservation Subdivision and the lots and homes built therein are exempt from the following ordinance provisions:
 - Requirement that each building lot have frontage on a public street.
 - Requirement to provide open space.
 - Requirements of Article 4: Lot Types/Detached House, which section describes the placement of a building on its lot.
 - Requirements for the placement and size of residential garages set out in Section 8.16, paragraphs .1, and .6. All other standards of Section 8.16 shall apply.
 - Requirement to plant street trees along existing public road(s) where existing, mature trees are to be preserved as a condition of the conservation easement.
 - Requirement to construct or escrow funds for sidewalks or alternative pedestrian paths along existing public road(s).

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

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

1. Permitted Uses.

Uses permitted with conditions.

- essential services 1 and 2, provided that there shall be no new industrial process or domestic discharges into any stream or lake in the Mountain Island Lake Watershed, but existing wastewater treatment plant(s) may expand so long as the total pollutant load per parameter is not increased beyond the effluent limits permitted as of October 1, 1993, the effective date of watershed protection regulations; agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. All agricultural activities conducted after January 1, 1993 shall maintain a minimum ten-foot vegetative buffer, or equivalent control as determined by the Soil and Water

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Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale topographic maps or as determined by local government studies. Agricultural activities begun after October 1, 1993 shall comply with the buffer standards of Section 3.3.3 -A(f). Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission;

- silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (02 NCAC 60C.0100 to .0209);
- residential uses permitted in the underlying district, subject to density and built-upon limits of the low-density development option; cluster development allowed in the underlying district is permitted;
- non-residential uses permitted in the underlying district, subject to the built-upon limits of the low-density development option; cluster development allowed in the underlying district is permitted.

2. **Prohibited Uses.**

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

3. **Permitted Building and Lot Types.**

- building and lot types permitted in the underlying zoning district

4. **Permitted Accessory Uses.**

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

5. **Built-Upon Area (BUA) Development Standards.** For individual buildings or for development projects within the Critical Areas, the following impervious area limitations are established on a building or project basis.

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

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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) At the election of the property owner, the stormwater from any net increase in built-upon area on the property above the preexisting development 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).

CA1	6% BUAB-U ¹
CA2	12% BUAB-U ¹
CA3	12% BUAB-U ¹
CA4	24% BUAB-U ¹

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

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

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

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

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1. The surveyed buffer boundary must be clearly marked on-site with orange “tree-protection” or “high-hazard” fence prior to any land disturbing activities. Tree protection is required by Section 7.4(3) of this ordinance.
2. The surveyed buffer boundary must be permanently marked with an iron pin at the intersection of the watershed buffer and each property line following the completion of land disturbing activities and prior to [final plat, satisfactory final inspection, and](#) occupancy. Properties greater than 200’ in width shall be marked at a maximum of 100’ intervals.
3. No trees larger than 2-inch caliper, measured at 6 inches above the existing grade, are to be removed except for dead or diseased trees. Undergrowth and trees less than 2-inch caliper, measured at 6 inches above the existing grade, may be removed to be replaced by an effective stabilizing and filtering ground cover based upon the most recent edition of the “Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines” and as approved by the Mecklenburg County Water Quality Program.
4. Stream bank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the Charlotte-Mecklenburg Storm Water Services.
5. Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural [SCMBMPs](#) and pervious materials.
6. During new development or the expansion of existing development, the Town, upon the advice of the Charlotte-Mecklenburg Storm Water Services, can require enhancement of the existing vegetation in the buffer if necessary so that the buffer can effectively perform its filtering and absorption functions. Buffer enhancement requirements shall be based on the most recent edition of the “Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines”.
7. **Mitigation of disturbed buffers required.** Should existing vegetation within the buffer be disturbed (except as allowed by this ordinance), or should vegetation added to a buffer pursuant to paragraph 6) be disturbed, the property owner shall be required to enhance the buffer in accordance with the most recent edition of the “Charlotte-Mecklenburg Water Quality Buffer

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Implementation Guidelines” so that the buffer can effectively perform its filtering and absorption functions.

8. Non-impervious recreational development and non-impervious pedestrian trails are allowed in the required buffer in compliance with paragraph 3), above. Pathway guidelines are available in the most recent edition of the “Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines.” If in a common area, such development and trails must be located a minimum of 30 feet from the normal pool elevation of Mountain Island Lake (648’ contour), or a minimum of 30 feet from the top of the bank on each side of all perennial streams; except for waterfront access points approved by the Town, upon the advice of Charlotte-Mecklenburg Storm Water Services.
9. Non-conforming structures and increasing built-upon area may permitted if the following criteria are met:
 - a. The existing structure (to be expanded) was built prior to the enactment of the 1993 Watershed Ordinance.
 - b. The BUA of the existing structure must cover a minimum of 10% of the 100-foot buffer on the lot.
 - c. In Critical Area 1 (CA1), which has a 6% BUA cap, the maximum allowable increase in BUA in the buffers is 2%. In Critical Area 2 (CA2) and Critical Area 3 (CA3), which have a 12% BUA cap and Critical Area 4 (CA4), which has a 24% BUA cap, the maximum allowable increase in BUA in the buffer is 4%.
 - d. Existing BUA shall not be increased within the State minimum 50-foot buffer.
 - e. ~~Best Management Practices~~[Stormwater Control Measures \(SCMBMPs\)](#) (including rain gardens and plantings) must be installed to achieve the following removal efficiencies for all BUA on the lot (not just the BUA in the buffer):
 1. 85% removal of Total Suspended Solids (TSS)
 2. 60% removal of Total Phosphorus (TP)
 - f. All [SCMBMPs](#) shall be installed or planted in accordance with the Charlotte-Mecklenburg [Stormwater Control Measure BMP-SCM](#)

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Design Manual and in accordance with Huntersville's Water Quality Ordinance.

- g. Maintenance Agreements and Maintenance Plans must be recorded for all **SCMBMPs** installed and/or planted and the location of the **SCMBMP** and corresponding notes must be recorded on the deed in compliance with Huntersville's Water Quality Ordinance.
 - h. Mitigation measures, including all **SCMBMPs**, must be installed, inspected and approved and the provisions described in item g (above) satisfied prior to **final plat, satisfactory final inspection, and** the release of any certificates of occupancy for the structural expansion.
 - i. All structural **SCMBMPs** must be inspected and certified annually for compliance with design criteria by a qualified professional in accordance with the Huntersville Water Quality Ordinance. Inspection reports must be submitted to Mecklenburg County for approval.
 - j. Any deficiencies detected to the **SCMBMP** or any other mitigation measure must be **resolved** in a timely manner **at the sole expense of the property owner** ~~or after~~ detection ~~as and notification determined of~~ **the deficiencies** by the Town of Huntersville ~~staff at the sole expense of the property owner~~. Failure to ~~do so~~ **remedy the deficiencies in a timely manner of detection** will be in violation of the Huntersville Water Quality Ordinance and could result in the assessment of penalties.
- c. **Paired-Parcel Averaged-Density Development.** Paired-parcel averaged density development involves the transfer of impervious development rights between two (2) parcels not within the boundaries of the same subdivision by way of designated undisturbed natural areas. A metes and bounds description of the space to be undisturbed and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deed and shall be irrevocable. The resultant impervious area/amount for the two lots combined shall not exceed the original allowable impervious amount for each individual lot if they were developed separately.
1. A density averaging certificate shall be considered one development request.

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

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certificate is granted, no change in the development proposal authorized for either parcel shall be made unless the certificate is amended. Upon issuance of such certificate, one copy will be forwarded to the North Carolina Division of Water Quality (DWQ). Included with the Density Averaging Certificate will be a site plan, registered plats for both properties, a description of both properties, and documentation reflecting the development restrictions to the parcel pair that will remain undeveloped.

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

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

Intent: The intent of these regulations is to allow development with fewer restrictions in protected areas 1 and 2 than in the critical areas because the risk of water quality degradation from pollution is less in the protected areas than in the critical areas. All uses permitted in the Protected Areas are subject to the standards of both the overlay district and the underlying zoning district. In every case, the more restrictive standard controls.

Note: Protected area 3 defines the remainder of watershed and is not subject to watershed regulation.

1. Permitted Uses.

Uses permitted with conditions.

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

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density or the high-density option; cluster development allowed in the underlying district is permitted.

2. **Prohibited Uses.**

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

3. **Permitted Building and Lot Types.**

- Building and lot types permitted in the underlying zoning district

4. **Permitted Accessory Uses.**

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

5. **Built-Up Area (BUA) Development Standards.** For individual buildings or for development projects within Protected Areas 1 and 2, the following impervious area limitations are established on a building or project basis.

Notwithstanding the above, an applicant shall be allowed to exceed the allowable Built-Up 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) At the election of the property owner, the stormwater from any net increase in built-upon area on the property above the preexisting development 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).

PA1 and PA2, low density option	24% B-U BUA with curb and gutter streets ¹ 36% B-U BUA without curb and gutter streets ¹
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PA1 and PA2, high density option, where permitted	70% B-U-BUA with SCMBMP ¹
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¹ Residential subdivisions shall reserve, at minimum, 1% of the lot area but not less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant.

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

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

(g) **Buffer Protection.** No permanent structures, impervious covers, septic tank systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:

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

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4. Stream bank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the Charlotte-Mecklenburg Storm Water Services.
5. Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural SCMBMP's and pervious materials.
6. During new development or the expansion of existing development, the Town, upon the advice of the Charlotte-Mecklenburg Storm Water Services, can require enhancement of the existing vegetation in the buffer if necessary so that the buffer can effectively perform its filtering and absorption functions. Buffer enhancement requirements shall be based on the most recent edition of the "Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines".
7. Mitigation of disturbed buffers required. Should existing vegetation within the buffer be disturbed (except as allowed by this ordinance) or should vegetation added to a buffer pursuant to paragraph 6) be disturbed, the property owner shall be required to enhance the buffer in accordance with the most recent edition of the "Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines" so that the buffer can effectively perform its filtering and absorption functions.
8. Non-impervious recreational development and non-impervious pedestrian trails are allowed in the required buffer in compliance with paragraph 3), above. Pathway guidelines are available in the most recent edition of the "Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines." If in a common area, such development and trails must be located a minimum of 30 feet from the top of the bank on each side of all perennial streams; except for waterfront access points approved by the Town, upon the advice of the Mecklenburg County Water Quality Program.
9. Non-conforming structures and increasing built-upon area may permitted if the following criteria are met:
 - a. The existing structure (to be expanded) was built prior to the enactment of the 1993 Watershed Ordinance.
 - b. BUA of the existing structure must cover a minimum of 10% of the 100-foot buffer on the lot.

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- c. In Critical Area 1 (CA1), which has a 6% BUA cap, the maximum allowable increase in BUA in the buffers is 2%. In Critical Area 2 (CA2) and Critical Area 3 (CA3), which have a 12% BUA cap and Critical Area 4 (CA4), which has a 24% BUA cap, the maximum allowable increase in BUA in the buffer is 4%.
 - d. Existing BUA shall not be increased within the State minimum 50-foot buffer.
 - e. **Best Management Practices Stormwater Control Measures (SCMBMPs)** (including rain gardens and plantings) must be installed to achieve the following removal efficiencies for all BUA on the lot (not just the BUA in the buffer):
 - 1. 85% removal of Total Suspended Solids (TSS)
 - 2. 60% removal of Total Phosphorus (TP)
 - f. All **SCMBMPs** shall be installed or planted in accordance with the Charlotte-Mecklenburg **SCMBMP** Design Manual and in accordance with Huntersville's Water Quality Ordinance.
 - g. Maintenance Agreements and Maintenance Plans must be recorded for all **SCMBMPs** installed and/or planted and the location of the **SCMBMP** and corresponding notes must be recorded on the deed in compliance with Huntersville's Water Quality Ordinance.
 - h. Mitigation measures, including all **SCMBMPs**, must be installed, inspected and approved and the provisions described in item g (above) satisfied prior to **final plat, satisfactory final inspection and** the release of any certificates of occupancy for the structural expansion.
 - i. All structural **SCMBMPs** must be inspected and certified annually for compliance with design criteria by a licensed N.C. engineer in accordance with the Huntersville Water Quality Ordinance. Inspection reports must be submitted to Mecklenburg County for approval.
 - j. Any deficiencies detected to the **SCMBMP** or any other mitigation measure must be corrected within 30 days of detection at the sole expense of the property owner. Failure to do so will be in violation of the Huntersville Water Quality Ordinance and could result in the assessment of penalties.
10. Property in the Mountain Island Lake Overlay District Protected Area (PA2), which is also part of an approved conditional zoning in the Corporate Business Zoning District, may request the Board of Commissioners to approve a modification to a

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perennial stream buffer draining under 50 acres without a variance subject to implementing one of the nine mitigation techniques in Section 8.25. 11(b). This provision is applicable only to those streams not indicated on the most recent version of the United States Geological Survey (USGS) 1:24,000 scale (7.5 minute) quadrangle topographic maps and therefore do not meet the criteria for a State water supply watershed buffer.

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

1. The High-Density Option allows for greater development density provided engineered controls (structural **SCMBMPs**) are used to manage storm water runoff. Structural **SCMBMPs** are required under the High-Density Option. The High-Density Option is permitted in the PA1 and PA2 subareas. In addition to meeting basic zoning and subdivision standards of the Town of Huntersville, high density development shall meet the requirements of this section, the Land Development Standards Manual, and other published standards of the Town Engineering Department.
2. High-Density Permit Application.
 1. A High-Density Development Permit shall be required for new development exceeding the requirements of the low-density option.
 2. Application for a High-Density Development Permit shall be submitted as follows:
 1. Development plans subject to the Huntersville Subdivision Ordinance and the Sediment and Erosion Control Ordinance will submit the High-Density Development Permit to the Town Engineering Department and the Huntersville Planning Director, or designee, as part of the subdivision review application process.
 2. Development plans exempt from Subdivision Ordinance regulations will submit the High-Density Development Permit to the Town Engineer or their designee as part of the Sediment and Erosion Control requirements of the building permit application process.
 3. Applications for the High-Density Option shall be made on the proper form and shall include the following information:
 - A completed High-Density Development Permit Application signed by the owner of the property. The signature of the consulting engineer

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or other agent will be accepted on the application only if accompanied by a letter of authorization.

- Required number of development plans and specifications of the storm water control structure.
- Submittal of a sediment and erosion control plan to the appropriate agency.
- Permit application fees.

3. Structural **SCMBMPs**.

- a. All structural **SCMBMPs** shall be designed, and the plans sealed, by a North Carolina registered professional with qualifications appropriate for the type of system required as provided for in the North Carolina General Statutes.
- b. Structural **SCMBMPs** shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Water Quality. Specific requirements for these systems shall be in accordance with the design criteria and standards contained in the Land Development Standards Manual.
- c. Qualifying areas of the structural **SCMBMP** may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area.
- d. The design of the structural **SCMBMP** shall include the appropriate easements for ingress and egress necessary to perform inspections, maintenance, repairs and reconstruction.

4. Posting of Financial Security Required.

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

5. Additional Requirements.

1. **An Occupancy Permit shall not be issued for any building within the permitted development until the Town Engineering Department has approved**

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~~the storm water control structure. Certificates of occupancy shall be issued until the following have occurred: withheld pending approval of the storm water control structure by the Town Engineering Department, satisfactory field inspection, approval of the project, and passing final inspection.~~

2. Appeals of any order, requirement, decision or determination shall be made to and decided by the Zoning Board of Adjustment of the Town of Huntersville.

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

1. A density averaging certificate shall be considered one development request.
2. Overall impervious area/amount of the paired parcel averaged-density development, calculated by built-upon area, shall not exceed the impervious that would be allowed if the parcels were developed separately. The parcel pair shall be located in the same water supply watershed and preferably in the same drainage area of the watershed. Parcel pairs may be located in the Critical Area and in the Protected Area. However, if one of the parcels is located in the Critical Area and one is located in the Protected Area, the Critical Area parcel shall not be developed beyond those impervious amounts allowed in the critical area provisions of the Huntersville Zoning Ordinance. A property in a more restricted watershed area shall not acquire impervious rights from a property in a less restricted area of the watershed. The purpose of this provision is to preserve open space in the more sensitive areas of the watershed.
3. The paired parcels may include or be developed for residential or non-residential purposes.
4. Buffers shall at least meet the appropriate minimum Huntersville Zoning Ordinance water supply watershed protection requirements on both parcels in the parcel pair.
5. The portion of the parcel(s) which is not developed as part of the paired parcel, but that is being averaged in the land area being evaluated to meet the built-upon surface area, shall remain in an undisturbed vegetated or natural state. A metes and

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bounds description of the space to be undisturbed and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deed and shall be irrevocable. The resultant impervious area/amount for the two lots combined shall not exceed the original allowable impervious amount for each individual lot if they were developed separately. It shall be noted on the plat that the Zoning Administrator shall reserve the right to make periodic inspections to ensure compliance.

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

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parcel(s) where the high-density development is occurring in accordance with the criteria specified in the Huntersville Water Quality Design Manual and the Huntersville Zoning Ordinance for high-density development.

11. No parcel for which a watershed variance has been granted, or would be required, may be included as part of a parcel pair.
12. Compliance with criteria 1-12 shall be evidence that the parcel pair is consistent with the orderly and planned distribution of development throughout the watershed.

3.3.3-A Critical Area (CA)

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

1. Permitted Uses.

Uses permitted with conditions.

- Essential services 1 and 2, provided that there shall be no new industrial process or domestic discharges into any stream or lake in the Lake Norman Watershed, but existing wastewater treatment plant(s) may expand so long as the total pollutant load per parameter will not be increased beyond the effluent limits permitted as of October 1, 1993, the effective date of watershed protection regulations;
- Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. All agricultural activities conducted after January 1, 1993 shall maintain a minimum ten-foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale topographic maps or as determined by local government studies. Agricultural activities begun after October 1, 1993 shall comply with the buffer standards of Section 3.3.3-A(f). Animal operations greater than 100 animal units shall employ [Best Management Practices Stormwater Control Measures](#) by July 1, 1994 recommended by the Soil and Water Conservation Commission;

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- Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (02 NCAC 60C.0100 to .0209);
- Residential uses permitted in the underlying district, subject to either the low or high density option; cluster development allowed in the underlying district is permitted;
- Non-residential uses permitted in the underlying district, subject to either the low or high-density development option; cluster development allowed in the underlying district is permitted.

2. **Prohibited Uses.**

- All uses not permitted in the underlying zoning district
- Residual applications
- Landfills, sanitary
- Landfills, off-site demolition
- New or expanded domestic and industrial discharges
- Disposal or treatment of petroleum contaminated soils (land farming)
- Petroleum storage tanks as a principal use

3. **Permitted Building and Lot Types.**

- Building and lot types permitted in the underlying zoning district

4. **Permitted Accessory Uses.**

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

5. **Built-Up Area (BUA) Development Standards.** For individual buildings or for development projects within the Lake Norman Critical Area, the following impervious area limitations are established on a building or project basis.

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Notwithstanding the above, an applicant shall be allowed to exceed the allowable Built-Up 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) At the election of the property owner, the stormwater from any net increase in built-upon area on the property above the preexisting development 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).

CA, low density option	24% B-U:BUA ¹
CA, high density option	50% B-U:BUA with Structural BMPSCM ¹

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

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

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

- b. **Buffer Protection.** No permanent structures, impervious covers, septic tank systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:
 1. The surveyed buffer boundary must be clearly marked on-site with orange "tree-protection" or "high-hazard" fence prior to any land disturbing activities. Tree protection is required by Section 7.4(3) of this Ordinance.
 2. The surveyed buffer boundary must be permanently marked with an iron pin at the intersection of the watershed buffer and each property line following

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the completion of land disturbing activities and prior to [final plat, satisfactory final inspection, and](#) occupancy. Properties greater than 200' in width shall be marked at a maximum of 100' intervals.

3. No trees larger than 2-inch caliper, measured at 6 inches above the existing grade, are to be removed except for dead or diseased trees. Undergrowth and trees less than 2-inch caliper, measured at 6 inches above the existing grade, may be removed to be replaced by an effective stabilization and filtering ground cover based upon the most recent edition of the "Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines" and as approved by Charlotte-Mecklenburg Storm Water Services.
4. Stream bank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the Charlotte-Mecklenburg Storm Water Services.
5. Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural [BMPs-SCMs](#) and pervious materials.
6. During new development or the expansion of existing development, the Town, upon the advice of the Charlotte-Mecklenburg Storm Water Services, can require enhancement of the existing vegetation in the buffer if necessary so that the buffer can effectively perform its filtering and absorption functions. Buffer enhancement requirements shall be based on the most recent edition of the "Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines".
7. **Mitigation of disturbed buffers required.** Should existing vegetation within the buffer be disturbed (except as allowed by this Ordinance) or should vegetation added to a buffer pursuant to paragraph 6) be disturbed, the property owner shall be required to enhance the buffer in accordance with the most recent edition of the "Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines" so that the buffer can effectively perform its filtering and absorption functions.
8. Non-impervious recreational development and non-impervious pedestrian trails are allowed in the required buffer in compliance with paragraph 3), above. Pathway guidelines are available in the most recent edition of the

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“Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines.” If in a common area, such development and trails must be located a minimum of 30 feet from the normal pool elevation of Lake Norman (760’ contour), or a minimum of 30 feet from the top of the bank on each side of all perennial streams; except for waterfront access points approved by the Town, upon the advice of the Charlotte-Mecklenburg Storm Water Services.

c. High-Density Option Requirements in the Critical Area of the LN Watershed.

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

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

3. Structural **BMPSCMs**.

- a. All structural **BMPSCMs** shall be designed, and the plans sealed, by a North Carolina registered professional with qualifications appropriate for the type of system required as provided for in the North Carolina General Statutes.
- b. Structural **BMPSCMs** shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Water Quality. Specific requirements for these systems shall be in accordance with the design criteria and standards contained in the Land Development Standards Manual.
- c. Qualifying areas of the structural **BMPSCM** may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area.
- d. The design of the structural **BMPSCM** shall include the appropriate easements for ingress and egress necessary to perform inspections, maintenance, repairs and reconstruction.

4. Posting of Financial Security Required.

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

5. **Additional Requirements.**

~~a.—Certificates of occupancy shall not be issued until the following have occurred: be withheld pending approval of approval of the storm water control structure by the Town Engineering Department, satisfactory field inspection, approval of the project, and passing final inspection. An Occupancy Permit shall not be issued for any building within the permitted development until the Town Engineering Department has approved the storm water control structure.~~

~~b.a.~~ Appeals of any order, requirement, decision or determination shall be made to and decided by the Zoning Board of Adjustment of the Town of Huntersville.

- d. **Paired-Parcel Averaged-Density Development.** Paired-parcel averaged density development involves the transfer of impervious development rights between two (2) parcels not within the boundaries of the same subdivision by way of designated undisturbed natural areas. A metes and bounds description of the space to be undisturbed and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deed and shall be irrevocable. The resultant impervious area/amount for the two lots combined shall not exceed the original allowable impervious amount for each individual lot if they were developed separately.
1. A density averaging certificate shall be considered one development request.
 2. Overall impervious area/amount of the paired parcel averaged-density development, calculated by built-upon area, shall not exceed the impervious that would be allowed if the parcels were developed separately. The parcel pair shall be located in the same water supply watershed and preferably in the same drainage area of the watershed. Parcel pairs may be located in the Critical Area and in the Protected Area. However, if one of the parcels is located in the Critical Area and one is located in the Protected Area, the Critical Area parcel shall not be developed beyond those impervious amounts allowed in the critical area provisions of the Huntersville Zoning Ordinance. A property in a more restricted watershed area shall not acquire impervious rights from a property in a less restricted area of the watershed. The purpose of this provision is to preserve open space in the more sensitive areas of the watershed.

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3. The paired parcels may include or be developed for residential or non-residential purposes.
4. Buffers shall at least meet the appropriate minimum Huntersville Zoning Ordinance water supply watershed protection requirements on both parcels in the parcel pair.
5. The portion of the parcel(s) which is not developed as part of the paired parcel, but that is being averaged in the land area being evaluated to meet the built-upon surface area, shall remain in an undisturbed vegetated or natural state. A metes and bounds description of the space to be undisturbed and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deed and shall be irrevocable. The resultant impervious area/amount for the two lots combined shall not exceed the original allowable impervious amount for each individual lot if they were developed separately. It shall be noted on the plat that the Zoning Administrator shall reserve the right to make periodic inspections to ensure compliance.
6. A Density Averaging Certificate shall be obtained from the Watershed Review Board (Board of Adjustment) to ensure that both parcels considered together meet the standards of the ordinance and that potential owners have record of how the watershed regulations were applied to the parcel pair. Only the owner(s) of both of the paired parcels may submit the application for the Density Averaging Certificate. A site plan for both of the parcels must be submitted and approved as part of the Density Averaging Certificate. If such a certificate is granted, no change in the development proposal authorized for either parcel shall be made unless the certificate is amended. Upon issuance of such certificate, one copy will be forwarded to the North Carolina Division of Water Quality (DWQ). Included with the Density Averaging Certificate will be a site plan, registered plats for both properties, a description of both properties, and documentation reflecting the development restrictions to the parcel pair that will remain undeveloped.
7. The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the paired parcel averaged-density development plan as a whole conforms to the intent and requirements of this Article and Section, and that the proposed agreement assures protection of the public interest.

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

7.4 Tree Preservation, Protection, And Removal

1. **Purpose.** Wooded sites provide distinct aesthetic, economic, and environmental significance and value as a natural resource of the Town. Existing vegetation plays a critical role in maintaining aesthetics, water quality, minimizing erosion and downstream flooding, and increasing quality of life.
2. **Tree Preservation.**
 - a. **Applicability.** Significant forest stands, specimen trees, and heritage trees, as defined in this ordinance, shall be preserved. Forested areas and vegetated areas and areas whose physical site conditions render them unsuitable for development shall be set aside as conservation areas or as open space. Wooded sites shall be developed with careful consideration of the natural characteristics of the site. When portions of forested stands must be developed, careful consideration shall be given to preserving wooded

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perimeters or the most desirable natural features in order to retain the aesthetic or visual character of the site. Isolated pockets of existing trees, specimen trees and heritage trees shall be protected as a valuable asset of the property.

- b. **Site Analysis/Existing Features Plan.** For the purposes of identification and preservation, a site analysis by a North Carolina Landscape Architect, Engineer, or other professional approved by staff is required for all development. The site analysis shall be submitted to planning staff prior to sketch plan review and prior to any clearing. The developer and/or the design firm shall review plans with staff to determine the best areas for potential tree save. Refer to Section 6.0 of the Subdivision Ordinance for all site analysis requirements.
- c. **Method for Calculating Existing Tree Save and Proposed Tree Save Areas.** Existing tree save area shall be considered the area in which the drip line of the existing tree or trees is located on the property plus an additional 5 feet around the perimeter, prior to development. Proposed tree save area shall be considered the area in which the drip line of the remaining tree or trees is located on the property plus an additional 5 feet around the perimeter after development. If root disturbance or construction activities occur within the drip line of any trees designated as tree save, only the area actually being protected will be included in the proposed Tree Save Area.

Additional credits shall be given to preserve Heritage Trees at a rate of 2 times the actual tree save area and Specimen Trees at a rate of 1 1/2 times the actual tree save area. Staff may adjust applicable land development standards to protect and preserve Heritage or Specimen Trees.

- d. **Tree Selection Criteria.** The development manager, working with staff will determine the trees of greatest priority to designate as tree save areas. The following characteristics shall be considered when selecting trees to be protected and saved:
 - 1. **Tree vigor.** Healthy trees shall be preserved. A tree of low vigor is susceptible to damage by environmental changes that occur during site development. Healthy trees are less susceptible to insects and disease. Indications of poor vigor include dead tips of branches, small annual twig growth, stunted leaf size, sparse foliage, and pale foliage

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color. Hollow or rotten trees; cracked, split, or leaning trees; or trees with broken tips also have less chance of survival.

2. Tree age. Old, picturesque trees may be more aesthetically valuable than smaller, younger trees, but they may require more extensive protection.
 3. Tree species. Preserve those species that are most suitable for site conditions and landscape design. Tree species that are short lived or brittle or are susceptible to attack by insects and disease are poor choices for preservation.
 4. Tree aesthetics. Choose trees that are aesthetically pleasing, shapely, large, or colorful. Avoid trees that are leaning or in danger of falling. Occasionally, an odd shaped tree or one of unusual form may add interest to the landscape if strategically located; however, be certain that the tree is healthy.
 5. Wildlife benefits. Choose trees that are preferred by wildlife for food, cover, or nesting. A mixture of evergreens and hardwoods may be beneficial. Evergreen trees are important for cover during the winter months, whereas hardwoods are more valuable for food.
 6. Environmental benefits. Choose trees that help to reduce runoff and erosion, disconnect impervious areas, serve as stormwater filters, and/or buffer onsite perennial streams.
- e. **Tree Save Delineation.** All tree save areas must be specified on the recorded plat, individual recorded deeds, and all property association documents for land held in common.
- f. **Tree Preservation Requirements.** Tree preservation areas (tree save) shall be determined once a site analysis plan has been completed demonstrating the amount of existing tree canopy on a site and identifying specific locations of all heritage and specimen trees. The percentages listed below are based on existing trees as established above under Method for Calculating Existing and Proposed Tree Save Area (7.4.2 C). The following is the minimum tree preservation required per district:

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

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

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

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mitigation trees plus that of their installation. Planning staff will be responsible for reviewing and approving all tree mitigation plans consistent with the mitigation standards of this section.

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

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

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

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

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

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

All existing vegetation shall remain unless the Zoning Administrator determines the existing vegetation does not meet or exceed the opaque

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

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

1. Have a minimum height of 2 feet, a minimum crown width of 8 feet, and a side slope with a width to height ratio of no greater than 3 to 1 (3:1) if 4 feet or less in height. Berms shall not exceed 6 feet in height and, if greater than 4 feet in height, shall have a minimum crown width of 8 feet, and a side slope with a width to height ratio of no greater than 4 to 1 (4:1). Exceptions may be made to the maximum or minimum height of berms by the zoning administrator where, in his opinion, topographical changes dictate such exception.
2. Be designed and constructed with an undulating appearance which mimics as much as is practicable a natural topographical feature of the site.
3. Be substantially planted and covered with live vegetation. No berm shall consist entirely of turf grass, ground cover, mulch, or similar material. If a berm is greater than 2 feet in height all trees shall be arranged so that they are planted within 2 vertical feet of the natural grade, unless irrigation is provided.
4. Be fully installed, planted and stabilized prior to certification of zoning compliance.
5. Be designed to prevent standing water or to impede the flow of stormwater from adjacent properties.
6. Free of structures, including fences, unless approved by the Town as part of the landscaping requirements for a development site.

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7. Not be used as part of any outdoor living space by adjacent property owners within the development.

3. Tree Protection.

- a. **Applicability.** A Tree and Root Preservation Plan delineating areas of tree save shall be incorporated as part of the Landscaping, Grading, and Erosion Control Plans. The following measures shall be followed to protect existing trees on a developing site.
 1. Prior to demolition, clearing, construction, grading, and installation of erosion control measures, tree protective barriers must be installed around all tree save areas by the developer and approved by the Town.
 2. The tree protection barrier shall be located along the perimeter of the tree save area (drip line plus 5 feet). Tree protection barrier for a forest canopy stand area is to be located along the perimeter of the tree save area around the forest edge. Tree protection barriers shall consist of orange safety fencing or a combination of orange safety fencing with silt fencing at a minimum of 4 feet in height on metal or wood posts.
 3. All tree protection areas must be designated as such with prominent "tree save area signs" posted in addition to the required protective fencing. Signs requesting subcontractor cooperation and compliance with tree protection standards are recommended for site entrances.
 4. No soil disturbance or compaction, stock piling of soil or other construction material, vehicular traffic, or storage of equipment and materials are allowed within the tree save area.
 5. No ropes, signs, wires, unprotected electrical installation or other device or material shall be secured or fastened around or through a tree or shrub in a tree save area.
 6. All appropriate protective measures shall be maintained throughout the land disturbing and construction process and shall not be removed until final landscaping is installed.
- b. **Encroachment.** If encroachment into a required Tree Save/Preservation Area occurs which causes irreparable damage to trees, the Tree Preservation and/or Replacement Plan shall be revised to compensate for the loss. Encroachments shall be subject to the penalties listed in Article 7.9.

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Encroachments, damage, and removal of vegetation in a tree save/preservation area shall result in replanting in accordance with Article 7.4.5.

4. **Tree Removal.** A Land Disturbing Permit is required. Land disturbing activities shall not commence until such activities have been authorized by issuance of a valid Land Disturbing Permit as specified under the provisions of the Land Development Standards Manual and Erosion and Sedimentation Control Manual.
5. **Mitigation.** If a required tree save/preservation area or required undisturbed buffer yard is disturbed for any reason, it shall be restored at a rate of 5 trees per 1,000 square feet. Trees to be planted shall have a minimum caliper of 2 inches, shall be 8-10 feet in height at installation, and shall be at least 75% large maturing hardwood varieties. Where a disturbed area also functioned to buffer adjacent properties or public street(s), at least 50% of the trees shall be evergreen varieties. Trees shall be distributed throughout the disturbed area in such a way as to effectively replace the vegetation disturbed. Where under story vegetation is removed or disturbed it shall be replaced at a rate of 20 shrubs per 1,000 square feet. Shrubs shall be evergreen and 3 feet in height when installed and are expected to reach a minimum height of 6 feet at maturity. When a tree is destroyed due to an act of God, it shall be replaced with the same species or comparable species, 2 inch in caliper in size. A planting plan is required for staff review and approval prior to planting.

7.5 Buffer Yards

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

.2 **Applicability.** All applicable development plans shall comply with the provisions of this section. A change of use, expansion of existing heated square footage of a building, or and

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expansion of parking and loading areas will require compliance with these provisions as prescribed per Article 11.5.6, Non-conforming landscaping and screening.

.3 Function. A buffer yard shall function as an opaque or semi-opaque barrier between the viewer and the use or structure to be buffered. Therefore, the exact location and arrangement of materials in the buffer yard will be determined based upon an analysis of site topography and sight lines from public spaces or private properties, which are to be protected. The density of the buffer yard is determined by the intensity of the use and the zoning district. Buffer yard plantings shall meet or exceed the following standards:

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

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• gov't bldgs. • libraries			small maturing; 50% evergreen	
Residential	Any major residential subdivision abutting a property zoned residential or developed residential, not internal to a planned community ⁴	40 feet minimum when density is two times greater than the existing development except in Town Center zone when adjoining the Town Center zone. In all other cases 20 feet minimum is required.	3 trees per 1000 sq/ft of buffer area; 25% large maturing; 25% small maturing; 25% evergreen	10 shrubs per 1000 sq/ft 100% evergreen
R, TR	Any minor residential subdivision	10 feet	Preserve any existing trees located within the required buffer	Preserve any existing shrubs located within the required buffer

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

²The CB, CI, and SP buffer is not required if the subject property is abutting a property zoned CB, CI, or SP. Further, a full eighty (80) foot buffer may be removed along street frontages where the building proposed addresses the public street with architecture and design consistent with the building type requirements of Article 4. The 80 foot buffer may be reduced to the width below along street frontages when the following conditions are met:

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- 40 foot buffer
 - Along any thoroughfare where only passenger vehicle parking is located between the building and the street, and/or the architecture of the building does not meet the building type requirements of Article 4.
 - Along interior streets of existing or proposed business parks where loading, storage, truck dock, or utility areas are located between the building and the street.
- 20 foot buffer
 - Along interior streets of established or proposed business parks where only passenger vehicle parking is located in between the building and street, and/or the architecture of the building does not meet the building type requirements of Article 4.
 - Any building that meets the architectural standards of Article 4 but whose building is moved further from the street than the required build to line.
- Reduced street buffer widths may be disturbed and replanted so long as a complete visual opaque buffer is established at planting maturity between the building and street.

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

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

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

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

.4 Additional Buffer Yard Standards.

1. Buffers are not required for internal property boundaries of a planned community with mixed uses, but will be required to be placed at the perimeter of the project.
2. Perimeter parking lot landscaping shall count towards the buffer requirements.
3. Berms shall be permitted as part of a successful buffer program providing that they:

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

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

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

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

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

Utility easements may cross a buffer yard, but may not be planted laterally in a buffer yard. To the extent possible, the path cleared shall be replaced with plant materials which are consistent with those that existed prior to the easement.

Driveways and street crossings may cross a buffer yard but may not be installed laterally in a buffer yard.

Sidewalks and other pedestrian or bicycle paths may cross a buffer yard or be placed within it if such avoid disturbing existing vegetation.

Landscaping installation, maintenance, and replacement shall be exempt.

.9 In situations where the required buffer yard width is partially or completely contained within an existing easement (e.g. power or natural gas transmission, etc.) the planting

requirements of this Ordinance shall be met outside of the easement area. This area shall be identified as a buffer yard on all site, grading, erosion control, and landscape plans.

7.8 Installation Guarantees And Maintenance Sureties

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

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

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

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.

1. Urban Open Space. Planned and improved open space, accessible and usable. For small lot subdivisions urban open space shall be provided to

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persons living within 1/4 mile measured along rights-of-way. In large lot subdivisions, urban open space application is required at 1/2 mile.

2. Agricultural Open Space. Preserve agricultural lands and rural character that would likely be lost through conventional development approaches.
3. 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.
4. Natural Open Space. Preserve forested lands, natural features, and rural character that would likely be lost through conventional development approaches.
5. 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-SCM~~ (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

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Open Space Type							
Common			X	X	X	X	7.10.1.c.
Agricultural			X	X			7.10.1.b.
Natural			X	X			7.10.1.d.
Recreational			X	X			7.10.1.e.
Urban -	Types						7.11.1.f
	Community Garden			X		X	
	Forecourt			X		X	
	Green			X		X	
	Greenbelt			X		X	
	Greenway			X		X	
	Park			X		X	
	Parkway			X		X	
	Pedestrian Passage			X		X	
	Plaza			X		X	
	Promenade			X		X	
	Square			X		X	
	Woonerf			X		X	

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

1. Urban Open Space.

- a. Urban Open Space is defined as all areas not divided into private or civic building lots, streets, right-of-way, parking or easements.
- b. Urban Open Space shall be planned and improved, accessible and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and may contain one or more of the following improvements: landscaping, walls, fences, walks, statues, fountains, ball fields, and/or playground equipment. Walls and fences shall be made of brick, stone, wrought iron, or wood and shall not exceed 3.5 ft. in height. (Exceptions: fences used in conjunction with ball fields.) Urban Open Space shall conform to one of the Urban Open Space types described in this section, or to a minor variation of same.
- c. In major subdivisions and multi-building developments in all zoning districts except Rural, urban open space shall be integrated into the design of the site. Such open space, whether on-site or off-site, shall be located within ¼ mile of each building lot as measured along the rights-of-way of streets providing access between the two. In large-lot subdivisions such urban open space shall be integrated into the design of the site so that, whether located on-site or off-site, such open space is located within 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 (SCMBMP) within an urban open space area can be used. Any above ground BMPSCMs located within an Urban Open Space must add to the overall quality of the open space, rather than detract from area devoted to SCMBMP. ~~To exceed the twenty-five (25) percent limitation a design may be submitted to the Planning Board for review and approval.~~ Such SCMBMP design shall incorporate a combination of the following design elements; but not limited to, pathways, boardwalks, ponds

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with fountains, and landscape material. Underground **BMPSCMs** are not limited.

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

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



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



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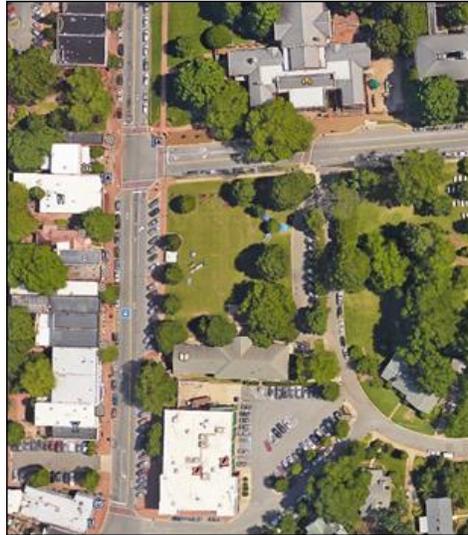
Greenbelts run along the perimeter of a neighborhood or town and serve to buffer from surrounding non-compatible uses such as a highway corridor, industrial district, or from agricultural areas or adjacent towns.

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



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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.



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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.



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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).



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



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



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<p>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.</p>	
<p>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.</p>	
<p>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.</p>	

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

2. **Agricultural Open Space.** Shall include areas set aside for agricultural purposes such as livestock, growing fruits, vegetables, grains, forestry, etc. The goals of the agricultural open space are as follows:
- a. To conserve areas of the town with productive soils for continued agricultural use by preserving large blocks of land large enough to allow for efficient operations.
 - b. To minimize site disturbance and erosion through retention of existing vegetation and avoiding development in sensitive farmland areas.

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- c. To protect scenic views and elements of the town's rural character, and to minimize perceived density by minimizing views of new development from existing roads.
- d. To preserve and maintain historic and archaeological sites and structures that serve as significant visible reminders of the town's social and architectural history.

Reference Article 3 and Article 7.12 - 7.14 for further information

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

Reference Article 3 and Article 7.12 - 7.14 for further information

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

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- e. To protect scenic views and elements of the town's rural character, and to minimize perceived density by minimizing views of new development from existing roads.

Reference Article 3 and Article 7.12 - 7.14 for further information

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

Reference Article 3 and Article 7.12 - 7.14 for further information

8.7 Height Limitation

- 1. The height of habitable buildings and components is controlled by building type (Article 4).
- 2. Structures and structural components not intended for human occupancy (including towers, steeples, flagpoles, chimneys, water tanks or similar structures) may exceed the height limit of buildings. Further, towers primarily used for manufacturing purposes that may also be occupied may exceed the height limit of buildings. Components of civic buildings which extend above the height limit shall follow the standards for the civic building type (Article 4). When adjacent to a lot or lots located in a residential district, any part of a non-civic structure which extends above the height limit must be separated from the residential lot by a distance equal to its height measured from the ground. In all other instances, any part of a non-civic structure which extends above the height limit must be separated from lot lines by a minimum distance of one foot for every four feet in height measured from the ground.

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

8.17 Water Quality

1. **Purpose.** The purpose of this ordinance is to establish storm water management requirements and controls to prevent surface water quality degradation to the extent practicable in the streams and lakes within the Town Limits and Extraterritorial Jurisdiction of Huntersville and to protect and safeguard the general health, safety, and welfare of Huntersville’s residents. This ordinance seeks to meet this purpose by fulfilling the following objectives:
 - a. Minimize increases in storm water runoff from development or redevelopment in order to reduce flooding, siltation and stream bank erosion, and maintain the integrity of stream channels;
 - b. Minimize increases in non-point source pollution caused by storm water runoff from development or redevelopment that would otherwise degrade local water quality;
 - c. Minimize the total volume of surface water runoff that flows from developed sites in order to replicate pre-development hydrology to the maximum extent practicable;
 - d. Reduce storm water runoff rates and volumes, soil erosion and non-point source pollution, to the extent practicable, through storm water management controls, improved site design or best management practices (**BMPSCMs**) and to ensure that these management controls are properly maintained and pose no threat to public health or safety; and
 - e. Meet the requirements of the National Pollution Discharge Elimination System (NPDES) Storm Water Permit and other requirements as established by the Clean Water Act.

This ordinance and the Huntersville Water Quality Design Manual require the use of Low Impact Development (LID) **BMPSCMs** that utilize infiltration,

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evaporation, retention and detention as well as biological and physical processes to more closely replicate pre-development hydrology characteristics and reduce negative water quality impacts.

2. **Applicability.** This ordinance shall apply to all of the land located within the Town Limits and Extraterritorial Jurisdiction of Huntersville. The effective date of this ordinance is June 30, 2007. This ordinance governs the development and use of all land and structures. No building, structure, or land shall be used, occupied or altered, and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered, unless in conformity with all the provisions of this ordinance and all other applicable regulations, except as otherwise provided by this ordinance.
3. **Exceptions to Applicability.**
 - a. All properties shall be subject to this ordinance except those properties which, as of the effective date of June 30, 2007, fit into one of the following categories:
 1. Have been issued a Certificate of Building Code Compliance;
 2. Have a valid building permit;
 3. Are included on a valid preliminary subdivision plan and/or a valid sketch plan; or
 4. Are included in a complete conditional rezoning application and subdivision sketch plan submitted by May 1, 2007.
 - b. Redevelopment of non-single family homes that disturbs less than 20,000 square feet, does not decrease existing storm water controls, is not part of a larger common plan of development or sale, and renovation and/or construction costs do not exceed 100% of the tax value of the property is not subject to the provisions of this ordinance.
 - c. Residential development activity that disturbs less than one acre of land and is not part of a larger common plan of development or sale, including new development, redevelopment or expansions, is not subject to the provisions of this ordinance.
 - d. Non-residential development activity that disturbs less than 1/2 acre of land and is not part of a larger common plan of development or sale, including

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new development, redevelopment or expansions, is not subject to the provisions of this ordinance.

- 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, irrespective of whether the impervious surface that existed before the redevelopment is to be demolished or relocated during the development activity. A property owner may elect to treat the stormwater resulting from the net increase in built-upon area above the preexisting development for the purpose of exceeding allowable density under the applicable water supply watershed rules as provided in G.S. 143-214.5(d3) and as further described in Article 3.

- 4. **No Development or Redevelopment Until Compliance and Permit.** No development or redevelopment shall occur except in compliance with the provisions of this ordinance or unless exempted. No development for which a permit is required pursuant to this ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit.
- 5. **Map.** The provisions of this ordinance shall apply within the areas designated on the map titled “Post-Construction Ordinance Map of the Town of Huntersville, North Carolina” (hereafter referred to as the “Post-Construction Ordinance Map”), which is adopted simultaneously herewith. The Post-Construction Ordinance Map and all explanatory matter contained thereon accompanies and is hereby made a part of this ordinance. The Post-Construction Ordinance Map shall be kept on file by the Storm Water Administrator or designee (hereinafter referred to as the “Storm Water Administrator”) and shall be updated to take into account changes in the land area covered by this ordinance and the geographic location of all structural **BMPSCMs** permitted under this ordinance. In the event of a dispute, the applicability of this ordinance to a particular area of land or **BMPSCM** shall be determined by appeal through the Storm Water Administrator.
- ~~6.~~ **Definitions.** For the purposes of this ordinance, the following words and phrases shall be defined as specified below:

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

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

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

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

For the purposes of this section, none of the following surfaces shall be considered "built-upon area" or an impervious or partially impervious surface:

- (1) A slatted deck.
- (2) The water area of a swimming pool.
- (3) A surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric.
- (4) A trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour).
- (5) Landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle.

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(6) Artificial turf, manufactured to allow water to drain through the backing of the turf, and installed according to the manufacturer's specifications over a pervious surface.

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

Conventional BMPSCMs. Storm water treatment devices that are not LID **BMPSCMs** as defined below in “Definitions.”

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

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

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

Low Impact Development (LID) Approach. A technology-based system for managing urban

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

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

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

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

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

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

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

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and enforce this ordinance.

Stormwater Control Measure (SCMs). A structural or nonstructural management based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals described as follows:

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

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

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

7. Interpretation.

- a. **Meaning and Intent.** All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in Section 8.17.1, Purpose. If a different or more specific meaning is given for a term defined elsewhere in the Town of Huntersville ordinances, the meaning and application of the term in this ordinance shall control for purposes of application of this ordinance.
- b. **Text Controls in Event of Conflict.** In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.
- c. **Authority for Interpretation.** The Storm Water Administrator has authority to interpret this ordinance. Any person may request an interpretation by submitting a written request to the Storm Water Administrator who shall respond in writing within 30 days. The Storm Water Administrator shall keep on file a record of all written interpretations of this ordinance.
- d. **References to Statutes, Regulations, and Documents.** Whenever reference is made to a resolution, ordinance, statute, regulation, manual

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

- e. **Computation of Time.** The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town of Huntersville, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town of Huntersville. References to days are calendar days unless otherwise stated.
- f. **Delegation of Authority.** Any act authorized by this ordinance to be carried out by the Storm Water Administrator of the Town of Huntersville may be carried out by his or her designee.

g. **Usage.**

- 1. **Mandatory and Discretionary Terms.** The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.
- 2. **Conjunctions.** Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word “and” indicates that all connected items, conditions, provisions or events apply. The word “or” indicates that one or more of the connected items, conditions, provisions or events apply.
- 3. **Tense, Plurals, and Gender.** Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

- h. **Measurement and Computation.** Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

8. Huntersville Water Quality Design Manual.

- a. **Reference to the Huntersville Water Quality Design Manual.** The Storm Water Administrator shall use the policy, criteria, and information, including

technical specifications and standards, in the Huntersville Water Quality Design Manual as the basis for decisions about Storm Water Management Permits and about the design, implementation and performance of structural and non-structural storm water **BMPSCMs**. The Huntersville Water Quality Design Manual includes acceptable **BMPSCMs** for compliance with ordinance requirements, including the specific design criteria for each **BMPSCM**. **BMPSCMs** that are designed and constructed in accordance with these criteria will be presumed to meet the minimum water quality performance standards of this ordinance and the federal Phase II Storm Water Rules. Failure to construct **BMPSCMs** in accordance with these criteria may subject the violator to a civil penalty as described in this ordinance.

- b. **Relationship of the Huntersville Water Quality Design Manual to Other Laws and Regulations.** If the specifications or guidelines of the Huntersville Water Quality Design Manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Huntersville Water Quality Design Manual.
- c. **Changes to Standards and Specifications.** Standards, specifications, guidelines, policies, criteria, or other information in the Huntersville Water Quality Design Manual in affect at the time of acceptance of a complete application shall control and shall be utilized in reviewing the application and in implementing this ordinance with regard to the application.

Amendments to the Huntersville Water Quality Design Manual. Subject to Huntersville Planning Director approval, the Huntersville Water Quality Design Manual may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience. Prior to amending or updating the Huntersville Water Quality Design Manual, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided.

9. Relationships to Other Laws, Regulations and Private Agreements.

- a. **Conflict of Laws.** This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is

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more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control.

- b. **Private Agreements.** This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this ordinance shall govern. Nothing in this ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this ordinance. In no case shall the Town of Huntersville be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

10. **Severability.** If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

11. **Effective Date and Transitional Provisions.**

- a. **Effective Date.** This ordinance shall take effect on June 30, 2007.
- b. **Violations Continue.** Any violation of the provisions of this ordinance existing as of the effective date of this ordinance shall continue to be a violation under this ordinance and be subject to penalties and enforcement unless the use, development, construction, or other activity complies with the provisions of this ordinance.

12. **Performance Criteria.** All development and redevelopment to which this ordinance applies shall comply with all the Performance Criteria of this section unless mitigation requirements are satisfied as described in Section 8.17.15 of this ordinance. The Huntersville Water Quality Design Manual contains a list of **BMPSCM**s approved for meeting these criteria. The specific design criteria for these **BMPSCM**s are contained in the Huntersville Water Quality Design Manual as well as other State and/or local design manuals as specifically referenced in Huntersville Water Quality Design Manual.

- a. **Performance Criteria for Low Density Projects.** Any project is considered low density when said project has less than or equal to 12% built upon area as determined by the methodology established in the Charlotte-Mecklenburg

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BMPSCM Design Manual. Such low density projects shall comply with each of the following standards.

1. **Vegetated Conveyances.** Storm water runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable.
2. **Built-Upon Area Setbacks.** All built-upon area for development and redevelopment subject to the requirements of this ordinance shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. This built-upon area setback can be located within the water quality buffer area. Surface water shall be delineated in the field by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology.
 - A. Based on a Variance issued pursuant to Section 11.3 of this ordinance, unnecessary hardships would result from the strict application of this requirement or as provided in Section 8.25.10.
 - B. Based on a determination by the Storm Water Administrator, a lack of practical alternatives exists for accomplishing the basic purpose of the project in a manner that would avoid or result in less adverse impact to surface waters considering the potential for a reduction in size, configuration, or density and all alternative designs.
3. **Stream Buffers.** The S.W.I.M. Stream Buffer requirements as described in Section 8.25 of this ordinance shall apply to low density projects.

b. **Performance Criteria for High Density Projects.** Any project is considered high density when said project has greater than 12% built upon area as determined by the methodology established in the Charlotte-Mecklenburg **BMPSCM** Design Manual. Such high density projects shall comply with each of the following standards:

1. **Built-Upon Area Setbacks.** All built-upon area for development and redevelopment subject to the requirements of this ordinance shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. This built-upon area setback can be located within the water quality buffer area. Surface water shall be delineated in the field

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by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology.

- A. Based on a Variance issued pursuant to Section 11.3 of this ordinance, unnecessary hardships would result from the strict application of this requirement or as provided in Section 8.25.10.
 - B. Based on a determination by the Storm Water Administrator, a lack of practical alternatives exists for accomplishing the basic propose of the project in a manner that would avoid or result in less adverse impact to surface waters considering the potential for a reduction in size, configuration, or density and all alternative designs.
2. Stream Buffers. The S.W.I.M. Stream Buffer requirements as described in Section 8.25 of this ordinance shall apply to high density projects.
 3. Storm Water Quality Treatment Volume. Storm water quality treatment systems shall treat the runoff generated from the first inch of rainfall.
 4. Storm Water Quality Treatment Standard. All **BMPSCMs** used to meet these Performance Criteria shall be designed to achieve an average annual 85% Total Suspended Solids (TSS) removal for the developed area of the site. LID **BMPSCMs** or a combination of LID and Conventional **BMPSCMs** as described in the Huntersville Water Quality Design Manual shall be used to meet these water quality Performance Criteria. If a combination of LID and Conventional **BMPSCMs** is used, then at a minimum the first 50% of the runoff from the one (1) inch storm event must be treated using LID **BMPSCMs**. The remaining percentage shall be treated using Conventional **BMPSCMs** capable of achieving the above described pollutant removal efficiency. No one bio retention **BMPSCM** shall exceed 5,000 square feet of soil media surface area.
 5. Storm Water Treatment System Design. General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the Huntersville Water Quality Design Manual.

6. Storm Water Volume Control. LID **BMPSCM**s or a combination of LID and Conventional **BMPSCM**s shall be used to control and treat the increase in storm water runoff volume associated with post-construction conditions as compared with pre-construction (existing) conditions for the 2-year frequency, 24-hour duration storm event in the Rural and Transitional Zoning Districts. For all other Zoning Districts, LID **BMPSCM**s or a combination of LID and Conventional **BMPSCM**s shall be used to control and treat the increase in storm water runoff volume associated with post-construction conditions as compared with pre-construction (existing) conditions for the 1-year frequency, 24-hour duration storm event. Where any storm water **BMPSCM** employs the use of a temporary water quality storage pool as a part of its treatment system, the drawdown time shall be a minimum of 48 hours and a maximum of 120 hours.
7. Storm Water Volume Peak Control. The peak storm water runoff release rates leaving the site during post-construction conditions shall be equal to or less than the pre-development peak storm water runoff release rates for the 2-year frequency, 24-hour duration storm event and 10-year frequency, 24-hour duration storm event. The emergency overflow and outlet works for any pond or wetland constructed as storm water **BMPSCM** shall be capable of safely passing a discharge with a minimum recurrence frequency of 50 years. For detention basins, the temporary storage capacity shall be restored within 72 hours. Requirements of the Dam Safety Act shall be met when applicable.

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

watershed's hydrologic regime. In contrast, the conventional approach to storm water management seeks to alter the watershed's hydrologic regime by conveying runoff into a piping system and centralized storm water management devices to quickly and efficiently remove storm water from the development site. Most development practices follow this conventional approach to storm water management. The use of the LID Approach is not required by this ordinance but is strongly encouraged. One of the post-construction components of the LID Approach is the LID **BMPSCM**, which is a single structural device that utilizes the LID principles of infiltration, evaporation, retention and detention as well as biological and physical processes to treat storm water runoff. The use of LID **BMPSCM**s is required by this ordinance unless mitigation practices are approved and implemented. The purpose of this Section of the ordinance is to encourage the use of the LID Approach along with LID **BMPSCM**s, which is most effective and efficient combination for managing storm water runoff and facilitating compliance with the Purpose of this ordinance as described in Section 8.17.1. The LID Approach and LID **BMPSCM**s are further defined and explained in the Huntersville Water Quality Design Manual.

14. Standards for Storm Water Control Measures.

- a. **Evaluation According to Contents of Huntersville Water Quality Design Manual.** All storm water **BMPSCM**s required under this ordinance shall be evaluated by the Storm Water Administrator according to the policies, criteria, and information, including technical specifications, standards and the specific design criteria for each **BMPSCM** contained in the Huntersville Water Quality Design Manual. The Storm Water Administrator shall determine whether these measures will be adequate to meet the requirements of this ordinance.
- b. **Determination of Adequacy.** **BMPSCM**s that are designed, constructed, and maintained in accordance with the criteria and specifications in the Huntersville Water Quality Design Manual will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Huntersville Water Quality Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this ordinance before it can be approved for use. The Storm Water Administrator

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may require the applicant to provide such documentation, calculations, and examples as necessary for the Storm Water Administrator to determine whether such an affirmative showing is made.

- c. **Submittal of Digital Records.** Upon submittal of as-built surveys, the location of storm drainage pipes, inlets and outlets as well as the location of all structural **BMPSCMs** must be delivered to the Storm Water Administrator in the digital format specified in the Administrative Manual.

15. LID Mitigation Options.

a. **General Description.**

- 1. Mitigation Allowed. Developments with greater than or equal to 50% built-upon area based on lot size shall be allowed to forgo the use of LID **BMPSCMs** on the development site for compliance with this ordinance provided:
 - A. A mitigation option is approved and successfully implemented for the development;
 - B. Conventional **BMPSCMs** are designed, constructed, and maintained on the development site to achieve an average annual 85% Total Suspended Solids (TSS) removal for the developed area of the site in accordance with the criteria and specifications in the Huntersville Water Quality Design Manual; and
 - C. The development site achieves full compliance with the Performance Criteria contained in Section 8.17.12(b) 1, 2, 3, 5, 6, and 7 of this ordinance.
- 2. LID Mitigation Options. There are two (2) LID mitigation options available to developments greater than or equal to 50% built-upon area, including off-site and buy-down mitigation. Both off-site and buy-down mitigation shall result in the construction of retrofit projects in the same river basin in the Town of Huntersville (Catawba or Yadkin) as the development site.

b. **Criteria for Off-Site Mitigation Option.**

- 1. Off-Site LID **BMPSCM** Construction. The owner or designee of the development site shall satisfy the off-site mitigation option by

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constructing a **BMPSCM** retrofit project off-site and in the same river basin in the Town of Huntersville (Catawba or Yadkin) as the development site. The project shall be designed and constructed to achieve a net mass removal of pollutants greater than or equal to the pollutant load associated with the difference between the pollutant removal efficiencies for LID versus Conventional **BMPSCMs** at the development site treating runoff from the first one (1) inch of rainfall. The Huntersville Water Quality Design Manual shall contain the criteria for satisfying this requirement.

2. Off-Site Mitigation Application. The Storm Water Administrator shall receive, review, approve, disapprove or approve with conditions an "Application for Off-Site Mitigation." The Storm Water Administrator shall design this application to include all pertinent information. This application shall be submitted with the Concept Plan Application. The Huntersville Water Quality Design Manual shall contain information regarding the proper completion and submittal of this application.
3. Criteria for Approval of Off-Site Mitigation. The criteria for approval of off-site mitigation by the Storm Water Administrator are as follows:
 - A. **BMPSCM(s)** shall be designed, constructed, and maintained in accordance with the criteria and specifications in the Huntersville Water Quality Design Manual.
 - B. **BMPSCM(s)** shall be sized for the corresponding watershed area according to the approved design standards in the Huntersville Water Quality Design Manual.
 - C. **BMPSCM(s)** shall be inspected by the Storm Water Administrator and found to be in compliance with all approved plans and specifications prior to the approval of the SCM As-Built Survey Package, passing final inspection, and release of occupancy permits for the development site.
 - D. All off-site mitigation **BMPSCMs** shall be subject to the maintenance requirements as well as installation and maintenance performance securities specified in this ordinance and the Administrative Manual.

c. Criteria for Buy-Down Mitigation Option.

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1. Payment of Mitigation Fee. Buy-Down mitigation shall be satisfied by payment to the Town of Huntersville of a fee established by the Storm Water Administrator to cover the cost for installation by the Town or its designee of a mitigation project in the same river basin (Catawba or Yadkin) as the development site. The project shall be designed and constructed to achieve a net mass removal of pollutants greater than or equal to the pollutant load associated with the difference between the pollutant removal efficiencies for LID versus Conventional **BMPSCMs** at the development site treating runoff from the first one (1) inch of rainfall. The Huntersville Water Quality Design Manual shall contain the criteria for satisfying these requirements.
2. Buy-Down Mitigation Application. The Storm Water Administrator shall receive, review, approve, disapprove or approve with conditions an "Application for Buy-Down Mitigation." The Storm Water Administrator shall design this application to include all pertinent information. This application shall be submitted with the Concept Plan Application. The Huntersville Water Quality Design Manual shall contain information regarding the proper completion and submittal of this application.
3. Criteria for Approval of Buy-Down Mitigation. The criteria for approval of buy-down mitigation by the Storm Water Administrator are as follows:
 - A. The buy-down option shall not be approved by the Storm Water Administrator unless projects and/or properties are available for mitigation at the time the "Application for Buy-Down Mitigation" is received.
 - B. There is no time constraint for the Town of Huntersville to spend mitigation money; however, the Town of Huntersville shall strive to spend buy-down monies in a timely and efficient manner such that a net improvement in water quality results.
 - C. All projects constructed by the Town of Huntersville as part of this mitigation option shall be maintained by the Town of Huntersville or its designee into perpetuity.
- d. **Mitigation for Development and Redevelopment on Lots Less Than One Acre.** Development and redevelopment on a lot less than one (1) acre in size

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are allowed by right to forego meeting the requirements of this article, provided the following criteria are met:

1. The lot has been described by metes and bounds in a recorded deed or shown on a recorded plat prior to July 1, 2007;
2. Development and redevelopment on the lot are not part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules;
3. Stream Buffer requirements are fulfilled as described in Section 8.25 of this ordinance; and
4. Mitigation is provided by fulfilling at least one (1) of the three (3) criteria described in Subsection f) below.

e. **Mitigation for Redevelopment in the Town Center Zoning District.**

Redevelopment projects in the Town Center Zoning District for the Town of Huntersville are allowed by right to forego meeting the requirements of this article, provided the following criteria are met:

1. Stream Buffer requirements are fulfilled as described in Section 8.25 of this ordinance;
2. Mitigation is provided by fulfilling at least one (1) of the three (3) criteria described in Subsection f) below; and
3. If there is no net increase in existing built-upon area, including built-upon area that is removed as part of the redevelopment, and there is no decrease in existing storm water controls, then there is no limit on the amount of disturbed area, or
4. If there is a net increase in existing built-upon area, including built-upon area that is removed as part of the redevelopment, or there is a decrease in existing storm water controls, then the amount of total disturbed area on the site must be less than one (1) acre.

f. **Criteria for Development and Redevelopment Mitigation.** One (1) of the following three (3) criteria must be fulfilled to satisfy the mitigation requirement for development and redevelopment projects described in Subsection d) and e) above:

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1. Storm Water Quality Treatment requirements are met on site as described in Section 8.17.12(b)(3), (4) and (5) of this ordinance with LID or Conventional **BMPSCMs** allowed;
2. Storm Water Volume and Peak Control requirements are met on site as described in Section 8.17.12(b)(6) and (7) of this ordinance; or
3. The Town is paid a mitigation fee prorated at \$60,000 per acre for all projects except single-family residential that will be prorated at \$45,000 per acre for the untreated post-project built-upon-area. This fee shall be used to cover the cost for installation by the Town or its designee of a mitigation project(s) capable of achieving a net mass removal of pollutants greater than or equal to the pollutant removal that would have been achieved by **BMPSCMs** installed at the development site in full compliance with ordinance requirements. The mitigation project(s), as determined by the Town, must be located in the same named lake or stream watershed that is receiving storm water discharge from the development site, including Lake Norman, Mountain Island Lake, McDowell Creek, Gar Creek, Ramah Creek, and Clarke Creek. An exception to the location of the mitigation project can be made if the Storm Water Administrator determines there are no viable mitigation projects in that watershed provided mitigation is done in the Town of Huntersville zoning jurisdiction.

16. Administration and Procedures.

a. Storm Water Administrator.

1. Designation. The Mecklenburg County Water Quality Program Manager has been designated as the Storm Water Administrator by the Town of Huntersville for the purpose of administering and enforcing this ordinance. Any act authorized by this ordinance to be carried out by the Storm Water Administrator of the Town of Huntersville may be carried out by his or her designee.
2. Powers and Duties. In addition to the powers and duties that may be conferred by other provisions of other laws, the Storm Water Administrator shall have the following powers and duties under this ordinance.
 - A. To review and approve or disapprove applications submitted pursuant to this ordinance.

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- B. To make determinations and render interpretations of this ordinance.
 - C. To establish application requirements and schedules for submittal and review of applications and appeals.
 - D. To enforce this ordinance in accordance with its enforcement provisions.
 - E. To maintain records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of this ordinance.
 - F. To provide expertise and technical assistance upon request to the Huntersville Town Board.
 - G. To designate appropriate other person(s) who shall carry out the powers and duties of the Storm Water Administrator.
 - H. To provide information and recommendations relative to variances and information as requested by the Town of Huntersville in response to appeals.
 - I. To take any other action necessary to administer the provisions of this ordinance.
- b. **Administrative Manual.** For applications required under this ordinance, the Storm Water Administrator shall compile into an Administrative Manual the application requirements, submittal checklist, submission schedule, fee schedule, operation and maintenance agreements, a copy of this ordinance, and other information and materials necessary for the effective administration of this ordinance. This Administrative Manual shall be made available to the public.
- c. **Review Procedures.**
- 1. **Permit Required.** A Storm Water Management Permit is required for all development and redevelopment unless exempt pursuant to this ordinance. A permit may only be issued subsequent to a properly submitted, reviewed and approved permit application, pursuant to this Section. The content and form of the permit shall be established by the Storm Water Administrator.

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2. Effect of Permit. A Storm Water Management Permit shall govern the design, installation, and construction of storm water management and control practices on the site, including structural **BMPSCMs** and elements of site design for storm water management other than structural **BMPSCMs**. The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of storm water for the development or redevelopment site consistent with the requirements of this ordinance. Compliance after project construction is assured by the maintenance provision of this ordinance.
3. Authority to File Applications. All applications required pursuant to this ordinance shall be submitted to the Storm Water Administrator by the land owner or the land owner's duly authorized agent or anyone having interest in the property by reason of a written contract with the owner.
4. Establishment of Application Requirements, Schedules, and Fees.
 - A. The Storm Water Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. Two (2) applications are required for submittal, including the Concept Plan Application and Storm Water Management Permit Application.
 - B. The Storm Water Administrator shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.
 - C. The Town of Huntersville shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.
5. Consultations. An applicant may request consultation(s) on a Concept Plan Application for the post-construction storm water management system to be utilized in the proposed development

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project. This consultation meeting(s) should take place at the time of the preliminary plan of the subdivision or other early step in the development process. The purpose of this meeting(s) is to discuss the post-construction storm water management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to storm water management designs before formal site design engineering is commenced.

6. Submittal of Applications.

- A. A Concept Plan. Application shall be submitted to the Storm Water Administrator for review prior to the submittal of the Storm Water Management Permit Application. This Concept Plan Application shall include the information necessary to evaluate the proposed development site for compliance with Performance Criteria as detailed in the Huntersville Water Quality Design Manual.
- B. A Storm Water Management Permit Application shall be submitted to the Storm Water Administrator for review following the approval of the Concept Plan Application. This Storm Water Management Permit Application shall detail how post-construction storm water runoff will be controlled and managed and how the proposed project will meet the requirements of this ordinance. The application shall also include the design of all storm water facilities and practices, supporting computations, drawings, soil analyses, calculations for each **BMPSCM**, site hydrology calculations, and other information sufficient to describe the manner, location, and type of measures for managing storm water from the development in compliance with this ordinance. All design plans submitted with the application shall be prepared by a registered North Carolina professional engineer or landscape architect. The engineer or landscape architect shall perform services only in their area of competence, and shall verify that the design of all storm water management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the

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Huntersville Water Quality Design Manual, and that the designs and plans ensure compliance with this ordinance. The submittal shall include all of the information required in the submittal checklist established by the Storm Water Administrator. Incomplete submittals shall be treated pursuant to Section 8.17.16(c)-(7).

7. Submittal of Complete Application. Applications shall be submitted to the Storm Water Administrator pursuant to the application submittal schedule in the form established by the Storm Water Administrator, along with the appropriate fee established pursuant to this Section. An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this ordinance, along with the appropriate fee. If the Storm Water Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.
8. Application Review. Within 20 working days after a complete application is submitted, the Storm Water Administrator shall review the application and determine whether the application complies with the standards of this ordinance.
 - A. If the Storm Water Administrator finds that the application complies with the standards of this ordinance, the Storm Water Administrator shall approve the application and issue a Storm Water Management Permit to the applicant. The Storm Water Administrator may impose conditions of approval as needed to ensure compliance with this ordinance. The conditions shall be included in the permit as part of the approval.
 - B. If the Storm Water Administrator finds that the application fails to comply with the standards of this ordinance, the Storm Water Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

- C. A complete revised application shall be reviewed by the Storm Water Administrator within 15 working days after its re-submittal and shall be approved, approved with conditions or disapproved. If a revised application is not re-submitted within sixty (60) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee.

17. As-Built Surveys and Final Approval. ~~Once a drainage area (as defined by the Administrative Manual) has been constructed and stabilized per the North Carolina Erosion and Sediment Control Field Manual sufficient to construct the storm water control measures (SCM), or has been idle for one (1) year with more than 24% BUA, or the design engineer approves the conversion for a SCM, the owner shall construct the permanent stormwater management facilities within six months.~~ The applicant shall certify that the completed project is in accordance with the approved plans and designs, and shall submit actual “as-built” surveys for all storm water management facilities or practices ~~after final construction is completed within 60 days of the completion of the SCM construction with continuous effort applied towards approval status of the As-Built Survey as determined by the Storm Water Administrator.~~ Failure to ~~provide~~ **construct and obtain** approved as-built surveys within the time frame specified by the Storm Water Administrator may result in assessment of penalties. ~~At the discretion of the Storm Water Administrator, performance securities or bonds may be required for storm water management facilities or practices until as-built surveys are approved.~~

As-built surveys shall show the final design specifications for all storm water management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the storm water management measures and plans shall certify, under seal, that the as-built storm water measures, controls, and devices are in compliance with the approved plans and designs and with the requirements of this ordinance. The exact boundary of all storm water management measures shall be shown on final plats prepared by a registered surveyor. Further, final plats shall contain the following statement: "This lot contains a storm water management structure that must be maintained in accordance with the recorded Maintenance ~~Covenant Agreement~~ as specified in the Huntersville Zoning Ordinance."

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Final **approved** as-built surveys and a **passing**-final inspection and approval by the Storm Water Administrator are **all** required before a project is determined to be in compliance with this ordinance and before performance securities shall be released. At the discretion of the Storm Water Administrator, certificates of occupancy may be withheld pending receipt of as-built surveys and the completion of a final inspection and approval of a project.

Upon submittal of as-built surveys, the location of storm drainage pipes, inlets and outlets as well as the location of all **SCMBMPs** must be delivered to the Storm Water Administrator in the digital format specified in the Administrative Manual.

18. Approvals.

- a. **Effect of Approval.** Approval authorizes the applicant to go forward with only the specific plans and activity authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.
 1. **Time Limit/Expiration.** A Storm Water Management Permit and accompanying plan approved under the provisions of this ordinance shall remain valid for a period of three (3) years from the date of approval. If no work on the site in furtherance of the plan has commenced within the three-year period, the permit and plan approval will become null and void and a new application will be required to develop the site. If work on the site in furtherance of the plan has commenced that involves any utility installations or street improvements except grading, the permit and plan shall remain valid and in force and the project may be completed in accordance with the approved plan.

19. Incentives.

- a. **Purpose.** The purpose of this Section is to set forth incentives to offset restrictions that LID may have on the development of certain sites.
- b. **Setbacks.** In order to accommodate water quality **BMPSCMs**, required setbacks, side yards and rear yards in the Rural and Transitional Zoning Districts may be reduced up to 25%. The reductions may not compromise public safety such as the site distance triangles as defined by this Zoning Ordinance. It also must not compromise buffer widths or the 30-foot setback described in Section 8.17.12 of this ordinance.

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- c. **Sidewalks.** To reduce impervious cover and promote LID, sidewalks on one side of the street may be waived in the Rural Zoning District.
- d. **Required Plant Reduction and Substitution.** In order to accommodate water quality **BMPSCMs**, the number of planted trees may be reduced in buffer yards by 10%, 50% of the required trees may be 1.5 inches in caliper, and all shrubs may be 24 inches in height.
- e. **Encroachments.** Water quality **BMPSCMs** may encroach into a required buffer yard as long as the encroachment does not disturb existing vegetation. Minor understory may be disturbed in order to accommodate water quality structures. Trees and shrubs shall be placed to maximize screening where the encroachment takes place. If the encroachment runs parallel to the buffer, the width of the buffer shall be increased by the amount of the encroachment.

20. **Appeals and Variances.** An appeal to reverse or modify the order, decision, determination, or interpretation of the Storm Water Administrator or any other designated administrative officer as well as a request for variance from any of the requirements contained in this ordinance shall comply with the procedures and standards of Section 11.3 of this ordinance.

21. **Posting of Financial Security.** Approval of a Storm Water Management Permit Application shall be subject to the owner ~~executing an Operation and Maintenance Agreement Covenant and~~ filing a surety bond, ~~or~~ letter of credit, or making other financial arrangements in favor of Mecklenburg County as agent for the Town of Huntersville acceptable to the Mecklenburg County Land Use and Environmental Services Agency guaranteeing the installation and maintenance of required **BMPSCMs** until the issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to be built within the area which drains into the BMP, allowing credit for improvements completed prior to the submission of the final plat. At such time that this level of occupancy is achieved, written notice thereof shall be submitted by the owner to the Mecklenburg County Land Use and Environmental Services Agency. The owner shall verify the adequacy of the Maintenance ~~Covenant Agreement~~ for the **BMPSCMs** including the necessary financing to support the proposed maintenance practices. The owner shall also provide professional engineer certification that the **BMPSCM** is designed and constructed in accordance with approved plans and specifications. The Mecklenburg County Land Use and Environmental Services Agency will inspect the structural **BMPSCM** and verify the effectiveness of the Maintenance ~~Covenant~~

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Agreement and, if both are found to be satisfactory, the Mecklenburg County Land Use and Environmental Services Agency will notify the owner in writing within 30 days of the date of notice regarding approval of the BMPSCM. Following the issuance of this written approval, the owner can request the release of the surety bond, letter of credit or other financial arrangements guarantee at which time the maintenance responsibilities for the BMPSCMs shall revert to the Homeowners Association, property owner or other party responsible for long term maintenance as specified in the Maintenance Covenant Agreement. It shall be expressly stated within the restrictive covenants or Property Owners Association documents that it will be the responsibility of the owner or assigns to maintain BMPSCMs until such time as maintenance responsibilities have been transferred to the Homeowners Association Board of Directors, property owner or other party responsible for long term maintenance of the BMPSCMs. It shall be the sole responsibility of the owner or assigns to correct any deficiencies prior to said transfer of maintenance responsibilities.

22. **Maintenance.** The owner of each BMPSCM installed pursuant to this ordinance shall maintain and operate it so as to preserve and continue its function for controlling storm water quality and quantity at the degree or amount of function for which the BMPSCM was designed. BMPSCMs shall not be constructed on public land, within public rights-of-way, and/or within public easements without written approval from the public body with ownership/jurisdiction of the subject property. The following requirements shall be met for all BMPSCMs that have been constructed on privately-owned property and not within a public easement.

- a. **Operation and Maintenance Agreement.** Prior to the issuance of an Occupancy Permit for any building within a permitted development served by a BMPSCM, the applicant or owner of the BMPSCM shall establish a formal Operation and Maintenance Agreement approved by the Storm Water Administrator and recorded in the Office of the Register of Deeds in which the owner acknowledges the duty of the owner and all subsequent owners of the property to maintain the BMPSCM in accordance with the terms of the Agreement, including repairing and, if necessary, reconstruction of the BMPSCM. Until the transference of all property, sites, or lots served by the structural BMPSCM, the original owner or applicant shall have primary responsibility for carrying out the provisions of the Operation and Maintenance Agreement. A maintenance plan shall be included as part of the Agreement that shall state the terms, conditions, and schedule of maintenance for the structural BMPSCM as well as describe the mechanism

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for funding maintenance and repairs. The Operation and Maintenance Agreement shall also specify the Property Owners Association or other party responsible for maintenance of the **BMPSCM**. A Property Owners Association or similar legal entity shall have the power to compel contributions from residents of a development to cover their proportionate shares of the costs associated with **BMPSCM** maintenance. ~~At the discretion of the Storm Water Administrator, certificates of occupancy may be withheld pending receipt of an Operation and Maintenance Agreement.~~

Standard Operation and Maintenance Agreements for **BMPSCMs** shall be developed by the Storm Water Administrator and made available in the Administrative Manual. The Operation and Maintenance Agreement must be approved by the Storm Water Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded by the applicant or owner with the Mecklenburg County Register of Deeds upon final plat approval. A copy of the recorded Operation and Maintenance Agreement shall be given to the Storm Water Administrator within fourteen (14) days following its recordation.

- b. **Inspection and Maintenance Requirements.** All **BMPSCMs** installed pursuant to the requirements of this ordinance shall be inspected by a qualified professional as designated by the Storm Water Administrator at a minimum of annually within 45 days prior to the anniversary date of the approval of the as-built survey. The purpose of these inspections is to identify maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The person responsible for **BMPSCM** maintenance shall submit to the Storm Water Administrator a completed inspection report. All inspection reports shall be on forms supplied by the Storm Water Administrator and contained in the Administrative Manual. Any identified maintenance and/or repair needs shall be addressed in a timely manner. The inspection and maintenance requirement may be increased as deemed necessary by the Storm Water Administrator to ensure proper functioning of the **BMPSCM** and compliance with this ordinance.
- c. **Records of Installation and Maintenance Activities.** Parties responsible for the inspection, operation, and maintenance of a **BMPSCM** shall make records of the installation of all the maintenance and repairs and shall retain the records for at least five (5) years. Those records shall be made available

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to the Storm Water Administrator upon request and/or as specifically outlined in the Maintenance ~~Agreement~~ **Covenant**.

- d. **Failure to Maintain Practices.** It is unlawful for a property owner to fail to meet the requirements of the Operation and Maintenance Agreement. Any person or association that fails to meet the requirements of the Operation and Maintenance Agreement shall be subject to a civil penalty as described in Section 8.17.254.
- e. **Maintenance Easement.** Every structural **BMPSCM** installed pursuant to this ordinance shall be made accessible for adequate inspection, maintenance, reconstruction and repair by a maintenance easement. The easement shall be recorded with the Mecklenburg County Register of Deeds Office and its terms shall specify who may make use of the easement and for what purposes.

23. Deed Recordation and Indications on Plat. The approval of the Storm Water Management Permit shall require an enforceable restriction on property usage that runs with the land, such as plat, recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans. Stream buffers as described in Section 8.25, including the delineation of each buffer zone, must be specified on all surveys and record plats. The Operations and Maintenance Agreement pertaining to every structural **BMPSCM** shall be referenced on the final plat and shall be recorded with the Mecklenburg County Register of Deeds Office upon final plat approval. If no subdivision plat is recorded for the site, then the Operation and Maintenance Agreement shall be recorded with the Mecklenburg County Register of Deeds Office so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. A copy of the recorded Operation and Maintenance Agreement shall be provided to the Storm Water Administrator within fourteen (14) days following receipt of the recorded document. A maintenance easement shall be recorded for every structural **BMPSCM** to allow sufficient access for adequate maintenance. The specific recordation and deed restriction requirements as well as notes to be displayed on final plats and deeds shall be contained in the Administrative Manual.

24. Inspections of **BMPSCMs.**

- a. **Inspections.** As described in Section 8.17.212(b), the owner of a **BMPSCM** shall inspect said **BMPSCM** at a minimum of annually within 45 days prior to

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the anniversary date of the approval of the as-built survey. Additional inspections may be conducted by the Storm Water Administrator on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspections of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual dischargers of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of State or Federal water quality standards or the NPDES Storm Water Permit; and joint inspections with other agencies inspecting under environmental and safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in **BMPSCMs**; evaluating the condition of **BMPSCMs** and other storm water management practices.

- b. **Right-of-Entry for Inspection.** When any new **BMPSCM** is installed on private property, the property owner shall grant to the Storm Water Administrator the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the Storm Water Administrator has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance. The Storm Water Administrator shall take reasonable steps to inform the responsible party prior to inspecting the property.

25. Enforcement and Violations.

a. General.

1. Authority to Enforce. The provisions of this ordinance shall be enforced by the Storm Water Administrator, his or her designee, or any authorized agent of the Town Huntersville.
2. Violation Unlawful. Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted

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pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.

3. Each Day a Separate Offense. Each day that a violation continues shall constitute a separate and distinct violation or offense.
4. Responsible Persons/Entities. For the purposes of this ordinance, responsible person(s) shall include but not be limited to:
 - A. Person Maintaining Condition Resulting In or Constituting Violation. An architect, engineer, builder, contractor, developer, agency, property owners' association or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.
 - B. Responsibility For Land or Use of Land. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for storm water controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

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

1. Remedies.
 - A. Withholding of Certificate of Occupancy. The Storm Water Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the storm water practices in question ~~for deficiencies of SCMs and lack of site stability pursuant to in accordance with N.C.G.S. § 160D-1110(h)~~ until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

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- B. Disapproval of Subsequent Permits and Development Approvals. As long as a violation of this ordinance continues and remains uncorrected, the Storm Water Administrator or other authorized agent may withhold and the Town of Huntersville may disapprove, any request for permit or development approval or authorization provided for by this ordinance or the zoning, subdivision, and/or building regulations for the land on which the violation occurs.
 - C. Injunction, Abatements, etc. The Town of Huntersville may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this ordinance. Any person violating this ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.
 - D. Correction as Public Health Nuisance, Costs as Lien, etc. If the violation is deemed dangerous or prejudicial to the public health or public safety, the Town of Huntersville may cause the violation to be corrected and the costs to be assessed as a lien against the property.
 - E. Stop Work Order. The Storm Water Administrator may issue a stop work order to the person(s) violating this ordinance. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise corrected the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to correct such violation(s).
2. Civil Penalties. Violation of this ordinance may subject the violator to a civil penalty up to the full amount of penalty to which the Town of Huntersville is subject for violations of its Phase II Storm Water Permit. If the violator does not pay the penalty within 30 days after notice of the violation is issued by the Storm Water Administrator, the violation shall be recovered in a civil action in the nature of a debt.

c. Procedures.

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1. **Initiation/Complaint.** Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Storm Water Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Storm Water Administrator.
2. **Inspection.** The Storm Water Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.
3. **Notice of Violation and Order to Correct.** When the Storm Water Administrator finds that any building, structure, or land is in violation of this ordinance, the Storm Water Administrator shall notify, in writing, the property owner or other person violating this ordinance. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The Storm Water Administrator may deliver the notice of violation and correction order personally, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure. If a violation is not corrected within a reasonable period of time, as provided in the notification, the Storm Water Administrator may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.

4. **Emergency Enforcement.** If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance or pose an immediate danger to the public health, safety, or welfare, then the Storm Water Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Storm Water Administrator may seek immediate

enforcement, without prior written notice, through any remedy or penalty authorized by this ordinance.

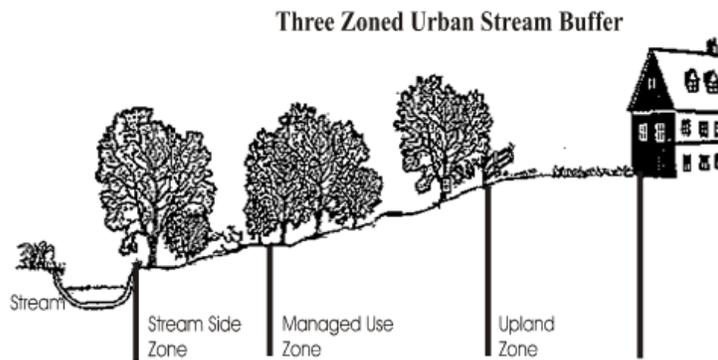
8.25 SWIM (Surface Water Improvement And Management) Stream Buffers

1. **Purpose.** The purpose of a stream buffer network is to filter pollutants, store floodwaters, provide habitat, and contribute to the “green infrastructure”. Stream systems are comprised of each stream and its respective drainage basin.
 - a. Streams have the primary natural functions of conveying storm and ground water, storing floodwater, and supporting aquatic life.
 - b. Vegetated lands adjacent to the stream channel in the drainage basin serve as “buffers” to protect the stream’s ability to fulfill its natural functions. Buffers have the primary natural functions of protecting water quality by filtering pollutants, providing intermittent storage for floodwaters, allowing channels to meander naturally, and providing suitable habitat for wildlife.
2. **Definitions.** For the purposes of this section, the following words and phrases shall be defined as specified below:

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

Buffer. A vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.

Buffer Zones. Buffer widths are measured in three (3) zones as shown below. The buffer width is measured horizontally and must be surveyed by a licensed land surveyor on a line parallel to the surface water, landward from the top of the bank on each side of the stream.



Drainage Basin. The area of land that drains to a given point on a body of water.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the allowable surcharge (currently one foot).

Flood Fringe. The land area located between the limits of the floodway and the maximum elevation subject to inundation by the base (1% chance) flood.

Floodplain. The low, periodically flooded lands adjacent to rivers and lakes. For land use planning purposes, the regulatory floodplain is usually viewed as all land alongside a watercourse that would be inundated by the base (1% chance) flood; the floodway plus the flood fringe.

Mitigation. Actions taken on-site and/or off-site to offset the effects of temporary or permanent loss of a buffer.

Stormwater Control Measures (SCMs). A structural or nonstructural management based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals described as follows:

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a. **Non-structural SCMs** – Non-engineering methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

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a-b. **Structural SCMs** – Engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from a water body.

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Top of Bank. The landward edge of the stream channel during high water, bankfull conditions at the point where water begins to overflow onto the floodplain.

3. Applicability.

a. All properties shall comply with the buffer requirements of this Section except those which, as of the effective date of October 19, 1999, have previously secured a right to proceed by one of the following methods, and have received written authorization to disturb the buffer from the Town's Planning Staff:

- Having been issued a Certificate of Building Code Compliance;
- Being subject to an approved major subdivision preliminary plan and/or recorded final plat;
- Being subject to a minor subdivision plat, exempt plat listed under the definition of subdivision in the Subdivision Ordinance, or described by metes and bounds in a recorded deed which:
 - If to be used for residential purposes, are one (1) acre or less in size.
 - If to be used for nonresidential purposes or mixed use purposes, are four (4) acres or less in size if located on a non-FEMA regulated floodway, or are seven (7) acres or less in size if located on a FEMA regulated floodway.
- Being subject to a site specific development plan defined under Section 2.2.2 of these zoning regulations; or
- Having otherwise secured a vested property right under state law.

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- b. Redevelopment or expansion of uses and structures included in a), above, shall comply with the buffer requirements of this Section, however uses and structures previously approved and constructed in a buffer may remain.
 - c. A site specific development plan amended subsequent to adoption of this Section shall comply, in its amended form, with the S.W.I.M. buffer requirements, however uses and structures previously approved for construction in a buffer may remain.
 - d. Where stream buffers are also required as part of the Lake Norman or Mountain Island Lake Watershed Overlay Districts, the more stringent of the stream buffer requirements shall apply.
- 4. Buffer Delineation.** S.W.I.M. Stream Buffers, throughout the jurisdiction of the Town of Huntersville shall be delineated for the purposes of land development permits by an on-site stream delineation prepared by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology, which has been approved by the Town. Delineation by Mecklenburg County through its geographic information system (GIS) is allowed for development not requiring a land development.
- 5. Minimum Buffer Widths.** All perennial and intermittent streams draining less than 50 acres shall have a minimum 30-foot vegetated buffer including a 10-foot zone adjacent to the bank. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the 10-foot zone adjacent to the bank shall require stream bank stabilization using bioengineering techniques as specified in the Design Manual. All perennial and intermittent streams draining greater than or equal to 50 acres and less than 300 acres shall have a 35-foot buffer with two (2) zones, including a 20-foot stream side and 15-foot upland zone. Streams draining greater than or equal to 300 acres and less than 640 acres shall have a 50-foot buffer with three (3) zones, including a 20-foot stream side, 20-foot managed use and 10-foot upland zone. Buffers for streams draining greater than or equal to 640 acres shall be 100 feet in width or include the entire floodplain, whichever is greater. This buffer shall consist of a 30-foot stream side, 45-foot managed use and 25-foot upland zone or the entire FEMA floodplain, whichever is greater. All buffers shall be measured from the top of the bank on both sides of the stream. A summary of minimum buffer widths is provided in the table below.

Table of Minimum Buffer Widths by Basin Size and Buffer Zone

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Area Designation	Stream Side Zone	Managed Use Zone	Upland Zone	Total Buffer Width each side of Stream	Notes
< 50 acres	N/A	N/A	30 feet	30 feet	(1), (2)
> 50 acres	20 feet	None	15 feet	35 feet	(2)
> 300 acres	20 feet	20 feet	10 feet	50 feet	(2)
> 640 acres	30 feet	45 feet	25 feet or balance of floodplain, whichever is greater	100 feet or entire floodplain, whichever is greater	(2), (3)

Notes:

(1) All perennial and intermittent streams draining less than 50 acres shall have a minimum 30-foot vegetated buffer including a 10-foot zone adjacent to the bank. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the 10-foot zone adjacent to the bank shall require stream bank stabilization using bioengineering techniques as specified in the Design Manual.

(2) Buffer widths are surveyed horizontally on a line parallel to the surface water, landward from the top of the bank on each side of the stream.

(3) Floodplain and buffer calculations will be based upon the FEMA flood fringe and floodway encroachment lines, as locally adopted and as may be amended from time to time.

6. Buffer Description. Buffer function, vegetation and use vary according to the different buffer zones and are described in the following table.

Table of Buffer Treatment by Buffer Zone

	Stream Side Zone	Managed Use Zone	Upland Zone	Notes
Function	Protect the integrity of the ecosystems	Provide natural filter; provide distance between upland	Prevent encroachment and filter runoff	

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		development and the stream side zone		
Vegetative Requirements	Undisturbed (no cutting, clearing or grading). If existing tree density is inadequate, reforestation is required.	Limited clearing (no grading). Existing tree density must be retained to a minimum of 8 healthy trees of a minimum 6 inch caliper per 1000 square feet. If existing tree density is inadequate, reforestation is encouraged.	Herbaceous ground cover, including grass, is allowed; maintenance of existing forest or reforestation is encouraged.	(1)
Uses	Very restricted. Permitted uses limited to flood control structures and bank stabilization (where permitted) as well as installation of parallel or near perpendicular (³ 75°) water and sewer utilities and near perpendicular road crossings (³ 75°) with stabilization of disturbed areas	Restricted. Permitted uses limited to those allowed in the Stream Side Zone, as well as bike paths and greenway trails up to 120 feet in width.	Restricted. Permitted uses limited to those allowed in Stream Side and Managed Use Zones, as well as gazebos, non-commercial storage buildings less than 150 square feet, limited grading that does not change the functionality or extent of the floodplain, and storm water structural best management practices (BMPSCM s) if approved in accordance with Section 8.25.11 b), as a condition of a buffer width variance or if they are located a	(2), (3), (4)

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	as specified in Section 8.25.10.		minimum distance of 100 feet from the stream bank.	
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Note:

(1) When reforestation of disturbed buffers is required, tree planting shall be as specified in the Charlotte-Mecklenburg SWIM Stream Buffer Implementation Guidelines.

(2) Fill material cannot be brought into any required buffer. In the Upland Zone only, limited grading that does not change the extent or functional characteristics of the floodplain is permitted. Uses permitted in the buffer zones should be coordinated to ensure minimal disturbance of the buffer system. For example, if it is necessary to install utilities within the buffer, then if Greenway Trails are built they should follow these cleared areas instead of necessitating additional clearing.

(3) Notwithstanding the uses and structures permitted in the “Upland Zone”, the stricter standards of floodway regulations, if applicable, shall apply.

(4) Greenway Trails referenced in this table refer exclusively to those approved by and dedicated to the Town of Huntersville or Mecklenburg County Parks and Recreation Departments. Other paths or trails in the buffer shall be in accordance with the Charlotte-Mecklenburg SWIM Stream Buffer Implementation Guidelines.

7. **Diffuse Flow Requirement.** Diffuse flow of runoff shall be maintained in the buffer by dispersing concentrated flow through the use of level spreaders or other such devices to create sheet flow and by reestablishing vegetation. Techniques for providing diffuse flow are specified in the Charlotte-Mecklenburg **BMPSCM** Design Manual.

- Maximum drainage area size shall be no greater than 10 acres for all outfalls discharging directly into a stream buffer.
- When practical, a drop structure should be installed prior to the last section of outfall pipe discharging to a buffer. A short length of outfall pipe should be laid flat (0% Slope Energy Dissipater), prior to the riprap apron or other energy dissipater.
- Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the buffer.
- Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to impede the formation of erosion gullies.

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8. Ponds that intersect the stream channel shall have the same buffers as the original stream. Buffer requirements do not apply to wet ponds used as structural **BMPSCMs**.
9. **Buffer Delineation.** The following buffer delineations are required:
 - a. Buffer boundaries including all buffer zones must be clearly delineated on all site-specific plans for approval, on all construction plans, including grading and clearing plans, erosion and sediment control plans, and site plans.
 - b. The surveyed outside buffer boundary, including all buffer zones, must be clearly marked on-site with orange “tree-protection” or “high-hazard” fence prior to any land disturbing activities. Tree protection is required by Section 7.4(3) of this ordinance. Where existing trees are to be preserved in a buffer zone, the limits of grading shall equal the drip line of those trees plus an additional five (5) feet on the upland side of the buffer. All Specimen and Heritage trees require a tree survey prior to land-disturbing activity and shall be saved in all buffer zones.
 - c. The surveyed outside boundary of the buffer must be permanently marked with an iron pin at the intersection of the watershed buffer and each property line on each parcel following the completion of land disturbing activities and prior to **final plat, passing final inspection, and** occupancy. Properties greater than 200’ in width shall be marked at a maximum of 100’ intervals.
 - d. Separate buffer zones must be permanently marked at highway stream crossings.
 - e. Buffer boundaries including all buffer zones as well as all buffer requirements must be specified on the record plat, on individual deeds, and in property association documents for lands held in common.
10. **Buffer Impacts Permitted under Section 8.25, S.W.I.M.** The following buffer impacts are permitted, but design and construction shall comply with the specifications provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.
 - Near perpendicular (75° or greater) road crossings for connectivity or transportation links where the Town of Huntersville has granted site plan approval.
 - Near perpendicular (75° or greater) utility crossings as approved by Charlotte-

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Mecklenburg Utilities.

- Parallel water and sewer utility installation as approved by Charlotte-Mecklenburg Utilities, where a logical and appropriate basis for the impact is demonstrated, where disturbance of the Stream Side Zone is minimized to the maximum extent practicable, and where guidelines for restoring vegetation within buffers disturbed as a result of parallel utility installation are met. These guidelines are specified in the Charlotte-Mecklenburg Buffer Implementation Guidelines.
- Public paths and trails parallel to the creek outside the Stream side Zone and near perpendicular stream crossings in any zone. Pathways must use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall preserve existing drainage patterns and avoid drainage structures that concentrate storm water.
- Incidental drainage improvements/repairs for maintenance.
- Individual pedestrian paths connecting homeowners to the stream in the form of narrow, pervious footpaths with minimal tree disturbance.
- New domesticated animal trails (farming) where existing trails are lost as a result of action beyond the farmer's control. Stream crossings should be constructed to minimize impacts to the Stream Side Zone and be maintained with fencing perpendicular to and through the buffer to direct animal movement.
- Mitigation approved by a state or federal agency acting pursuant to Sections 401 or 404 of the federal Clean Water Act.
- In the Corporate Business Zoning District as part of an approved conditional zoning, the Board of Commissioners may approve a modification to an intermittent stream buffer and perennial stream buffer draining under 50 acres without a variance subject to implementing one of the nine mitigation techniques in Subsection 11(b) below.

11. Appeals and Variances.

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- a. An appeal to reverse or modify the order, decision, determination, or interpretation of the Zoning Administrator shall comply with the procedures and standards of Section 11.3 of these ordinances.
- b. **Special Variance Provisions/Mitigation Techniques.**
 - When “unnecessary hardships”, as defined in Section 11.3.2 e, would result from strict adherence to the buffer width requirements and/or buffer treatment standards, a petition for variance may be filed with the Huntersville Board of Adjustment in compliance with the procedures and standards of Section 11.3.
 - Site specific mitigation plans using the mitigation techniques set out below and approved by the designated agency shall be construed by the Board of Adjustment to be evidence responsive to Section 11.3.2 e), – 4 consistency with adopted plans and protection of public safety and welfare. Specifications for these mitigation techniques are provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines (for Structural **BMPSCM**s). The techniques below are not construed to offset the requirement of Section 8.25.6 for diffuse flow.
 1. Installation of Structural **BMPSCM**s. The installation of an on-site structural **BMPSCM** designed to achieve specified pollutant removal targets will allow for all proposed stream buffer impact on the specific site. The **BMPSCM** must remain outside of the Stream Side Zone and Manage Use Zone. A detailed **BMPSCM** design plan must be submitted to the Mecklenburg County Land Use and Environmental Services Agency for approval based on specifications contained in the Charlotte-Mecklenburg **BMPSCM** Design Manual. This plan must also include a long-term maintenance strategy for the **BMPSCM**, complete with the establishment of adequate financing to support the proposed maintenance practices.
 2. Stream Restoration. The owner may restore and preserve the buffer area on any stream of equivalent or greater drainage area the condition of which is determined to be qualified for restoration by the Mecklenburg County Land Use and Environmental Services Agency on a 1:1 basis in linear feet of stream. This restoration shall include stream bank improvements and Stream Side and Managed Use Zone

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re-vegetation, in accordance with the Charlotte-Mecklenburg Buffer Implementation Guidelines, and receive approval from the Mecklenburg County Land Use and Environmental Services Agency.

3. Stream Preservation. The owner may purchase, fee simple, other stream segments at equivalent or greater drainage area on a 1:1 linear foot basis and convey fee simple and absolute title to the land to the Town of Huntersville, Mecklenburg County, or conservation trust, with a plan approved by the Mecklenburg County Land Use and Environmental Services.
4. Wetlands Restoration. On a 2:1 acreage basis for disturbed stream and buffer area (2 acres of wetland for each acre of disturbed area), the owner may provide a combination of the preservation and/or restoration of wetlands with protective easements and the implementation of structural or non-structural **BMPSCMs** to achieve specific pollutant removal targets within the impacted area. Restoration plan must be approved by the Mecklenburg County Land Use and Environmental Services.
5. Bottom Land Hardwood Preservation. On a 2:1 acreage basis for impacted stream and buffer area (2 acres of bottomland hardwood for each acre of disturbed area), the owner may provide a combination of the preservation of existing bottom land hardwood forest or other specifically approved natural heritage area by conservation easement or other legal instrument, and the implementation of structural or non-structural **BMPSCMs** to achieve specific pollutant removal targets within the impacted area. Plan to be approved by Mecklenburg County Land Use and Environmental Services Agency. Bottom land hardwood preservation shall not include minimum tree preservation otherwise required by these regulations (i.e. required buffers, required tree preservation of Section 7.4) but shall include any bottom land hardwood preserved beyond the minimums established.
6. Controlled Impervious Cover for Disturbance Landward of Stream Side Zone. The owner may commit to, and provide, a specific site development plan for the parcel with requested buffer disturbance. The plan shall limit overall site impervious cover to less than or equal to 24%. Preservation of the Stream Side Zone is still required. Plan to

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be approved by Mecklenburg County Land Use and Environmental Services Agency.

7. Open Space Development. The submission of a site-specific development plan that preserves 50% of the total land area as undisturbed open space. Plan to be approved by Mecklenburg County Land Use and Environmental Services Agency.
8. Mitigation Credits: The purchase of mitigation credits through the Stream Restoration Program on a 1:1 basis, utilizing linear feet of stream impacted and the prevailing rate of purchase as established by the Charlotte-Mecklenburg Buffer Implementation Guidelines. Mitigation credits purchased under any other program (i.e., U.S. Army Corp of Engineers) shall not cover this requirement unless the issuing agency agrees to relinquish the funds to the appropriate local government agency.
9. Alternative mitigation. The list of mitigation techniques shall not prevent the creative development of alternative mitigation plans that achieve the purposes of this section.

12. Posting of financial security required. When structural **BMPSCMs** (wet detention ponds and other **BMPSCMs**) are approved for mitigation of a buffer disturbance, the approval will be subject to the owner filing a surety bond, or letter of credit, or making other financial arrangements which are acceptable to the Mecklenburg County Land Use and Environmental Services Agency, in a form which is satisfactory to the County Attorney, guaranteeing the installation and maintenance of the required structural **BMPSCMs** until the issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to be built within the area which drains into the BMPs, allowing credit for improvements completed prior to the submission of the final plat. At such time that this level of occupancy is achieved, written notice thereof must be submitted by the owner to the Mecklenburg County Land Use and Environmental Services Agency. The owner must also verify the adequacy of the maintenance plan for the **BMPSCMs** including the necessary financing to support the proposed maintenance practices. The Mecklenburg County Land Use and Environmental Services Agency will inspect the structural **BMPSCMs** and verify the effectiveness of the maintenance plan; if both are found to be satisfactory, the department will notify the owner in writing within 30 days of the date of notice.

13. Maintenance responsibilities for structural BMPSCMs – Civil Penalties.

Maintenance of all structural BMPSCMs will be the responsibility of the property owner or his designee. Any person who fails to maintain the required BMPSCMs in accordance with the approved maintenance plan will be subject to a civil penalty of not more than \$5000. Each day that the violation continues shall constitute a separate violation. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in assessment of a civil penalty or other enforcement action.

14. Request for Determination of Buffer Requirements. When a landowner or other affected party believes that the S.W.I.M stream buffer delineation maps described in Section 8.25.4 inaccurately depict buffer requirements, he or she shall request a determination from the Storm Water Administrator. Such determinations shall be made by the Storm Water Administrator based on an on-site evaluation using the U.S. Army Corps of Engineers and N.C. Division of Water Quality methodology for stream delineation as well as information from databases maintained for stream delineation by Mecklenburg County. Such determinations can also be made at the discretion of the Storm Water Administrator in the absence of a request from a landowner or other concerned party. The buffer requirements of this ordinance shall apply based on determinations made by the Storm Water Administrator. Surface waters that appear on the maps shall not be subject to this ordinance if an on-site determination by the Storm Water Administrator shows that they fall into one of the following categories.

- a. Ditches and manmade conveyances other than modified natural streams.
- b. Manmade ponds and lakes that are not intersected by a buffered stream segment and that are located outside natural drainage ways.
- c. Ephemeral (storm water) streams.

8.26 Site Lighting

The purpose of the site lighting regulations is to ensure public safety and welfare and to protect the night sky. External lighting shall meet the following standards unless otherwise permitted or restricted by this ordinance.

1. General Requirements.

- a. At a minimum, all lighting installations shall be designed to achieve no greater than the minimal illuminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).
- b. Including the base/mounting fixture, the maximum height for lighting (pole mounted and wall mounted) shall be 40 feet except for sports complex lighting as addressed in sections 9.21 and 9.35 of this ordinance.
- c. To prevent glare on off-site locations, all outdoor lighting fixtures shall be full cut-off. Where necessary to prevent light trespass or glare, accessories such as hoods and shields shall be used on fixtures. No source of glare shall be visible from any adjacent property or street.
- d. Light trespass shall be prevented by employing lighting shields, hoods, walls, or fences which control light projection. In no case shall the spillover light level from site lighting onto adjacent property or a public road exceed 1.0 foot-candle measured at the property line.
- e. Security lighting (floodlights, where permitted, wall packs, and etc.) shall be shielded and directed at a downward angle no higher than 45 degrees above straight down (half-way between straight down and straight to the side) measured perpendicular from the pole or mounting wall.
- f. Unless otherwise specified by this ordinance, uniformity ratios shall not exceed 4:1. Uniformity shall be based on average illuminance. Uniformity ratios shall only be measured for developed areas of the site for parcels greater than one acre.
- g. Parking lot lighting shall not exceed an initial maximum output of ten foot-candles as measured at ground level from any orientation of the measuring device.
- h. Unless provided elsewhere, canopy lighting shall not exceed an initial maximum output of fifteen footcandles as measured at ground level from any point underneath the canopy and from any orientation of the measuring device.
- i. An isolux lighting plan shall be required for all non-residential projects as part of the site plan approval process. Such plan shall indicate lighting levels expressed as footcandles at grade by contour diagram or grid points over the entire site and shall be sealed by a registered engineer. The zoning

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administrator may waive this requirement for projects located on less than one acre where specific lighting fixtures to be used are indicated on the site plan.

~~j.~~ An as-built/installed lighting certification sealed by a registered engineer stating that all site lighting is installed according to an approved site plan shall be required prior to issuance of a certificate of occupancy for all non-residential projects.

~~k.~~j. Decorative lighting shall:

1. Be focused toward the ground,
2. Be designed and installed to prevent light trespass and unnecessary glare, and
3. Only be used to highlight significant architectural or natural features.

~~l.~~k. Outdoor lighting not necessary for security purposes shall be turned off during non-operating hours.

~~m.~~l. Lighting for an outdoor amusement facility within the Special Purpose (SP) Zoning District that cannot conform to all the standards of this section may be approved with the issuance of a Special Use Permit (as outlined in Article 11.4.10), contingent on the following conditions:

1. Ensure the Special Use Permit (SUP) conforms to the standards of this article regarding safety, downward lighting, glare, offsite light trespass, uniformity ratio, and obtrusive/flashing lighting, etc., to the extent practicable.
2. All Special Use Permit applications shall be accompanied by a photometric lighting plan, graphics of all exterior lighting fixtures proposed for the facility and any other evidence of conformance with the standards of the article.
3. Upon review of the proposed lighting plan and the specific context of the associated development, the Town Board may add specific conditions to the permit related to the application to ensure that the principles of this article are followed to the extent practicable.
4. No Special Use Permit (SUP) may permit lighting levels to exceed 30 foot-candles.

2. Light Level Standards. The following levels shall be met unless otherwise specified:

USES	MAX. FOOTCANDLE
Automotive Sales	30
Banks: ATM's, Parking Areas	30 10
Civic and Institutional	10
Convenience Stores, Gas Station	10
• Parking Area	10
• Canopy	35
Office Uses	10
Industrial	15
Retail, Commercial Uses	10
Shopping Centers	10
All other uses not listed	4

3. Prohibited Lighting and Fixtures.

- a. Drop lenses and similar lighting fixtures are prohibited.
- b. Floodlights are not permitted for illumination in non-residential districts except in loading areas of light and heavy manufacturing uses. Floodlights, when permitted in loading areas, shall:
 - 1. be fully shielded;
 - 2. be aimed at no higher than a 45 degree angle (halfway between the horizontal plane and straight down) unless a sight line graphic is submitted demonstrating that no off site glare will be created from any portion of the lighting fixture due to screening by existing topography, accessory buildings, landscaping, etc.

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3. be focused toward the primary building or the loading area only;
4. not be aimed toward an adjoining residential zone or conforming residential land use;
5. not emit glare or light trespass onto adjacent streets or properties.

In all applications, lighting shall be directed downward. Floodlights in residential districts shall not shine directly onto an adjacent property or public rights-of-way.

- c. Canopies and awnings used for building accents shall not be internally illuminated.
 - d. Flashing, colored or obtrusive lighting is prohibited.
 - e. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment is prohibited.
 - f. The operation of searchlights for advertising purposes is prohibited.
 - g. Black lights and neon lights (including argon and similar rare gas fixtures), except for signage, are prohibited.
4. **Exemptions to these requirements.** The following shall be exempt from the lighting requirements of this ordinance:
- a. Emergency lighting, used by police, firefighting, or medical personnel, or at their direction, is exempt for as long as the emergency exists.
 - b. Underwater lighting used for the illumination of swimming pools and fountains.
 - c. Lighting used for nighttime street construction and repair.
 - d. The lighting of official governmental flags and public civic monuments shall not be subject to these lighting standards. Such lighting shall utilize a narrow cone beam of light of no more than 150 watts.
 - e. Seasonal decorations.
5. **Maintenance requirements.**
- a. All light fixtures that are required to be shielded shall be installed and maintained in such a manner that the shielding is effective as required.
 - b. Anything other than routine servicing and same-type lamp replacement of any exterior lighting shall require town approval prior to installation.

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- c. Any damaged, broken or malfunctioning light fixture or pole which results in failure to meet any part of this ordinance shall be repaired or replaced immediately.

9.1 Accessory Dwelling

1. An accessory dwelling may be attached, within, or separate from the principal dwelling.
2. The principal use of the lot shall be a detached or attached single-family dwelling, built to the standards of the North Carolina Housing Code.
3. No more than one accessory dwelling shall be permitted on a single deeded lot in conjunction with the principal dwelling unit.
4. The accessory dwelling shall be owned by the same person as the principal dwelling.
5. The accessory dwelling shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling is accessed from a rear alley and the principal dwelling is accessed from a street.
6. A detached accessory dwelling shall be housed in a building not exceeding 650 square feet of first floor area (maximum footprint) or 50% of the first floor area of the principal dwelling, whichever is greater; the structure may be dwelling only or may combine dwelling with garage, workshop, studio, or similar use.
7. A detached accessory dwelling shall be located in the established rear yard and meet the standards for the applicable building and lot type, Article 4, and the limitations on rear yard use of Section 8.8.

~~8. An accessory dwelling must be registered with the Planning Director at the time a certificate of occupancy is obtained.~~

9.35 Schools

1. Schools shall conform principal buildings to the standards of Civic Buildings and lots, Article 4. Accessory and incidental buildings may be placed within a street fronting yard if they conform to a building and lot type permitted in the zoning district. Buildings which do not so conform shall be placed within established rear and side yards which do not abut a street.

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2. Permanent parking lots associated with schools shall meet the standards of Article 6, Off-Street Parking. However, areas designated for temporary bus parking that also serves as a recreational area shall not be subject to interior parking lot landscaping requirements.
3. Notwithstanding 1. and 2., above, where the safe transport of students requires functional separation of parking and circulation areas (i.e. school bus, auto drop-off, etc.), the location of parking and circulation according to building and lot type may be modified, so long as streets abutting parking and circulation areas are, to the extent practicable, detailed as plazas. Sufficient stacking lanes for drop-off and pick-up shall be provided onsite so that traffic circulation is not impeded on any public right-of-way. Stacking on Town streets may be allowed if all of the following are met:
 1. Site is zoned TND-R, TND-U or TND-Overlay;
 2. Maximum enrollment shall not exceed 360 kindergarten to 8th grade students;
 3. Two-way traffic maintained on Town streets along the entire pick up/drop-off zone;
 4. Pick-up/drop-off zone shall have a minimum width of eight (8) feet exclusive of the two-way traffic lanes.
 5. The school shall provide at a minimum a 11.5-foot-wide hardscaped area behind the back of curb. Street trees with grates are allowable, but bushes/shrubs in the area are not allowed.
 6. A traffic impact analysis, including a mandatory circulation plan and queuing analysis must be approved by the Town of Huntersville Engineering & Public Works Department prior to plan approval. Should conditions in the field vary from the analysis, the Town Engineer has the ability to modify the circulation plan.
4. Dust-free, pervious surface areas are encouraged for overflow or event parking; such areas need not conform with Article 6 if they are maintained in a natural condition (for example, as a grassed field).
5. Service areas shall be separated by an opaque screen from the view from any street and from abutting properties as described in Section 7.6 of this ordinance.

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6. Where chain link and similar fencing material are installed in an established yard abutting a street, such fencing shall be planted on the exterior side with evergreen shrubs minimum 3 feet in height (expected height at maturity minimum 6 feet), 6 feet on center at installation.
7. Outdoor lighting associated with active outdoor recreational facilities shall be designed as follows:
 1. Facilities shall use fully shielded lighting fixtures except where luminaries are:
 1. Provided with internal and/or external glare control louvers and installed so as to minimize up-light and offsite light trespass; and
 2. Installed and maintained with aiming angles that permit no greater than five percent (5%) of the light emitted by each fixture to project above the horizontal.
 2. Lighting plans shall limit light trespass to the maximum extent possible. A maximum of .5 foot-candles at any location on any non-residential property, and .1 foot-candles at any location on any residential property, as measurable from any orientation of the measuring device, shall be met.
 3. Lighting shall be extinguished after 11:00 p.m. Illumination of the sports facility shall be permitted after this time only to conclude a scheduled event that was unable to conclude before this time due to unusual circumstances.
8. Elementary and Junior High Schools shall be located on streets sized to accommodate traffic volumes of background uses plus the additional traffic projected to be generated by the school(s).
9. Senior high schools shall be on a lot which abuts a minor or major thoroughfare; primary vehicular access shall be provided from the thoroughfare.
10. When permitting temporary classroom units, the entire site shall be reviewed for compliance with applicable codes (i.e. sidewalks, landscaping, turn-lanes). Applicants are encouraged to bring the site into compliance where deficiencies are identified relative to the intensification of use proposed.
11. Sufficient stacking lanes for drop-off and pick-up shall be provided onsite so that traffic circulation is not impeded on any public right-of-way.
12. In a Corporate Business zoning district, schools shall only be allowed subject to the following additional conditions:

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1. Schools shall only be allowed on existing lots and in existing buildings. The school buildings shall be no greater than 50,000 sq. ft. in size. Additions to buildings intended for school use will be limited to 10% of the existing floor area of the building.
2. Schools shall be limited to a temporary use in this district. The length of time allowed for the school to operate shall not exceed three (3) years from the occupancy of the temporary building. If the school does not occupy the building within one (1) year approval, the approval will become null and void. A school may apply for an additional two (2) years in the CB district. At no time shall an individual school be located in the CB district at the same location for more than a total of five (5) years.
3. The maximum number of students shall be 300.
4. In a CB zoning district, the school site shall be designed, located, and accessed such that primary passenger vehicle routes avoid those that will be primarily used by truck/industrial traffic.

10.2 Applicability

Except as otherwise provided in this ordinance, it shall be unlawful to construct, enlarge, move or replace any sign or cause the same to be done, without first obtaining a sign permit for such sign from the designated permitting agency. In addition, a certificate of occupancy for the change in the use of property shall require compliance with Article 10, Signs.

Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign so as to render it in violation of this ordinance. A legal non-conforming off-premise advertising sign that changes from utilizing external illumination to internal illumination or self-luminous or from a static copy to changeable message copy shall be considered a change of nature and is in violation of this ordinance.

10.8 Temporary Signs Requiring A Permit

The following temporary signs shall require a permit, subject to the standards below, in lieu of on-site real estate or construction signs.

1. Temporary Planned Development Signs, provided:
 1. Only one primary sign and two secondary signs shall be allowed per street front of development.

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2. The maximum sign face area of a primary sign shall not exceed 32 square feet; height of ground-mounted signs shall not exceed 6 feet.
3. The maximum sign face area of secondary signs shall not exceed 12 square feet; height of ground-mounted signs shall not exceed 6 feet.
4. Only one permit shall be required for all temporary planned development signs for each planned development. Permits shall be valid until a project is completed or for a period of one year, whichever comes first. Completion shall be evidenced by the issuance of all certificates of occupancy for a development by the Building Standards Department. If a project is not completed in one year, a new permit must be obtained. However, in no instance shall more than 5 permits be issued for a development. Additional permits shall not allow secondary signs. All secondary signs shall be removed when the first permit issued expires.
5. Temporary directional signs within a planned development, but not visible from the road(s) fronting the overall development, shall be permitted so long as such signs do not exceed 12 square feet in sign area, 6 feet in height, and are removed upon completion of the portion of the project to which the signs are giving direction.

10.10 Signs Permitted Without A Sign Permit

The following types of signs are exempt from permit requirements and allowed in all zones, but shall be in conformance with all other requirements of this ordinance.

1. Memorial signs, plaques, or grave markers.
2. Public interest signs.
3. Public information kiosks on public or private property, subject to design approval by the Board of Commissioners and written permission of the owner of property upon which the kiosk is to be placed. The text shall not be visible from adjacent properties and/or public streets.
4. On premise directional and instructional signs not exceeding 6 square feet in area, unless such sign is a monument sign, in which case it may not exceed 9 square feet. Maximum height: 5 feet.
5. Identification signs not exceeding 1 1/2 square feet in area, which indicates the name and/or address of the occupant. Maximum height: 4 feet.

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6. Window signs with a total copy area not exceeding 50 percent of the window or glass door on which the sign(s) are located.
7. Incidental signs.
8. Flags. A flag that meets the criteria of a sign shall mean a piece of durable fabric no greater than 24 feet in height and 20 square feet in area, and no more than one (1) per lot, on which is displayed the logo of a corporation, election or campaign (subject to 10.10.9 below), association, or other entity. Corporate logo flags for large regional corporations or headquarters may be allowed additional height and area through a Master Signage Program. (For non-commercial flags see Article 8.18).
9. Campaign or Election signs provided that:
 1. Individual signs erected:
 1. On privately-owned property shall not exceed 16 square feet in area or 6 feet in height;
 2. In a right-of-way shall not, exceed 6 square feet in area or 3 1/2 feet in height.
 2. No signs shall be permitted in the right-of-way of any fully controlled access highway.
 3. Signs shall be no closer than 3 feet from the edge of pavement of the road and shall not obscure motorists' visibility at an intersection.
 4. Permission shall be obtained from any property owner fronting Town-maintained right-of-way where a sign is erected.
 5. If erected in the right-of-way, signs may be erected no earlier than 30 days prior to the beginning date of early voting and shall be removed within 10 days after the election or primary for which they were made. Any political sign that remains in a right-of-way of streets located within the corporate limits of the Town and maintained by the Town more than 30 days after the end of the period prescribed herein is to be deemed unlawfully placed and abandoned property, and a person may remove and dispose of such political sign without penalty.
 6. If erected on privately-owned property, signs may be erected no earlier than 90 days prior to the beginning date of early voting and shall be removed within 10 days after the election or primary for which they were made.

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10. Real estate signs, other than the temporary signs described in Section 10.8.

1. Signs advertising a single-family home or lot, a duplex, triplex, or quadraplex, or an individual unit within an attached housing development shall not exceed 6 square feet, with a maximum height of 4 feet. Rider signs not exceeding a total of 2 square feet in sign face area shall be permitted in addition to the 6 square feet.
2. Signs advertising all other uses shall not exceed one square foot for every 5 linear feet of frontage of the advertised property, up to a maximum sign face area of 32 square feet and maximum height of 6 feet.
3. Only one sign per street front of the advertised property shall be erected.
4. Properties having a continuous frontage in excess of 850 linear feet may be allowed an additional sign so long as such sign is no closer than 850 feet from another real estate sign on the property.
5. Signs shall not be illuminated.
6. Signs shall be removed within 7 days after the sale is closed or rent or lease transaction is finalized.

11. Holiday decorations without a commercial message provided:

1. Such displays do not extend into the public right-of-way.
2. Decorations shall be installed no more than ninety (90) days before the event and removed no more than ten (10) days after the event.

12. Construction signs, other than Temporary Planned Development Signs described in Section 10.8, provided:

1. Signs located on single-family lots or duplex, triplex, or quadraplex lots shall not exceed 6 square feet in area with a maximum height of 4 feet. Rider signs not exceeding 2 square feet in area shall be permitted in addition to the 6 square feet.
2. Signs for all other uses shall not exceed one square foot for every 5 linear feet of frontage of property under construction, up to a maximum sign face area of 32 square feet and a maximum height of 6 feet.
3. Signs are confined to the site of construction.

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4. Only one sign per street front of the property under construction shall be erected.
5. Signs shall not be illuminated.
6. Signs shall be removed within 7 days after the completion of a project.

13. Temporary farm products signs provided:

1. Signs are located on the premises where the products are sold in conjunction with a bona fide farm use.
2. Signs shall not exceed 32 square feet in area or 6 feet in height.
3. Only one sign shall be erected.
4. Signs shall be removed within 7 days of the termination of sale activities.

14. Temporary special event signs or banners for religious, charitable, civic, fraternal, or similar organizations, provided:

1. No more than one sign per street front shall be permitted per event.
2. Signs shall be located on the property on which the event will occur.
3. Signs shall not exceed 32 square feet in area or 6 feet in height.
4. Signs shall be erected no sooner than 14 days before and removed 7 days after the event.

15. Temporary banners in commercial and mixed-use districts, provided:

1. Only one banner per establishment shall be allowed at a time.
2. All banners shall be attached in total to a building wall or permanent canopy extending from a building.
3. No paper banners shall be allowed.
4. Banners shall be erected for a period not to exceed 2 weeks.
5. No more than 6 such signs per establishment shall be erected within a calendar year.
6. No banner shall extend above the second occupiable floor level of a building.
7. In addition to the banners above, Grand Openings and Going Out-of-Business banners are allowed provided that:

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1. Banners shall be erected for a period not to exceed 30 calendar days.
 2. Total number of banners shall not exceed two (2) per property.
 3. Banners shall be subject to b, c & f above.
 4. One additional temporary ground-mounted sign shall be erected for a Grand-Opening for a period not to exceed 10 calendar days.
 5. Temporary ground-mounted sign shall be a maximum 6 feet in height and 24 sq. ft. in area.
 6. Temporary ground-mounted sign shall be located outside of the right-of-way and sight triangle.
 7. Temporary ground-mounted sign shall be exempt from Article 10.12.3.
16. Public service and advertising signs in association with athletic fields. Signs may be attached to the interior face of any fence that encloses or partially encloses an athletic playing field upon the property of a school or public park subject to the following conditions:
1. No sign face area shall be visible from any public street nor from any abutting property in a residential or mixed-use district.
 2. No sign shall extend above the top of the enclosing fence.
 3. The property owner or an authorized representative shall provide the town with a signed statement granting permission for signs to be displayed and assuming responsibility for management of the signs as well as the appropriate removal and disposal of damaged or obsolete signs.
17. Temporary Special Occasion Flag. Flag of durable fabric, unrestricted as to size, on which is displayed the emblem of a nation, state, city, or fraternal, religious, or civic organization, provided:
1. Flag shall be displayed only on the property on which the event is held or the occasion is celebrated.
 2. Flag shall be flown, mounted or displayed no sooner than 7 days prior to the event or occasion, and shall be removed within 7 days following the conclusion of the event or occasion.
18. Sidewalk Signs. Sidewalk signs such as easel or A-frame signs located near the main entrance to a non-residential use are allowed subject to the following:

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1. One sidewalk sign per tenant is allowed provided it is located within 5 feet of the public entry to the building.
 2. The sign location shall not interfere with pedestrian or vehicular circulation or obstruct the clear sight triangle at a street intersection (Section 8.9). There shall be a minimum sidewalk clearance of 5 feet.
 3. The sign shall not exceed 8 square feet in area and 4 feet in height.
 4. The sign may have changeable copy such as chalkboard, whiteboard, or cork.
19. Fence Wraps. Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from this Chapter until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. No fence wrap affixed pursuant to this section may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.
20. Temporary Sporting Event Sign
1. Signs shall be displayed only on the property on which the event is held.
 2. No more than one sign per street front shall be permitted per event.
 3. Signs shall not exceed 32 square feet in area or 6 feet in height.
 4. Signs shall be erected no sooner than the day of the event and may only be erected through the duration of the event.
21. Government Signs.

11.1 Zoning Administration

1. **Zoning Administrator.** Primary responsibility for administering and enforcing this ordinance may be assigned to one (1) or more individuals by the Town Manager. The person or persons to whom these functions are assigned shall be referred to in this ordinance as the "Zoning Administrator". The term "staff" or "Planning staff" is sometimes used interchangeably with the term "Zoning Administrator." Any function or responsibility assigned by this ordinance to the Administrator may be delegated by such person to another employee or agent acting under the Administrator's control or at his direction unless such delegation is prohibited by the Town Manager.

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No staff member, including the Zoning Administrator, shall make a final decision on an administrative decision pursuant to this ordinance where the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. If a staff member has a conflict of interest under this section, the administrative decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by Zoning Administrator.

2. **Intent and Applicability.** The Zoning Administrator shall enforce, conduct reviews, ensure zoning compliance, and manage the development approval procedures set forth in this article for the Town of Huntersville.
 1. A building permit and a certificate of occupancy are required for uses permitted by right, under prescribed conditions, or subject to an approved conditional zoning district or special use permit, and all uses and structures accessory thereto.
 2. A certificate of occupancy is required for changes in the use of property.

Zoning compliance, under these regulations, is required for the issuance of building permits, certificates of occupancy, sign permits, and zoning use permits.

3. **Building Permit.** No development shall occur except pursuant to a building permit, when one is required. A building permit is generally required for the activities below. Other building activities may also require a permit.
 1. The addition, repair, or replacement of load bearing structures.
 2. The installation, extension, or general repair of any plumbing system or an addition or change in the design of plumbing.
 3. The addition, replacement, or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment.
 4. The addition (excluding replacement) of roofing.
 5. The use of materials not permitted by the North Carolina State Building Code.

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6. Work on single-family residence, farm buildings, or commercial buildings exceeding \$40,000.
7. The following work, even if not in excess of \$40,000:
 - construction of deck, fireplace, pier, or storage building;
 - installation or replacement of insulation, wood stove, or hot water heater;
 - moving a building;
 - demolition of a building.
4. **Certificate of Occupancy.** A certificate of occupancy must be issued prior to the occupation, use, or change in use of any land, building, or structure, except for land used for agricultural purposes.

11.2 Enforcement

1. **Administration and Enforcement Procedures.** If an application for a building permit, certificate of occupancy, or any other development approval subject to an administrative determination is denied because of non-compliance with these regulations, the Zoning Administrator shall provide written notification of the denial and of the reasons for the denial. The term “administrative determination” may be used interchangeably with the term “administrative decision.”

Planning staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and according to the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

When any work or activity has been undertaken in violation of this ordinance, any State law delegated to the local government for enforcement, or the terms of a development approval, the Zoning Administrator may cause a written Notice of Violation to be issued. The Notice of Violation shall be delivered to the holder of the development approval and the landowner of the property involved (if the landowner is not the holder of the development approval). Delivery shall be accomplished by personal delivery, electronic delivery, or first-class mail.

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The Zoning Administrator may also issue a Stop Work Order and/or revoke any permit issued by the Zoning Administrator pursuant to Section 11.2.3.

2. **Right to Appeal Administrative Decisions.** Any person who has standing or the local government (used interchangeably with the “Town”) may appeal an administrative decision to the Huntersville Board of Adjustment (the “Board of Adjustment”) as provided in Section 11.3.2. Appeals of administrative decisions made to the Board of Adjustment must be filed within 30 days from receipt of the written notice of the determination. In the absence of evidence to the contrary, written notice of the determination sent by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
3. **Enforcement Remedies and Penalties for Violation.** The Zoning Administrator or other enforcement agent(s) designated by the Board of Commissioners may enforce any development regulation set forth by this ordinance using any one, all, or a combination of the following enforcement remedies:
 1. **Criminal.** Any person, firm, or corporation convicted of violating the provisions of this ordinance related to unsafe buildings, Section 11.2.3(f), or 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.
 2. **Equitable Remedy.** The Zoning Administrator may apply to a court of competent jurisdiction for any appropriate equitable remedy to enforce the provisions of this ordinance. It is not a defense to the Zoning Administrator’s application for equitable relief that there are other remedies provided under general law or this ordinance.
 3. **Injunction.** Enforcement of the provisions of this ordinance may also be achieved by injunction. When a violation occurs, the Zoning Administrator may, either before or after the institution of other authorized action, apply to the appropriate division of the General Court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.
 4. **Order of Abatement.** In addition to an injunction, the Zoning Administrator may apply for and the court may enter into an order of abatement as part of

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the judgment in the case. An order of abatement may direct any of the following actions:

- Buildings or other structures on the property be closed, demolished, or removed;
- Fixtures, furniture or other moveable property be moved or removed entirely;
- Improvements, alterations, modifications, or repairs be made; or
- Any other action be taken that is necessary to bring the property into compliance with this ordinance.

5. **Execution of Court Decisions.** If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt. The Zoning Administrator may execute the order of abatement and will have a lien on the property in the nature of a mechanic or materialman's lien for the cost of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and by posting a bond for compliance with the order. The bond must be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter was heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

6. **Stop Work Order Issuance and Revocation of Development Approvals.**

1. **Stop Work Order.** Whenever any work or activity subject to regulation pursuant to this ordinance or any State law delegated to the Town for enforcement purposes, is undertaken in substantial violation any state or local law or in a manner that endangers life or property, the Zoning Administrator may order the specific part of the work that is in violation (or would be when the work is completed) or that presents such a hazard to be immediately stopped. The stop work order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the specific reasons for cessation, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property

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involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. Violation of a stop work order shall constitute a Class 1 misdemeanor.

2. **Revocation of Development Approvals.** The Zoning Administrator may revoke any development approval (e.g., building permit, certificate of occupancy, etc.) by providing written notification to the holder stating the reason(s) for the revocation. Development approvals issued by the governing board may be revoked in the same manner in which they were approved, including any notice and hearing. Development approvals may be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of this ordinance or any State law delegated to the local government for enforcement purposes; or for false statements or representations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked.

7. **Civil Penalty.** In addition to the other remedies cited in this ordinance for the enforcement of its provisions, and pursuant to NC General Statute 160A-175, the regulations and standards of this ordinance may be enforced through the issuance of civil penalties by the Zoning Administrator.

Subsequent citations for the same violation may be issued by the Zoning Administrator if the offender does not pay the citation (except as otherwise provided in a warning citation) after it has been issued unless the offender has sought an appeal to the decision of the Zoning Administrator through the Board of Adjustment. Once the ten-day warning period has expired, each day which the violation continues shall subject the violator to additional citations to be issued by the Zoning Administrator.

The following penalties are hereby established:

Warning Citation	Correct Violation Within 10 Days
First Citation	\$50.00
Second Citation for Same Offense	\$100.00

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Third and Subsequent Citations for Same Offense	\$500.00
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If the offender fails to pay the civil penalties within ten(10) days after having been cited, the Town may recover the penalties in a civil action in the nature of debt.

11.3 Appeals And Variances

1. Board of Adjustment.

- 1. Establishment.** The Board of Adjustment of the Town of Huntersville (the “Board of Adjustment”) shall consist of seven regular members and three alternate members. The regular membership shall consist of six members who reside within the corporate limits, appointed by the Town Board, plus one extraterritorial member. The number of regular members appointed who reside in the extraterritorial zoning jurisdiction shall at a minimum meet the requirements of N.C.G.S. 160D-307 for proportional representation, but shall in no instance be less than one. The alternate membership shall consist of at least two members who reside within the corporate limits, with the remaining alternate member residing in either the corporate limits or the extraterritorial jurisdiction of Huntersville.
- 2. Members from Within the Town Limits.** Each member and alternate shall be appointed by the Town Board for a term of three years. The terms of membership shall be staggered; therefore, in appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the Town Board may appoint certain members for less than three years to the end that thereafter the terms of all members shall not expire at the same time. The expiration date for each term shall be the 30th day of June of the year in which said term is to expire and the term of office of the succeeding member shall begin on the 1st day of July. If the original members are appointed such that their terms of office begin prior to a July 1 date, such terms of original members shall be extended by the period of time between their appointment and June 30th of the year of their appointment, it being the intent of this proviso that original members shall serve terms of one, two, or three years plus a period of time between their initial appointments and June 30th of the year of their initial appointments. For purposes of this section, original appointments refer to members and alternates appointed upon first establishment of the Board of Adjustment, and to members and alternates appointed to newly created seats upon any expansion of the Board of Adjustment.

3. **Extraterritorial Members.** In addition to the members and alternates herein above provided for, members of the Board of Adjustment shall be appointed from the area within the extraterritorial jurisdiction of the Town of Huntersville, pursuant to the appointment process prescribed in N.C.G.S. 160D-307. Members so appointed shall have all of the obligations and duties of the other members of the Board of Adjustment, including rights to vote on all matters coming before the Board. Each extraterritorial member shall be appointed for a period of three years. Expiration dates for each term, initially and thereafter, shall be the 30th day of June of the year in which said term is to expire and the term of office of the succeeding member shall begin on the 1st day of July; provided further that if the original members are appointed such that their terms of office begin prior to a July 1 date, such terms of original members shall be extended by the period of time between their appointment and June 30 of the year of their appointment. Eligibility for reappointment shall be determined by the procedures and policies established by the appointing body.
4. **Term Limits and Service Limits.** Members and alternates shall be limited to serving two (2) consecutive terms; however, a member or alternate may be reappointed to the Board of Adjustment after remaining off of the Board for at least one (1) year. Time spent as an alternate member shall not count in determining whether an alternate is eligible for appointment as a regular member. Additionally, appointment to a vacant position as an alternate or regular member to fill an unexpired term shall not be counted in determining eligibility for appointment or reappointment. No person shall be eligible for appointment as a regular or alternate member if such person is serving on any other board or commission appointed by the Board of Commissioners, unless such other service is in an ex officio capacity. These terms limits and service limits shall apply to both members and alternates residing in the corporate limits and within the extraterritorial jurisdiction of the Town of Huntersville. Notwithstanding the foregoing, the Board of Commissioners shall have the discretion to waive these term limits and service limits for a particular position on the Board of Adjustment when there are no other members of the public willing to serve in the position, or in other appropriate circumstances as determined by the Board of Commissioners.
5. **Proceedings.**

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1. **Meetings.** All meetings of the Board of Adjustment shall be held at a regular place and shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact. Final disposition of appeals or variances shall be recorded in the minutes, indicating the reasons of the Board therefore, all of which shall become a part of the public record.
2. **Quorum Required.** No final action shall be taken on any matter unless a quorum is present. A quorum is the majority of the members of the Board or, for variance actions (which require the concurring vote of 4/5ths of the Board), 4/5ths of the membership.
6. **Powers and Duties.** The Board of Adjustment shall have the following powers and duties:
 1. **Administrative Review.** To hear and decide appeals according to the procedures of this section, where it is alleged there is an error in any order, decision, determination, or interpretation made by the Zoning Administrator or designated administrative official in the enforcement of this ordinance.
 2. **Variances.** To hear and decide applications for variances from the terms of this ordinance according to the standards and procedures herein so that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done. Appropriate conditions, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed by the Board.
 3. **Density Averaging Certificates.** To hear and decide applications for density averaging certificates for paired-parcel averaged-density development, acting as the Watershed Review Board, to ensure both parcels considered together meet the standards of the ordinance and that potential owners have notice of how the watershed regulations were applied to the parcel pair.

2. Appeals and Variances.

1. **Petition to Board of Adjustment for Appeal or Variance.**

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1. An appeal of an administrative decision may be initiated by any person with standing or by the local government.
 2. A petition for variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.
2. **Appeals.** The Board of Adjustment shall hear and decide appeals of administrative decisions of administrative officials charged with enforcement of the zoning and subdivision ordinances and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:
1. Any person who has standing under G.S. 160D-1402(c), or the Town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a Notice of Appeal with the Clerk to the Board of Adjustment. The Notice of Appeal shall state the grounds for the appeal.
 2. The official who made the decision shall give written notice of the determination to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
 3. The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
 4. The official who made the decision shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner. The record may be provided in written or electronic form.
 5. Timely appeals of a notice of violation or other administrative decision shall stay enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with N.C.G.S. §

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160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom. After notice of the appeal has been filed, if the official who made the decision certifies to the Board of Adjustment that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance, the enforcement proceedings shall not be stayed except by a restraining order granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for development approvals to use the property; in these situations, the appellant or local government may request and the Board of Adjustment may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

6. Subject to the provisions of subdivision (6) of this subsection, the Board of Adjustment shall hear and decide the appeal within a reasonable time.
7. The applicant, the local government, and any person with standing to appeal shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board of Adjustment. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board of Adjustment shall continue the hearing.
8. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the official who made the decision.

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9. When hearing an appeal pursuant to N.C.G.S. § 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in N.C.G.S. § 160D-1402(j).

3. Standards for Granting an Appeal.

1. The Board of Adjustment shall reverse or modify the order, decision, determination, or interpretation under appeal only upon finding an error in the application of these regulations on the part of the officer rendering the order, decision, determination, or interpretation.
2. In modifying the order, decision, determination, or interpretation, the Board of Adjustment shall have all the powers of the official from whom the appeal is taken.

- 4. Filing a Variance Petition.** A petition for variance, in the form prescribed by the Board of Adjustment, shall be filed with the Clerk to the Board of Adjustment or designated administrator, accompanied by a non-refundable filing fee as established by the Town Board and a list of adjoining properties including tax parcel numbers and the name and address of each owner.

- 5. Standards for Granting a Variance.** When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

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

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3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
6. **No change in permitted uses may be authorized by variance.** Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.
7. **Notice and Hearing.**
 1. The Board of Adjustment shall, in accordance with rules adopted by it for such purpose, hold public hearings on any appeal or variance petition which comes before it.
 2. Notice of Hearing. – Notice of Hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning or subdivision ordinance. In the absence of evidence to the contrary, the Town may rely on the County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a Notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The Board of Adjustment may continue an evidentiary hearing that has been convened without further advertisement.
8. **Action by the Board of Adjustment.**
 1. The concurring vote of four-fifths (4/5ths) of the board shall be necessary to grant a variance. A majority of the members shall be

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required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

2. A member of the Board shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.
3. Quasi-Judicial Decisions. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair, or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board, or such other office or official as the ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

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4. Oaths. The Chair of the Board or any member acting as Chair and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.
5. Subpoenas. The Board of Adjustment through the Chair, or in the Chair's absence anyone acting as Chair, may subpoena witnesses and compel the production of evidence. To request the issuance of a subpoena, the applicant, local government, and any person with standing under G.S. 160D-1402(c) may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.
9. **Effect of Grant of Variance or Reversal or Modification of Administrative Decision.** After the Board of Adjustment approves a variance, or reverses or modifies an order, decision, determination, or interpretation of an administrative official, the appellant or petitioner shall be responsible for obtaining a building permit and/or certificate of occupancy, as applicable, in order to proceed with the development of the subject property. All orders, decisions, determinations, and interpretations made by administrative officials under those procedures shall be consistent with the variance, reversal, or modification granted to the appellant or petitioner by the Board of Adjustment.
10. **Rehearing.** The Board of Adjustment shall refuse to hear an appeal or variance petition which has been previously denied unless it finds that there have been substantial changes in the conditions or circumstances relating to the matter.

11. **Appeal from Board of Adjustment.** Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. A petition for review shall be filed with the Clerk of Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subsection 11.3.2(h)(3). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

3. **Standards for Granting an Administrative Waiver.**

1. **Purpose and Intent.** Unless otherwise provided in the Zoning Ordinance, the Zoning Administrator (which term shall include an administrative official designated by the Town Manager to perform these functions) is authorized to grant an administrative waiver of minor deviations from measurable and quantifiable standards of this ordinance subject to the following limitations:

1. The standard for which the waiver can be granted must be a quantifiable and/or measurable standard set forth in the ordinance. Such standards may include, but are not necessarily limited to, height requirements and limitation, yard requirements, parking requirements, screening or buffer requirements, planting requirements, ratio requirements, density requirements, spacing requirements, signage requirements and other similar measurable and quantifiable standards.
2. The Zoning Administrator shall grant such waiver only after the requesting party has demonstrated that such minor deviation was a result of an unintended error or unique conditions of the property, does not and will not violated the spirit and harmony of the ordinance, and does not and will not adversely affect the rights of other property owners in any material manner.
3. The minor administrative waiver may not deviate by more than three percent (3%) any of the standards for which the waiver is given.

2. **Construction.** The authority given to the Zoning Administrator to grant such waivers shall be construed to be permissive and not mandatory and the Zoning Administrator may decline to make such waiver, and instead, require that the applicant seek a variance from the Board of Adjustment. The Zoning Administrator may not grant any waiver affecting the use or zoning classification; however, this shall not be construed as limiting the zoning

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Administrator's duties and rights under the ordinance, and whose decisions are appealable to the Board of Adjustment.

11.4 Amendment Process

1. Purpose and Authority.

- a. The purpose of this article is to provide a means for amending the text of these regulations and the classification of any parcel of land identified on the Official Zoning Map. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in response to changed conditions or changes in public policy.
- b. Upon compliance with the provisions of this article, the Town Board shall have the authority to amend or repeal the text of these regulations or the classification of any parcel of land indicated on the Official Zoning Map.

2. Planning Board.

- a. **Establishment.** The Planning Board of the Town of Huntersville shall consist of nine (9) members of whom at least seven (7) members shall reside within the corporate limits, appointed by the Town Board, plus extraterritorial members determined as follows: the number of members appointed who reside in the extraterritorial zoning jurisdiction shall at a minimum meet the requirements of N.C.G.S. § 160D-307 for proportional representation, but shall in no instance be less than one (1).

b. Membership.

- 1. **Members from Within the Town Limits.** Each member shall be appointed by the Town Board for a term of three years. The terms of membership shall be staggered; therefore, in appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the Town Board may appoint certain members for less than three years to the end that thereafter the terms of all members shall not expire at the same time. The expiration date for each term shall be the 30th day of June of the year in which said term is to expire and the term of office of the succeeding member shall begin on the 1st day of July. If the original members are appointed such that their terms of office begin prior to a July 1 date, such terms of original members shall be extended by the period of

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time between their appointment and June 30th of the year of their appointment, it being the intent of this proviso that original members shall serve terms of one, two, or three years plus a period of time between their initial appointments and June 30th of the year of their initial appointments. For purposes of this section, original appointments refer to members appointed upon first establishment of the Planning Board and also to members appointed to newly created seats upon any expansion of the Planning Board.

2. Extraterritorial Members. In addition to the members hereinabove provided for, members of the Planning Board shall be appointed from the area within the extraterritorial jurisdiction of the Town of Huntersville, pursuant to the appointment process prescribed in N.C.G.S. 160D-307. Members so appointed shall have all of the obligations and duties of the other members of the Planning Board, including rights to vote on all matters coming before the Board. Each extraterritorial member shall be appointed for a period of three years. Expiration dates for each term, initially and thereafter, shall be the 30th day of June of the year in which said term is to expire and the term of office of the succeeding member shall begin on the 1st day of July; provided further that if the original members are appointed such that their terms of office begin prior to a July 1 date, such terms of original members shall be extended by the period of time between their appointment and June 30th of the year of their appointment. Eligibility for reappointment shall be determined by the procedures and policies established by the appointing body.
3. Term Limits and Service Limits. Members shall be limited to serving two (2) consecutive terms, however a member may be reappointed to the Planning Board after remaining off of the Board for at least one (1) year. Appointment to a vacant position to fill an unexpired term shall not be counted in determining eligibility for appointment or reappointment. No person shall be eligible for appointment as a member if such person is serving on any other board or commission appointed by the Board of Commissioners unless such other service is in an ex officio capacity. These terms limits and service limits shall apply to members residing in the corporate limits and to those residing within the extraterritorial jurisdiction of the Town of Huntersville. Notwithstanding the foregoing, the Board of

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Commissioners shall have the discretion to waive these term limits and service limits for a particular position on the Planning Board when there are no other members of the public willing to serve in the position, or in other appropriate circumstances as determined by the Board of Commissioners.

c. **Meetings.** Meetings shall be held on a monthly basis unless otherwise determined by the Board. The Chairman of the Board, or in his absence the vice chairman, may call a special meeting of the Board at any time by giving each member 24 hours' notice. Special meetings shall also be scheduled upon request by a simple majority of board members. A quorum of the Board shall consist of a simple majority of the appointed members, and a quorum shall be in attendance before any action of an official nature can be taken.

d. **Powers and Duties.**

1. The Planning Board shall serve as the advisory board on all requests for changes in the zoning regulations and ordinances of the Town of Huntersville (the "Town"). As such, and pursuant to any authorities set forth in the Zoning Ordinance, the Planning Board shall hear all requests for zoning changes or other zoning action and shall, upon such hearings, make a recommendation to the Town Board as to any requested changes or action regarding this ordinance. Hearings on zoning petitions may, by joint decision of the Town Board and the Planning Board, be held at joint meetings, or may be held separately. The Planning Board is hereby empowered to set procedures for the filing of zoning petitions so long as said procedures do not conflict with or are not in derogation of the then existing regulations and ordinances of the Town.
2. The Planning Board is empowered to make recommendations to the Town Board or other governmental agencies consistent with the Planning Board's charged obligation to provide for proper planning for the future growth of the Town and its environs.

3. **Initiation.**

- a. Any amendment to the Zoning Ordinance text or Zoning Map, except for the classification of property to a conditional zoning district or MH Overlay or to down-zone property as defined by N.C.G.S. 160D-601 may be initiated:
 1. By the Town Board or the Planning Board on its own resolution;

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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:
 1. 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;
 2. 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
 3. determination by the Town Board whether the petition should be granted a public hearing or rejected.
- b. An amendment for the reclassification of property to a conditional zoning district or a MH Overlay district, may be initiated only by the owners of all of the property to be included in the district and shall be accompanied by an official petition, the established fee, and documentation as required by paragraph 1) below and as may be required by paragraph 2), below.
 1. A petition requesting the reclassification of property to a conditional zoning district or overlay district must be accompanied by a site plan, drawn to scale, and any necessary supporting text, which shall include all data specified in paragraphs (A) through (N) below that are applicable to the project. Where the type of use or scale of proposal makes providing any of the following items unnecessary or impractical, the Planning Director may waive individual items.
 1. A boundary survey and vicinity map showing the property's total acreage, zoning classification(s), general location in relation to major streets, railroads, and/or waterways, date, and north arrow;

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2. Existing topography on the site and within 300 feet of the boundary of the site; and the general nature of the proposed topography at four-foot contour intervals or less;
 3. All existing easements, reservations, rights-of-way, and any other restrictions on the use of the land;
 4. Number and general location of proposed structures;
 5. Proposed use of all land and structures, including the number of residential units or the total square footage of any nonresidential development;
 6. All yards, buffers, screening, and landscaping required by these regulations;
 7. Any screening, buffers, and landscaping proposed over and above that required by these regulations, as well as proposed treatment of any existing natural features;
 8. All existing and proposed points of access to public streets; the location of proposed new streets;
 9. Delineation of areas within the regulatory floodplain as shown on the Official Floodway Maps for Mecklenburg County;
 10. Proposed number and location of signs;
 11. Proposed phasing, if any, and approximate completion time for the project;
 12. The location of existing and proposed storm drainage patterns and facilities intended to serve the development;
 13. Traffic, parking, and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets, existing and proposed;
 14. A listing of adjoining properties including tax parcel numbers and the name and address of each owner, provided in digital form if possible.
2. In the course of evaluating the proposed use, the Planning Director, Planning Board or Town Board of Commissioners may request

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additional information from the petitioner. Information requested may include the following:

1. The location of significant trees on the petitioned property;
 2. Scale of buildings relative to adjoining properties, including sight lines;
 3. Height of structures;
 4. Exterior features of proposed development;
 5. Any other information needed to demonstrate compliance with these regulations.
3. The site plan, building elevations, perspectives, sections, and any supporting text shall constitute part of the petition for all purposes under these regulations.
- c. The Planning Department shall determine the number of copies of each petition and other required documentation to be submitted by the petitioner so that copies may be circulated to all appropriate agencies for review and comment. A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition for a rezoning to a special or conditional use district, or a conditional district, or other small-scale rezoning.
- d. Before a public hearing may be held on a petition for a conditional zoning, the petitioner must file in the Office of the Planning Department a written report of at least one community meeting held by the petitioner. [The community meeting shall not be held on Town of Huntersville Board of Commissioners or Planning Board meeting nights.](#) Notice of such a meeting shall be provided to all of the following, using the parcel ownership information listed in the current Mecklenburg County tax records:
1. Owner of each property petitioned for rezoning
 2. Owner of each abutting property
 3. Owner of each property within 250 feet of the petitioned property
 4. Owner of each property directly across a street, easement, or right-of-way, public or private, from the petitioned property

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5. Owner of each property across a street, easement, or right-of-way, and within 250 feet of the right-of-way boundary opposite the petitioned property
6. Contact person for each neighborhood association, property owner association, and homeowner association registered with the Town Planning Department that has jurisdiction over property within 2,000 feet of any portion of the rezoning site (distance scaled on a Town of Huntersville or Mecklenburg County official map). If fewer than two registered associations are identified within 2,000 feet of the rezoning site, it is the responsibility of the petitioner to identify and include unregistered associations or associations beyond 2,000 feet of the site, such that no fewer than two neighborhood, property owner, or homeowner associations are notified of the community meeting.
7. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a copy of any materials presented at the meeting, a summary of issues discussed at the meeting, including changes suggested by the participants and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this paragraph, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this paragraph shall be considered by the Town Board but shall not be subject to judicial review.

4. Withdrawal or Amendment of Petition.

- a. A petition filed according to this section may be withdrawn by the petitioner at any time prior to final action by the Town Board.
- b. Once the petition has been filed, the petitioner shall not be allowed to amend it except by request to the Planning Director no later than three weeks prior to the scheduled public hearing date. No changes to the petition shall be accepted in the intervening weeks prior to the public hearing. No changes to the petition shall be made at the hearing, although potential changes

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proposed by the petitioner, Planning Board, Town Board, and other interested parties may be presented at the hearing and considered by the Planning Board and Town Board during their deliberations.

- c. If the Town Board deems any amendment pursuant to Section 11.4.4 requested pursuant to Section 11.4.4 (b) to be a substantial change to the petition prior to a final decision, which does not result in an intensification of the petition, it shall defer action on the petition for 30 days to allow interested parties the opportunity to comment on the amendment to the petition. Notwithstanding the foregoing, the Town Board may deny the petition.
 - d. If the Town Board deems any requested amendment to be an intensification of the petition, it shall call a new public hearing prior to final action. Notwithstanding the foregoing, the Town Board may deny the petition.
 - e. Once a development approval is issued, modifications to the development approval must be reviewed and approved in the same manner in which it the approval was originally made, including any necessary notice and public hearing. However, minor modifications to development approvals as defined by Article 12 of this ordinance may be approved by staff.
5. **Citizen Comments.** If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the Town Clerk at least two business days prior to the proposed vote on such change, the Town Clerk shall deliver such written statement to the Town Board of Commissioners. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-601, the Town Clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.
6. **Hearing.**
- a. Notice of public hearings required under these regulations shall be in accordance with the North Carolina General Statutes.
 - b. **Conduct of Public Hearing.**
 - 1. No amendment shall be adopted until after the Town Board and Planning Board have held a public hearing on the proposed amendment.

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2. The hearing shall be conducted in accordance with rules and procedures established by the Mayor and Town Board.
3. When presenting a petition for the reclassification of property to a general district, the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development site design, except for those which would apply to any use or development site design permitted in the requested district.

7. Recommendation and Decision.

- a. The Town Board may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the Town Board holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing.
- b. No proposed amendment shall be approved unless it is first submitted to the Planning Board for a recommendation. The Planning Board may defer action on a request one time for one of the following reasons: the public hearing remains open; ordinance required information is not completed; the petitioner agrees and/or requests a deferral. Further, the Planning Board may defer action on a request one additional time not limited to the reasons listed above, provided the Planning Board state the reason for deferral and it be related to address ordinance standards. If the Planning Board does not make a written recommendation to approve, approve with conditions, deny, or recommend Town Board defer a decision on the proposed amendment, then the Planning Board shall be considered to have recommended deferral for additional deliberation. The petition, along with the recommendation of the Planning Board, shall be placed on the agenda of the Town Board at its next regular zoning meeting.

In making its written recommendation, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the adopted Huntersville Community Plan and other adopted long-range plans that are applicable. The Planning Board shall provide a written recommendation to the Town Board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with

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adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Board.

- c. The Town Board, after receiving the recommendation of the Planning Board, shall within a reasonable time either reject the proposed amendment or approve the proposed amendment, with or without modifications. Property petitioned to be rezoned to a conditional zoning district may only be rezoned in response to and consistent with the petition of the owners of all of the property to be included in the district; therefore, modifications to such petitions must be found to be consistent with the petition of all owners of property within the petitioned area prior to the Board's decision. When adopting or rejecting any zoning amendment, the Town Board shall adopt a statement describing whether its action is consistent or inconsistent with adopted Huntersville Community Plan and other adopted long-range plans that are applicable and explaining the reasonableness of the proposed rezoning including why the action is in the public interest. That statement is not subject to judicial review.
- d. In considering any petition to reclassify property, the Planning Board in its recommendation and the Town Board in its decision shall take into consideration any identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.
- e. In considering any petition to reclassify property, the Planning Board in its recommendation and the Town Board in its decision should consider:
 1. Whether the proposed reclassification is consistent with the overall character of existing development in the immediate vicinity of the subject property;
 2. The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, transit service, parks and recreational facilities, police and fire protection, hospitals and medical services, schools, storm water drainage systems, water supplies, and wastewater and refuse disposal; and
 3. Whether the proposed reclassification will adversely affect a known archaeological, environmental, historical, or cultural resource.

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- f. When considering a petition to reclassify property to a general district, the Planning Board and the Town Board shall not evaluate the petition based on any specific proposal for the use of the property or design of the site.
- g. In approving an amendment to reclassify property to a general district, or with the consent of the petitioner in the reclassification to a conditional zoning district, or MH Overlay district, the Town Board may change the existing classification of the property, or any part of the property covered by the petition, to the classification requested or to a classification or classifications between the existing and requested classifications, or to any higher classification in the hierarchy of zoning districts established in Section 3.1.1 of these regulations.
- h. In approving a petition to reclassify property to a conditional zoning district, specific conditions applicable to the conditional district may be proposed by the petitioner or the town or its agencies, but only those conditions mutually approved by the town and the petitioner may be incorporated into the zoning regulations or permit requirements. Conditions and site-specific standards imposed in a conditional zoning district shall be limited to those that address the conformance of the development and use of the site to Town ordinances, the officially adopted Huntersville Community Plan, other applicable adopted long-range plans and those that address the impacts reasonably expected to be generated by the development or use of the site.
- i. The Town Board may modify any proposed text amendment upon adoption of an ordinance enacting the amendment, without the withdrawal or modification of the petition or further public hearings.
- j. An approved conditional zoning district petition and all conditions which may be attached to the approval are binding on the property. All subsequent development and use of the property must be in conformance with the conditional zoning district petition and all plans, specifications, and conditions established.
- k. In approving a conditional zoning district, the Town Board may modify standards established in the Zoning or Subdivision ordinance.
- l. A conditional zoning district petition may be considered simultaneously with a subdivision sketch plan provided all submission and procedural requirements have been met.

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m. A Town Board member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. Members of appointed boards providing advice to the Town Board shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

8. Effect of Denial of Petition.

- a. Any petition for the reclassification of property that has been withdrawn, denied in whole or in part, or approved to a classification other than the one originally requested, shall not be re-submitted within one year of the date of the Town Board's action on the original petition, or, in the case of a withdrawal, one year from the date the petition was withdrawn, unless a petitioner applies for a district which is "lower" in the Hierarchy of Zoning Districts in Section 3.1.1.
- b. The Town Board may allow re-submission of a petition for the reclassification of property within the one-year restricted period if it determines that, since the date of action on the prior petition, one of the following criteria has been met:
 1. There has been a similar change in the zoning district classification of an adjacent property; or
 2. The Town Board has adopted a new or amended plan for the area that changes public policy regarding how the property affected by the amendment should be developed; or
 3. Construction or expansion of a road, water line, sewer line, or other infrastructure has occurred or is to occur in such a time frame as to serve the property and comfortably accommodate the intensity of development allowed under the proposed classification; or
 4. There has been a substantial change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on a new petition; this shall not include a change in the ownership of the subject property nor, in the case of a petition for reclassification to a conditional or parallel conditional zoning district,

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or MH Overlay district, a change in the scale or features of the development proposed in the prior petition.

- c. Any petition allowed by the Town Board under subsection (2) above must be reviewed and approved in accordance with the procedures and standards of Section 11.4, Amendment Process, of these regulations.

9. **When Development Not Begun Within 2 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).

10. **Special Use Permit.**

- a. **Purpose.** This section provides the standards and procedures for locating uses that may be compatible with the purpose and intent of a given zoning district, but nonetheless have the potential for substantial impacts on the surrounding area, including uses permitted in the same zoning district. In order to ensure that these uses would be compatible with surrounding development, consistent with the most detailed plan for the area, and in keeping with the purposes of the district in which they are proposed to be placed, they are not allowed to be established as a matter of right. They may be established only after a review of the specific proposal and approval of a special use permit.
- b. **Application.** A request for a special use permit will be considered only if requested by the owner of the property in question or an authorized agent of the property owner. Applications for all special use permits or amendments to any approved special use permit must be filed in the office of the Planning Department, accompanied by a fee established by the Town Board, and must include documentation as required by paragraph 1), below and as may be required by paragraph 2), below.

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1. A petition requesting a special use permit must be accompanied by a site plan, drawn to scale, and any necessary supporting text, which shall include all data specified in paragraphs (A) through (M) below that are applicable to the project. Where the type of use or scale of proposal makes providing any of the following items unnecessary or impractical, the Planning Director may waive individual items.
 1. A boundary survey and vicinity map showing the property's total acreage, zoning classification(s), general location in relation to major streets, railroads, and/or waterways, date, and north arrow;
 2. Existing topography and the general nature of the proposed topography at four-foot contour intervals or less;
 3. All existing easements, reservations, rights-of-way, and any other restrictions on the use of the land;
 4. Number and general location of proposed structures;
 5. Proposed use of all land and structures, including the number of residential units or the total square footage of any nonresidential development;
 6. All yards, buffers, screening, and landscaping required by these regulations;
 7. Any proposed screening, buffers, and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;
 8. All existing and proposed points of access to public streets; the location of proposed new streets;
 9. Delineation of areas within the regulatory flood plain as shown on the Official Floodway Maps for Mecklenburg County;
 10. Proposed number and location of signs;
 11. Proposed phasing, if any, and approximate completion time for the project;

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12. The location of existing and proposed storm drainage patterns and facilities intended to serve the proposed development, for evaluation by the Town Engineer or their designee;
 13. Traffic, parking, and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets, existing and proposed;
 14. A listing of adjoining properties including tax parcel numbers and the name and address of each owner, provided in digital form if possible.
2. In the course of evaluating the proposed use, the Planning Director, Planning Board or Town Board of Commissioners may request additional information from the petitioner. Such requests shall stay consideration of the special use permit by the Planning Board or Town Board. Information requested may include the following:
 1. The location of significant trees on the petitioned property;
 2. Scale of buildings relative to adjoining properties, including sight lines;
 3. Height of structures;
 4. Exterior features of proposed development;
 5. Any other information needed to demonstrate compliance with these regulations.
 3. The site plan, building elevations, perspectives, sections, and any supporting text shall constitute part of the special use permit application for all purposes under these regulations.
- c. The Planning Department shall determine the number of copies of each petition and accompanying documentation to be submitted by the petitioner so that copies may be circulated to all appropriate agencies for review and comment.
 - d. **Withdrawal or Amendment of Special Use Permit Application.** An application for a Special Use Permit may be withdrawn or amended in the same manner as a proposed amendment to the zoning map, following the procedures of Section 11.4.4.

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e. Hearing.

1. A Special Use Permit hearing will be conducted as a quasi-judicial hearing before the Town Board.
2. The applicant has the burden of producing competent, material, and substantial evidence establishing that:

- i. The proposed special use will not materially endanger the public health or safety;
- ii. The proposed special use will not substantially injure the value of abutting property or it constitutes a public necessity;
- iii. The proposed special use will be in harmony with the area in which it is located and in general conformity with the comprehensive plan and any applicable small area plan;
- iv. The proposed special use will comply with all of the lot, size, yard, and other standards which this ordinance applies to all uses permitted in the zoning district in which the property is located; and
- v. The proposed special use will comply with all general and specific standards required by the appropriate section of this ordinance for the issuance of a special use permit for this use.

1.

1. Recommendation and Decision.

1. In considering an application for a special use permit, the Planning Board in an advisory capacity and the Town Board, in a decision making capacity, shall consider, evaluate and may attach reasonable and appropriate conditions and safeguards to the location, nature, and extent of the proposed use and its relation to surrounding property, for the purpose of ensuring that the conditions of permit approval will be complied with and any potentially injurious effect of the special use on adjoining properties, the character of the neighborhood, or the health, safety, and general welfare of the community will be minimized.
2. Any such conditions may relate to parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, intensity of site development, the timing of development, and other matters the Town Board may find appropriate or the applicant may propose. The applicant will have a reasonable opportunity to

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consider and respond to any additional conditions or requirements prior to final action by the Town Board.

2. **Effect of Approval.** An approved application for a special use permit and all conditions which may be attached to the approval are binding on the property. All subsequent development and use of the property must be in conformance with the special use permit and all plans, specifications, and conditions unless terminated by procedures established below.

3. **Effect of Denial.**

1. If an application for a special use permit is denied by the Town Board, a reapplication for that special use on that property may not be instituted within one year of the date of denial.
2. The Town Board may allow re-submission of the application within the one-year restricted period if it determines that, since the date of action on the prior application, one of the following criteria has been met:
 - The Town Board has adopted a new or amended plan for the area that changes public policy regarding how the subject property and/or the general area affected by the special use permit should be developed; or
 - Construction or expansion of a road, water line, sewer line, or other infrastructure has occurred or is to occur in such a time frame as to serve the property and comfortably accommodate the type and intensity of development which would be allowed under the proposed special use permit; or
 - There has been a substantial change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on resubmission of a special use permit application for the property; this shall not include a change in the ownership of the subject property nor a change in the scale or features of the development proposed in the prior application.

4. **Amendment to an Approved Special Use Permit.**

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1. The owner of property which is subject to an approved special use permit may petition for an amendment of the special use permit and accompanying conditions by following the procedures applicable to initiation of new special use permits. However, minor modifications as defined in Article 12, which do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively.
2. Evidence presented at the hearing on the proposed amendment will be limited to the effect of the proposal on the original special use permit, any plans or conditions which were a part of the original special use permit, and the present standards and requirements in this Zoning Ordinance.
5. **Appeals.** Any petition for review by the superior court shall be filed with the clerk of superior court by the later of 30 days after the decision of the Town Board is effective or is delivered to the applicant, landowner, and any person who has filed a written request for such copy with the clerk prior to the date the decision becomes effective.
6. **Recognition of Previously Approved Conditional Use Permits.** Conditional Use Permits which have been previously granted by the Board of Commissioners of the Town of Huntersville and Special Use Permits previously granted by the Mecklenburg County Board of Commissioners will be recognized for building permit and other administrative purposes for three years after the effective date of this ordinance. If after three years construction of the development has not begun or there is no valid building permit in effect for the property, the conditional or special use permit will be considered null and void. If a use approved as a conditional use or special use becomes non-conforming and discontinues operation for six consecutive months, or is displaced by structural damage as described in Section 11.5.2, the use may not be resumed nor a building permit issued without approval of the appropriate zoning classification and special use permit required under the provisions of this ordinance.

11.6 Zoning Compliance

1. **Zoning Compliance.**

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1. A completed application form for a Zoning Permit shall be submitted by filing a copy of the application in the office of the Zoning Administrator. All applications shall be signed by the property owner(s).
2. The Zoning Administrator shall approve the Zoning Permit unless the Zoning Administrator finds, after reviewing the application and consulting with the applicant that:
 1. The requested Permit is not within their jurisdiction according to the Permitted Uses; or
 2. The application is incomplete; or
 3. If completed as proposed in the application, the development will not comply with one (1) or more requirements of this ordinance (not including those requirements for which a variance has been granted); or
 4. If required under Article 14, no Traffic Impact Assessment has been approved by the Town.

2. Site Plans; Adequate Public Facilities; and Traffic Impact Assessment.

1. Site plans shall be required from applicants prior to issuance of any permit (building, zoning, special use permit, variance) if deemed necessary by the Zoning Administrator to determine zoning compliance. If required by Article 14, a Traffic Impact Analysis shall be submitted with the residential or nonresidential site plan.

2. Residential Site Plan Requirements.

1. Sketch site plans shall be drawn with as true an approximate scale as possible, which reviewing agents can determine that all requirements of the Ordinance are met.
2. Applicant will be required to sign the zoning form as being a true reflection of what is existing and what is being proposed.
3. Unless otherwise determined by the Zoning Administrator, the following minimum information shall be included on the site:
 1. Lot/parcel dimensions;
 2. Zoning designation;

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3. All property line setback/build-to-line requirements;
4. All existing physical features (structures, buildings, streets, roads, etc.);
5. Location and dimensions of proposed construction;
6. Location and dimensions of driveway and type of surface material;
7. Any additional information as required by the reviewing agents.

3. Non-Residential Site Plan Requirements.

1. A site plan for all non-residential development shall be submitted to the Zoning Administrator for review prior to issuance of required building permits.
2. All nonresidential site plans shall be submitted at a scale determined by the Zoning Administrator in order to determine zoning compliance.
3. Site plan review fees will be charged as reflected in the adopted Fee Schedule.
4. Unless otherwise determined by the Zoning Administrator, site plans shall show the following minimum information:
 1. Site data - including vicinity sketch, north arrow, engineering scale ratio, acreage, title of development, date of plan, gross floor area of all buildings, name and address of owner/developer and person or firm preparing the plan;
 2. Zoning setback/build-to lines;
 3. Location(s) and dimension(s) of all vehicular entrances, exits, drives, and fire lanes;
 4. Location, arrangement and dimension of all automobile parking spaces, width of aisles, width of bays, angle of parking and number of spaces;
 5. Location, arrangement and dimension of all truck unloading docks, ramps and spaces;
 6. Refuse collection (dumpster) container space(s) location;

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7. Location(s) of all building(s) with exterior dimensions;
8. Location and dimensions of all fences, walls, docks, ramps, pools, patios, and surfaces areas;
9. Location of water tap(s) denoting size(s) of line(s) or well area;
10. Location of sewer tap(s) denoting size(s) of line(s) and pole(s);
11. Location of electrical service connection(s), meter(s) and pole(s);
12. Existing and proposed fire hydrant location(s);
13. Location and dimension of all easements and right-of-ways as determined by NC Department of Transportation;
14. Location(s) and size(s) of all public utility lines (water, sewer and storm sewer) within all adjacent public right-of-ways and easements;
15. Curb and gutter alignment, including street widening and storm drainage, if necessary shall be required;
16. Screening/landscaping plan shall be required showing plants with common names, sizes and numbers of plants and trees;
17. Sight distance triangle (10' x 70') shall be indicated at the intersection of all public right-of-way lines and 10' x 35' at the intersection of a right-of-way and driveway;
18. Any additional information as may be required by the reviewing agents.

3. Authorizing Use or Occupancy Before Completion of Development Under Zoning Permit.

1. In cases when, because of weather conditions or other factors beyond the control of the Zoning Permit recipient (exclusive of financial hardship), it would be unreasonable to require the Zoning Permit recipient to comply with all of the requirements of this ordinance prior to commencing the intended use of the property or occupying any buildings, the Administrator may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this ordinance are concerned) if the permit recipient is issued a temporary certificate of occupancy.

12.2.1 General Definitions

Abandon. To cease the regular use or maintenance of a lot, building, or structure.

Abutting. Having common property boundaries or lot lines which are not separated by a street, alley, or other vehicular right-of-way such as a railroad. For the purpose of sending notices required by N.C.G.S. § 160D-602, properties are "abutting" even if separated by a street, railroad, or other transportation corridor.

Accessory structure or use. A use or structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. In no event shall "accessory use" or "accessory structure" be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located. The total square footage of all accessory structure(s) shall not exceed the total square footage of heated area located on the first floor of the principal structure.

Adjacent. Either abutting or being directly across a street.

Adjusted Tract Acreage (ATA). The net useable land area of a proposed development site as determined by deducting specific percentages of various categories of constrained land from the gross tract area. This process is further described in Article 3 under the Rural and Transitional zoning districts.

Administrative decision. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this ordinance. These are sometimes referred to as ministerial decisions or administrative determinations.

Adult Establishment. Any principal or accessory structure or use of land which meets the definition of adult establishment as set forth in North Carolina General Statute Section 14-202.10. Adult Establishment does not include Massage Therapy, as defined later in the Article. Notwithstanding the definition of "adult bookstore" provided in G.S. 14-202.10(1), for purposes of this ordinance "adult bookstore" means a retail establishment:

which receives a majority of its gross income during any calendar month from the sale or rental of (i) "publications" which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities", as defined in G.S. 14-202.10(11), or "specified anatomical areas", as defined in G.S., 14-202.10(10); and/or (ii) merchandise that are "sexually oriented devices", as defined in G.S. 14-202.10(9); or

having a preponderance of its publications and/or merchandise (i) "publications" which are distinguished or characterized by their emphasis on matter depicting, describing or relating

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to “specified sexual activities”, as defined in G.S. 14-202.10(10), or “specified anatomical areas”, as defined in G.S., 14-202.10(11); and/or (ii) merchandise that are “sexually oriented devices”, as defined in G.S. 14-202.10(9).

As used in this definition, “publications” include books, magazines, other periodicals, movies, video-tapes, and other products offered in photographic, electronic, magnetic, digital or other imaging medium.

Agricultural industry. Commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial plant production (not retail nurseries), commercial fish or poultry hatcheries, other forms of agriculture as defined in N.C.G.S. 106-581.1, and other similar activities.

Agritourism. Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

Agritourism Catering Facility. Buildings, improvements and facilities used in connection with an operation providing event-based food services for both (1) on-site agritourism facilities (whether indoors or outdoors) used for public or private events, including but not limited to weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting; and (2) subject to Section 9.60, off-site public and private events. Personal property and equipment utilized exclusively in providing on-site catering services to agritourism facilities shall be exempt from regulation in the extraterritorial zoning jurisdiction. In order to qualify under this definition, an Agritourism Catering Facility must be located on property designated and used for bona fide farm purposes as contemplated by N.C.G.S. § 160D-903.

Airport. A facility intended and used as the place where one or more fixed-wing or rotary-wing aircraft is regularly stored, maintained, or repaired while not in flight, including an area that the aircraft may use to take off and land.

Airport uses. Fixed and rotary wing aircraft operations together with retail sales and service operations related to public, private, or general aviation, including aircraft sales, repair and

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storage, commercial shipping and storage, restaurants, and other uses designed to serve aviation passengers and industry.

Amendment. Any change by the Town Board to the text of these regulations or the official Zoning Maps.

Amusement, commercial outdoor. Any business establishment which is primarily engaged in providing an amusement activity such as a miniature golf course, skateboard course, water slide, mechanical ride, par 3 golf course, golf driving range, go-cart or motorcycle course, fish ranch, or similar activity to the general public, but does not include outdoor motion picture theaters.

Amusement, commercial indoor. Any business establishment which is primarily engaged in providing an amusement activity such as a video arcade, billiard parlor, skating rink or similar activity as a principal use to the general public, but does not include indoor motion picture theaters.

Area Median Income. The Area Median Income (AMI) and/or Median Area Income shall mean the AMI for Mecklenburg County, NC.

Arena. A structure or facility designed and intended to be used primarily for athletic events and containing seating for spectators of those events, but not including a raceway or drag strip.

Automotive repair. A building and its premises used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work. Minor repairs shall be limited to battery and tire changes, light and fuse replacement, wiper blade changes and similar activities. Also referred to as vehicle repair.

Automotive service station. Any premises where gasoline and other petroleum products are sold and light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning may be conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body work are conducted. Also referred to as retail sale of gasoline.

Bed and Breakfast Inn. A use that takes place within a building that, prior to such an establishment, was a single family detached residence, that consists of renting from one to six dwelling rooms on a daily basis to tourists, vacationers, and business travelers, where the breakfast meal only is provided and is available only to guests. The homeowner shall reside on site and employment shall not exceed two full time employees in addition to the owner(s).

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Beneficial Landfill. Permitted with conditions in all districts (9.44). The purpose of a beneficial fill site is to allow the land to be recontoured for the purpose of improving land use potential or for other beneficial reuse as defined by the North Carolina Solid Waste Management Rules, 15A NCAC 02U .0103 and by Chapter 130A of the North Carolina General Statutes; involves no excavation and accepts only fill material consisting of inert debris or used asphalt or a combination of inert debris and used asphalt. Provided, however, that excavation, grading and fill activity shall not be considered a beneficial fill site within this definition if such activity (1) is confined within the boundaries of a parcel of property or development project and involves uncontaminated soil, gravel or rock originating on such property or development project, or (2) is conducted pursuant to a valid preliminary subdivision plan or final subdivision plat, a residential building permit, a commercial building permit, or any preliminary permit issued pursuant to a pending application for such a plan or permit, and involves only uncontaminated soil, gravel or rock.

Berm. A raised earth mound, which is planted with ornamental vegetation.

Board of Adjustment. The Zoning Board of Adjustment of the Town of Huntersville.

Boarding house. A dwelling unit with up to six rooms for rent to boarders, or designed and intended to be rented to boarders, but which rooms individually or collectively do not constitute separate dwelling units. No separate cooking facilities will be provided for any boarder.

Buffer. (See also Screening.) A strip of land with natural or planted vegetation, located between a structure or use and a side or rear property line, intended to spatially separate and visually obstruct the view of two adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

Build-to line. A line extending through a lot which is generally parallel to the front property line and marks the location from which the principle vertical plane of the front building elevation, exclusive of porches, bay windows and similar appurtenances, must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building face. The dominant structural feature of the elevation of any side of a building. For example, the building face of a two-story dwelling with one-story porch is the two-story elevation of the structure.

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Building lines. Lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections therefrom, parallel to front, side, and rear lot lines, and referred to as front, side, and rear building lines, respectively.

Building site. (See also Development.) An area of land, or property where development is undertaken.

Bus stop shelter/Transit Shelter. A freestanding structure less than 100 square feet, located on a bus transit route, which is designed to accommodate embarking and disembarking bus transit passengers.

Caliper. The size of a tree's trunk diameter as measured six (6) inches above the ground for trees four (4) inches or less, and as measured twelve (12) inches above the ground for trees larger than four (4) inches. This measurement of caliper is used to determine if *newly planted* trees meet the requirements of this ordinance.

Canopy. The uppermost spreading branchy layer of a tree.

Canopy tree. A deciduous tree with height at maturity greater than 35 feet which produces significant shade due to the size and shape of its canopy.

Catchment Area. The area surrounding a rapid transit station location that is within convenient walking distance of the transit stop or boarding platform. New development in a catchment area is subject to specific standards and development intensities associated with "transit oriented development" (TOD) zoning districts. When used in conjunction with a specified measurement of distance (usually 1/2 mile or 1/4 mile), that distance is measured by computing actual walking distance along existing or proposed streets and/or pedestrian walkways.

Champion tree. A classification the state and federal forestry agencies use to define the largest trees of a specific species.

Change of Use. The change in the use of a structure or land, for which a certificate of occupancy is required. Change of use shall include a change from one use to another use in the list(s) of permitted uses, and shall also include a change from one use to another use within any broad category of uses, such as from one use listed in the commercial use category to another use listed in the commercial use category, as herein defined.

Civic, social service, or fraternal organization facility. A building or meeting facility, which is restricted to members and guests of members of a non-profit association or corporation, including accessory uses such as recreational facilities, banquet facilities, and overnight lodging for members, but not including the sale of goods or services to the public on the

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premises on a regular basis, or commercial outdoor recreational or entertainment activities involving the use of animals or firearms.

Clear cutting. The large-scale indiscriminate removal of trees, shrubs, and undergrowth with the intention of preparing real property for non-agricultural development purposes.

Clinic, medical, dental, or optical. A use or structure intended or used primarily for the testing and treatment of human physical or mental disorders.

Clinic, veterinary. A use or structure intended or used primarily for the testing and treatment of the physical disorders of animals; not principally used for the overnight boarding or grooming of well animals; not permitting outdoor cages, pens, or runs for the confinement of animals unless expressly permitted in the district; and not used for the training of animals.

Commencement of construction. The first placement of permanent evidence of a structure on a site pursuant to a duly issued building permit, such as the pouring of slabs or footings or any work beyond the stage of excavation, including the relocation of a structure.

"Commencement of construction" does not include the installation of streets or walkways; nor the excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of temporary buildings, such as garages, sheds, or trailers, not part of the main structure nor occupied as dwelling units.

Commercial communication tower. A tower facility, either roof or ground mounted, that includes, but is not limited to, radio and television transmission towers or similar utilities, microwave towers, and cellular telephone communication towers and similar structures for wireless communication. This term shall not include radio transmission facilities for use by ham radio operators or two-way local radio facilities for business or governmental purposes.

Commercial use. A category of uses that includes retail establishments, offices, professional and personal services, light manufacturing and assembly, branch banks, financial services, health care services, indoor motion picture theatres, conference centers, laboratories and associated research facilities whose products or waste products entail no special environmental handling requirements, studios, broadcast facilities (excluding towers), inns, theatres, restaurants without drive-through windows, bars, and day care facility as a principle use. Each use permitted in the commercial use category shall also meet any applicable conditions set out in Article 9, Conditions for Certain Uses. Excluded from the commercial use category are adult uses; vehicle, boat, or manufactured home sales, service, and repair; drive-through windows as a principal or accessory use;

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wholesale sales; heavy manufacturing; outdoor storage; floor area that is shared with residential uses as provided in Article 4; outside commercial kennels, and other uses that, by their nature or service characteristics are auto dependent, have potential for environment degradation, or are otherwise incompatible with nearby residential use.

Comprehensive Plan. A comprehensive plan that has been officially adopted by the governing board pursuant to G.S. 160D-501.

Comprehensive Transportation Plan (CTP). The set of maps and accompanying data adopted and maintained by the Charlotte Regional Transportation Planning Organization and its successor organizations that identify the region's aspirations for a long range surface transportation system. The CTP includes maps for Highway, Transit & Freight Rail, Bicycle, and Pedestrian systems and is not financially constrained. The CTP Highway Map is the successor to the Thoroughfare Plan; roadways identified are synonymous with the term "thoroughfare."

Conditional zoning district. A zoning district in which the development and the use of the property included in the district is subject to the predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. Conditional zoning shall not require the issuance of a special use permit or permitting process apart from the establishment of the district and its application to particular properties.

Congregate housing. Dependent or independent living facilities for the elderly; dormitories, orphanages, and similar uses, but not including group homes.

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

Conservation Subdivision. A tract of land 40 acres or more that is subdivided into single family building lots at a gross density not exceeding 1 dwelling unit per 20 acres, where no new streets are created through the development process and use of the land is restricted by an irrevocable conservation easement held by a conservation organization authorized by N.C.G.S. 121-35(1) et seq. The Conservation Subdivision is permitted only in the Rural and Transitional District and permits only residential home sites, Riding Academies/Commercial Stables according to Section 9.33, and customary rural land uses that are compatible with land conservation.

Construction and Demolition (C&D) Debris. Solid waste or debris resulting solely from construction, remodeling, repair or demolition operations on pavement, buildings, or other structures. (Inert debris, land clearing debris, and yard trash are separately defined herein.)

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Construction and Demolition (C&D) Landfill. A facility for the land disposal of construction and demolition (C&D) debris, and wastes acceptable for disposal in a LCID Landfill; it is designed to meet the minimum standards of the State of North Carolina by utilizing acceptable landfill engineering technology.

Correctional Facility. A publicly or privately owned building(s), and all accessory uses and structures, used to confine, house, and supervise persons held in lawful custody including those who are serving terms of imprisonment for violations of criminal laws or who are awaiting trial for alleged violations of criminal laws, but not including temporary holding facilities that are accessory to a police station.

Country Inn Development. A rural development with up to two main inns and up to eight residential rental cottages accessed by private drive located on parcels of land 20 acres and larger that consists of no more than twenty-four (24) rooms for rental and or owner/staff occupancy where on a daily basis, breakfast, lunch and dinner is provided and is available only to overnight guests and special events guests. The owner/operator shall reside on site.

Critical root zone (CRZ). A circular region measured outward from the tree trunk representing the essential area of the roots that must be maintained in order for a tree's survival. The critical root zone is one foot of radial distance for each inch of the tree DBH, with a minimum of eight (8) feet.

Cultural facility. An indoor or outdoor theater, auditorium, or other building or structure designed, intended, or used primarily for musical, dance, dramatic, or other live performances, or a museum or gallery operated primarily for the display, rather than the sale, of works of art.

Dangerous to others. Within the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is prima facie evidence of dangerousness to others.

Day care center. Day care, as a principal use or an accessory use, provided on a less than 24-hour basis for either children or adults, according to the following limiting definitions.

Child day care center. An individual, agency, or organization providing supervision or care on a regular basis for children who are not related by blood or marriage to, and who are not

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the legal wards or foster children of, the supervising adult; usually serving more than 10 children at a time; not an accessory to residential use.

Adult day care center. An individual, agency, or organization providing supervision or care on a regular basis for more than 6 adults in a place other than their usual place of abode, on less than a 24-hour basis.

Day care home (small, accessory use). Day care provided on a less than 24-hour basis for either children or adults, according to the following limiting definitions.

Child Day Care Home (small, accessory use). Supervision or care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for up to 6 children who are not related by blood or marriage to, and who are not the legal wards or foster children of the supervising adult.

Adult Day Care Home (small, accessory use). Care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for up to 6 adults who do not reside in the dwelling.

Deciduous. Shrubs and trees that lose their leaves annually.

Deck. A platform that is open and either freestanding or attached to a building, supported by pillars or posts.

Dependent living facility. Nursing homes, rest homes, and homes for the aged facilities, which are designed for persons who need a wide range of health and support services, such as medical, nursing, and personal services care, central dining facilities, and transportation services.

Density, gross residential. The number of residential dwelling units per acre of land, determined by dividing the number of dwelling units by the total number of acres in the parcel to be developed.

Developer. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

Development. The carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, or the subdividing of land into two or more parcels.

1. Except as provided in subsection (c) hereof, for the purposes of these regulations, the following activities or uses shall be considered "development":

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1. The reconstruction, alteration of the size, or material change in the external appearance of a structure on land or water;
 2. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land;
 3. Alteration of the shore or bank of a pond, lake, river, or other waterway;
 4. Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land;
 5. Clearing of land, including clearing or removal of vegetation and including any significant disturbance of vegetation or soil manipulation; or
 6. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.
 7. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
 8. The excavation, grading, filling, clearing, or alteration of land.
 9. The subdivision of land as defined in G.S. 160D-802.
 10. The initiation or substantial change in the use of land or the intensity of use of land.
2. "Development" includes all other activity customarily associated with it. When appropriate to the context "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity when part of other operations or activities are not development. Reference to particular operations is not intended to limit the generality of this definition.
3. For the purposes of these regulations the following operations or uses shall not be considered "development"; some may, however, require a building permit:
1. Work involving the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the color or decoration of the exterior of the structure or interior alterations that do not change the use for which the structure was constructed;
 2. Work involving the maintenance or replacement of existing landscaped areas and existing rights-of-way;

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3. A change in use of land or structure from a use within a specified category of use to another use in the same category;
4. A change in the ownership or form of ownership of any parcel or structure;
5. The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land unless otherwise specifically required bylaw; or
6. The clearing of survey cuts or other paths of less than four feet in width.

Development Approval. An administrative or quasi-judicial approval made pursuant to this Ordinance that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Ordinance, including plat approvals, permits issued, development agreements entered into, and building permits issued.

Development Permit. See Development Approval.

Diameter at breast height (DBH). The caliper of an existing semi-mature or mature tree measured at 4 1/2 feet above the existing ground on the uphill side of the tree.

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

Down Zoning. 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

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property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town Board.

Drip line. An imaginary vertical line extending from the outer most portion of the tree canopy to the ground that defines the exterior limits of the tree canopy.

Drive-through service window. A customer service facility located within the principal structure as an accessory to an office or retail establishment which is intended to enable the customer to transact business with a sales or service representative located within the principal structure without exiting the motor vehicle. It is presumed that the motor vehicle exits the premises immediately upon the transaction of business.

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Accessory dwelling. A dwelling unit which is located on the same lot as a detached or attached single family house, has a first floor area no greater than 650 square feet or 50% of the first floor area of the principal dwelling (whichever is greater), is owned by the owner of the principal dwelling unit but occupied by another. If the principal dwelling is a group home, use of an accessory dwelling shall not increase the number of residents otherwise permitted in a single group home.

Apartment house. Two or more dwelling units placed one on top of another and/or side by side and sharing common walls and common floors and ceilings, and which are located on a single lot of record.

Attached house. Rowhouse, townhouse, duplex, triplex, or quadriplex houses, generally developed side by side where land is sold with the dwelling unit. Attached dwellings on individually deeded lots are excluded from the definition of (apartment) multi-family dwellings.

Detached house. A dwelling unit that is developed with no parti-walls and with open yards on at least three sides, including modular homes, but not including manufactured homes, mobile homes, or recreational or motor vehicles.

Duplex house. Two dwelling units, including modular homes, placed one on top of another or attached side by side and sharing one or more common walls.

Multi-family home. A dwelling or group of dwellings on one lot, containing separate living units for three or more families.

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Single-family home. An attached or detached dwelling unit located on an individual lot designed for and occupied exclusively by one family.

Easement-access lot. A lot of one (1) acre or more in area, created **through a division of land not subject to the Subdivision Ordinance**, for which access is provided by a private and exclusive recorded easement at least 15 feet in width connecting said lot to a public street. A driveway accessible by emergency equipment must be located on the access easement.

Elementary and secondary schools. Publicly owned or privately-owned pre-schools, elementary schools, middle schools, junior high schools, and high schools; but not including institutions, the primary function of which, is child day care.

Esplanade. A wide pedestrian walk, formal in design, which runs parallel to a waterfront. An esplanade may be made of pavers, asphalt, crushed gravel, grass, concrete, or other dust-free material.

Essential Services. Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam or water, the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services. Radio transmission facilities for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not essential services, provided no transmitter or antenna tower exceeds 180 feet in height. Essential Services are divided into three classes:

Class 1	Transmission lines (above and below ground) including electrical, natural gas, and water/wastewater distribution lines; pumping stations; and other facilities (up to 200 square feet).
Class 2	Elevated water storage tanks; package treatment plants; telephone switching facilities (over 200 square feet), substations, or other facilities; telephone, electric, steam, and water facilities; raw water treatment facilities.
Class 3	Generation, production, or treatment facilities such as power plants, sewage treatment plants, and landfills.

Existing tree canopy. Tree canopy that has existed for at least 2 years prior to development.

Exterior features. The architectural style, general design, and general arrangement of the exterior of a structure, including the kind, texture, and color of building materials, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures, and including the landscaping and natural features of the parcel containing the structure.

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Façade. The principal vertical surface of a building which is set along a frontage line. The elevation of a façade is the vertical surface area. Façades are subject to visual definition by building height, setback or build to lines, (a line prescribed for the full width of the façade above which the façade sets back; the location of a recess line is determined by the desired height to width ratio of the enfronting space or by a desired compatibility with existing buildings), and transition lines (a line prescribed for the full width of the façade expressed by a variation of material or by a limited projection such as a cornice or balcony).

Facility Operator. The entity responsible for the day-to-day operation and maintenance of the Alternative Wind Energy Facility.

Facility Owner. The entity or entities having controlling or majority equity interest in the Alternative Wind Energy Facility, including their respective successors and assigns.

Family. An individual, or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit; or a group of not more than six persons not related by blood, marriage, or adoption living together as a single housekeeping unit, as in a group home.

Family Care Home. A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities. Persons with disabilities shall mean a person with a temporary or permanent physical, emotional, or mental disability, including, but not limited to, an intellectual or other developmental disability, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments but not including persons with a mental illness who are dangerous to others as defined in G.S. 122C-3(11)(b). Family care homes are permitted in any district which allows residential use, however, no new family care home, measured from the nearest property lines is permitted within a one-half mile radius of an existing family care home.

Farm, bona fide. Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. Activities incident to the farm include existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation. For purposes of this section, "when performed on the farm" in G.S. 106-581.1(6) includes the farm within the Town and any other farm owned or leased to or from others by the bona fide farm operator,

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no matter where located. For purposes of this section, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose.

Farmhouse Cluster. A rural subdivision for up to six house lots accessed by private drive; permitted only in the Rural and Transitional District.

Financial institution. A use or structure where financial, pecuniary, fiscal, or monetary services are made available to the public, including but not limited to depository institutions (i.e. banks, credit unions, savings and loans, etc.), non-depository credit institutions (i.e. credit agencies, loan brokers, etc.), holding companies (but not predominantly operating companies), other investment companies, brokers and dealers in securities and commodities contracts, and security and commodity exchanges.

Fire Separation Distance. The distance measured from the building face to one of the following:

1. To the closest interior lot line.
2. To the centerline of a street, an alley or public way.
3. To an imaginary line between two buildings on the lot.

The distance shall be measured at the right angle from the face of the wall.

Flag lot. A lot of one (1) acre or more in area, created **through a division of land not subject to the Subdivision Ordinance**, for which access is provided by a narrow projection of the lot at least 15 feet in width connecting said lot to a public street. A driveway accessible by emergency equipment must be located on the lot projection.

Flood. A temporary rise in stream flow or stage that results in water over topping its banks and inundating areas adjacent to the watercourse.

Floodway. That portion of the channel and flood plain of a stream designated to provide passage for the Regulatory Flood without increasing the elevation of that flood at any point by more than one foot.

Floodway encroachment lines. The outer boundaries of the floodway.

Floodway fringe. The land area located between the encroachment lines of the floodway district and maximum elevation subject to inundation by the base flood as defined in Chapter 9 of the Town of Huntersville Code of Ordinances (*Floods*).

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Flood protection elevation. The elevation shown on the Flood Area Map and to which structures and uses allowed under these regulations are to be elevated or flood proofed.

Floor. The top surface of an enclosed area in a building (including the basement) such as the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction.

Floor area. The sum of the gross horizontal areas of each floor of the principal building, and any accessory buildings or structures, measured from outside of the exterior walls or from the center line of party walls. The term does not include any area used exclusively for the surface or structured parking of vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawl space.

Floor area ratio (FAR). The total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.

Frontage. The lot boundary which coincides with a public thoroughfare or space. The façade of a structure facing the street. There are seven ways in which a building may address the street:

Arcade. A covered passage with shops on one or both sides. Generally, the façade overlaps the sidewalk while the shopfront remains setback. Sidewalk is fully covered with overhang.



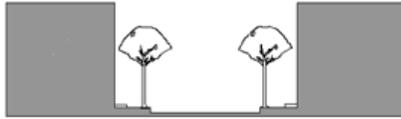
Shopfront. A business or retail use where the façade is aligned directly on the frontage line with the entrance at grade; typical of sidewalk retail. Shopfronts often have awnings or a colonnade. A transition line should separate the signage from the façade below.



Stoop. The façade is aligned directly on the frontage line with the first floor elevated to secure privacy at window height. This type is suitable for residential uses such as

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rowhouses and apartment buildings. An easement may be necessary to accommodate an



encroaching stoop.

Forecourt. The façade sets back and is replaced by a low wall at the frontage line. The forecourt is suitable for gardens and car drop offs. It should be used sparingly and in conjunction with a shopfront or stoop. Trees within the forecourt should be placed to have

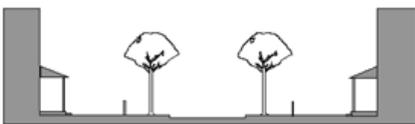


their canopies overhanging the sidewalks.

Dooryard. The façade is set back from the frontage line with an elevated garden or terrace between. This type effectively removes the front yard from the sidewalk and reinforces privacy. A roofed and elevated terrace is especially suitable for restaurants and cafes.



Porch and Fence. The façade is set back substantially from the frontage line with an encroaching porch. The porch should be within conversational distance of the sidewalk. The fence at the frontage line establishes the demarcation of private from public use. The fence row may be designated by a vegetative hedge or structural material, but should not be less than 2 feet nor more than 5 feet in height.



Front lawn. The façade is set back substantially from the frontage line. The front lawn should be visually continuous with adjacent yards and should be unfenced. The large setback provides a good buffer from heavy traffic volumes and is an appropriate design in

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areas where large lot single family homes are placed along a Residential Collector Street.



Frontage Buildout. The portion of lot frontage which has a building or wall running parallel to it.

Full Cutoff Light Fixture. A luminaire light distribution where no light is emitted above the horizontal, and where the intensity at 80 degrees from nadir is no greater than 100 candela per 1000 lamp lumens.

Glare. The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility.

Government Building. A building, use, or facility serving as a governmental agency office, police station, fire station, library, post office, or similar facility, but not including a vehicle storage yard, correctional facility, sanitary landfill, solid waste transfer or disposal facility, wastewater treatment facility, educational or health institution, university, group home, trucking facilities and commercial driver license facilities (CDL), or housing for persons who are participating in work release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

Grade. The elevation of the land or land level at a specific point.

Green Zone. The space between the sidewalk and the back of curb or back of swale and sidewalk where no curb and gutter is present, typically a planting strip or hardscaped amenity zone, which serves as a buffer between pedestrians and vehicles. The Green Zone includes street trees and landscaping and often includes street furnishings and utilities. This is also referred to as Street Yard and Street Tree Planting Easement.

Halfway House. A facility providing sheltered services and/or rehabilitation for up to 6 unrelated residents (not including staff or supervisors) that is not otherwise classified as a family care home. Examples may include but are not limited to persons who are recovering from substance abuse and/or are on probation, parole or are initially placed in-lieu of more restrictive custodial confinement (such as a pretrial release program), and juveniles in order to help them readjust and transition back into mainstream society. This definition does not include persons who are dangerous to others as defined in G.S. 122C-3(11)(b).

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Hazardous materials treatment facility. A building, structure or use of land devoted, or intended to be devoted, primarily to changing by any method, technique or process, including incineration or neutralization, the physical, chemical, or biological character of any hazardous material regulated by the Federal Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.), and the "North Carolina Solid Waste Management Act", as amended (Article 9, G.S.130A-290 et seq.), so as to neutralize such material or render it nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in bulk. Such a use may also contain temporary storage facilities normally associated with these operations and of sufficient size to conduct a commercially feasible operation. However, under no circumstances is a hazardous materials treatment facility to be construed to be any of the following:

1. A facility which manufactures hazardous materials from component nonhazardous materials;
2. A facility or location for the long term or perpetual storage of hazardous materials;
or
3. A facility for the treatment of hazardous materials which is clearly subordinate, incidental and related to the principal structure, building or use of land and is located on the same lot as the principal structure, building or use.

Heavy Manufacturing. The assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare, or health and safety hazards; or that otherwise do not constitute "light manufacturing"; or any use where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing exceeds 25 percent of the floor area of all buildings on the lot.

Heliport. A facility or structure that is intended or used for the landing and take-off of rotary-wing aircraft, including the regular repair, fueling, or maintenance of such aircraft, or the sale of goods or materials to users of such aircraft.

Helistop. A facility or structure that is intended or used for the landing and take-off of rotary-wing aircraft, but not including the regular repair, fueling, or maintenance of such aircraft, or the sale of goods or materials to users of such aircraft.

Heritage tree. A tree that is listed in the North Carolina Big Trees List, the *American Forest Association's Champion Tree* list, the Mecklenburg County Treasure Tree List or any tree that would meet 80% of the points of a tree on North Carolina's Big Tree List.

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Home Occupations. A business, profession, occupation, or trade which is conducted within a residential building or accessory structure for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use of the building.

Horse Farm. Any tract of land of three or more acres which is principally used for the breeding, training, riding, and/or maintenance of horses, and those uses which are accessory thereto, including up to one dwelling unit per each five acres and facilities for the sale of horses raised or maintained on the immediate premises.

Hospital. A health care facility the purpose of which is to provide for care, treatment, testing for physical, emotional, or mental injury, illness, or disability, and overnight boarding of patients, either on a for-profit or not-for-profit basis; but not including group homes.

Hotel. A building containing more than four individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services, and all of whose rooms open onto heated corridors that are internal to the building.

Impervious ground cover. Any structure or ground cover consisting of asphalt, concrete, stone, brick, terrazzo, roofing, ceramic tile or any other natural or man-made material that prevents the absorption of surface water into the soil.

Independent Living Facility. Congregate living facilities, such as rest homes and homes for the aged, which are designed for older persons or disabled persons who do not require health and support services, such as medical and nursing care, central dining, and transportation service, located on the site. Each living unit may be self-contained and is physically accessible to older or disabled persons. Distinguished from apartment building(s) by the provision of some communal services.

Indoor Recreation. Public or private health or exercise clubs, tennis or other racquet courts, swimming pools, YMCA's, YWCA's or similar uses which are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. "Indoor recreation" structures may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

Inert debris. Solid waste consisting solely of material that is virtually inert, that is likely to retain its physical and chemical structure under expected conditions of disposal, and that

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will not pose a threat to groundwater standards. Inert debris includes material such as concrete, brick, concrete block, uncontaminated soil, rock and gravel. Inert debris does not include manufactured products, appliances, and the like.

Inn. A building containing fewer than 30 individual rooms for the purpose of providing overnight lodging, food and drink to the general public for compensation, and which has common facilities for reservations, cleaning services, combined utilities, on-site management and reception.

Interconnected. Refers to streets which provide through access to other streets; interconnected street systems may be either rectilinear or curvilinear.

Internet Sweepstakes. A principal business where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Internet Sweepstakes do not include any lottery approved by the State of North Carolina.

Jail. A building, and all accessory uses and structures, used to confine, house, and supervise persons who are serving terms of imprisonment for violations of criminal laws or who are awaiting trial for alleged violations of criminal laws, but not including temporary holding facilities that are accessory to a police station and not including any housing or other facilities for persons who are participating in work-release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

Junk yard. A parcel of land on which waste material or inoperative vehicles and other machinery are collected, stored, salvaged, or sold.

Kennel, commercial. A use or structure intended and used for the breeding or accommodation of small domestic animals for sale or for the training or overnight boarding of animals for persons other than the owner of the lot, but not including a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals.

Kennel, private. A structure used for the outdoor accommodation of small domestic animals and not operated on a commercial basis.

Land Clearing and Inert Debris (LCID) Landfill. A facility for the land disposal of land clearing debris and inert debris, as defined herein. It is designed to meet standards of the State of North Carolina by utilizing acceptable technology for landfilling land clearing and

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inert debris. A clean fill operation which is conducted to improve or recontour land, using only soil, is not construed to be such a landfill.

On-site LCID landfill. A LCID landfill which is located within the confines of property being developed or in use, and used only for the disposal of acceptable materials which are generated on the property being developed or used; a disposal site that is clearly an accessory use to the development activity.

Off-site LCID landfill. A LCID landfill which is itself the principal use of a property and is used for the disposal of acceptable materials, some or all of which are generated off the site of the property being used for the landfill.

Land Clearing Debris. Waste that is generated solely through land clearing activities; such waste includes stumps, trees, limbs, brush, grass, and other naturally occurring vegetative matter.

Land Development Standards Manual. The most recent edition of the Town of Huntersville Engineering Standards and Procedures Manual which sets forth standard details for the design and construction of various aspects of development.

Land disturbing activity. Any use of land by any person that results in a change in the natural cover or topography or that may contribute to sedimentation or soil compaction that affects the critical root zone.

Landscape architect. A registered landscape architect licensed by the State of North Carolina.

Landscaping. The installation and maintenance, usually of a combination of trees, shrubs, plant materials, or other ground cover, including grass, mulch, decorative stone and similar materials, but excluding bare soil, uncultivated vegetation, impervious pavement materials, and gravel.

Large-Lot Subdivision. A major residential subdivision in which all residential lots are a minimum of 3/4 acre in size.

Large Maturing Tree. A tree whose height is greater than 35 feet at maturity and meets the specification of "American Standards for Nursery Stock" published by the American Association of Nurserymen. See also canopy tree.

Light Manufacturing. The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place; where such processes are housed entirely within a building; or

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where the area occupied by outdoor storage of goods and materials used in such processes does not exceed 25 percent of the floor area of all buildings on the property.

Light Trespass. Any form of artificial illumination emanating from a light fixture or illuminated sign that penetrates other property and creates a nuisance.

Lot. A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such accessways, parking area, yards, and open spaces required in these regulations.

Lot of Record. A lot described by plat or by metes and bounds which has been recorded in the office of the Register of Deeds.

Lot Types.

Corner Lot. A lot located at the intersection of two or more streets or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than 135`.

Interior Lot. A lot other than a corner lot with frontage on only one street.

Through Lot. A lot other than a corner lot with frontage on more than one street.

Reverse Frontage Lot. Any lot oriented to an abutting street in such a way that the intersection of the front building line, extended, and the street right of way line form an interior angle of less than 45 degrees is defined as having reverse frontage relative to said street.

Lot Width. Lot width shall be determined based on the applicable definition below:

1. The distance between the side lot lines measured along a minimum setback line established under the standards of the 1991 Huntersville Zoning Ordinance, the Mecklenburg County Zoning Ordinance, the provisions of Article 8.1, paragraph 1., or prior legally controlling regulations; or
2. The distance between the side lot lines measured along a build-to line established under the standards of the 1996 Huntersville Zoning Ordinance; or
3. Along the turnaround portion of a cul-de-sac, the distance between the side lot lines measured along a building frontage line established by legal subdivision plat or by actual building placement; or
4. If no setback is required for a lot according to this ordinance, and neither setback nor build-to line has been established on a previously recorded plat, lot width is the distance measured between the side lot lines along the street right of way.

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Maintained Easement. A recorded right of way made of crushed gravel, pavement, or graded and cleared of brush, so as to permit access by vehicles.

Manufactured Home. A dwelling unit, other than a modular home, that is a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act.

Manufactured Home Park or Rental Community. Any parcel of land under single ownership where land is rented, and utilities are provided for the installation or placement of manufactured homes.

Manufactured Home Subdivision. Any parcel of land which is subdivided, with utilities extended for the installation or placement of manufactured homes.

Marina, Commercial. A facility for the wet storage, launching and mooring of boats, together with all accessory structures and uses. The dry storage of boats is permitted as accessory to commercial marinas in the Highway Commercial District only, where outdoor storage shall adhere to the conditions of Section 9.26, and indoor storage shall adhere to a permitted building type.

Marine Railway. a line of track running from the shoreline into a body of water to provide a runway for a wheeled or other apparatus to lower a boat into the water.

Massage therapy. Health massage or bodywork therapy, performed by a practitioner credentialed in one of the following ways:

1. having a diploma or certificate from an institute or school of health massage, which has been accredited by either the American Massage Therapists Association, the National Therapists Association, or from an accredited college or university school of education for massage therapy; or
2. providing verification and documentation of at least 500 hours of experience in the practice of health massage/bodywork therapy and three letters of reference from state licensed health care professionals or licensed therapists on their professional letterhead.

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Massing. The shape and form a building or assemblage of buildings assumes through architectural design. There are eleven elements which affect the creation of public space and the relationship between one building and another. A specific project should consider, but may not need to incorporate, all eleven elements.

Building silhouette: pitch and scale of a roof lines.



Spacing between building façades: setbacks or notches between primary façades which



frames a structure.

Setback from property line: building setback and/or primary façade setback from



property line.

Proportion of windows, bays, and doorways: vertical or horizontal elements tied together



in bands across façade lengths.

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Proportion of primary façade: size of façades in area and height to width ratios.



Location and treatment of entryway: important visual commonalities between



structures.

Exterior materials used: similar materials and treatment add to compatibility of



building(s).



Building scale: building height and configuration.

Landscaping: ties together buildings and defines space.



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Shadow patterns that form decorative features: the light and dark surfaces from materials used and projections from window bays and setbacks.



Proportion of solids to voids: the perceived permeability of a building façade that is created by the ratio of windows and doors to solid walls.

Mean Sea Level. The National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on the Flood Insurance Rate Maps for Mecklenburg County are referenced.

Mechanical and utility equipment. Equipment including, but not limited to, heating and cooling units, ventilation, utility meters, junction boxes, transformers and generators.

Mid-block private alleyway with courtyard. An area enclosed on at least two sides by the vertical rise of building walls with a private vehicular or pedestrian passageway for access to the public street. This form may be used for vehicular parking that meets, but does not exceed, the needs of residential and/or non-residential uses that front upon it. The alleyway may be either linear or circuitous in nature. The alleyway with courtyard shall be of a unified design, constructed of hard-surfaced paving materials and optional landscaping to create an urban setting supportive of pedestrian use as well as optional vehicular parking. Hard-surfaced paving materials include paving blocks, stone, brick, and either concrete or asphalt that has been scored, colored, or otherwise configured to resemble pavers, stone, or brick.

Minor Modification to development approvals. Minor modifications that may be reviewed and approved by the Zoning Administrator or designated administrative official as provided for in these regulations.

Minor Modification, Special Use Permit. Minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development permitted that may be reviewed and approved by the Zoning Administrator or designated administrative official.

Minor Modification, Conditional Zoning District. Minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall

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development permitted that may be reviewed and approved by the Zoning Administrator or designated administrative official.

Mixed Use. The combination of both commercial and residential uses within a single building of two or more stories, wherein at least 50% of the heated floor area contains residential dwelling unit(s).

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

Mixed Use Node. A pedestrian-oriented development consisting of a major subdivision and or a combination of major subdivisions that meet the following criteria; not less than 50 acres and not more than 100 acres, located at the intersection of two major thoroughfares (existing or proposed) as designated on the Thoroughfare Plan containing a combination of commercial uses in excess of 100,000 square feet and residential uses which will occupy at least 50% of the land area of the node.

Mobile Home. A movable or transportable dwelling unit, other than a modular home or manufactured home, of at least 8 feet in width and at least 32 feet in length, constructed to be transported on its own chassis and including one or more components for transporting the unit.

Mobile Home Park. Any site or parcel of land under single ownership where land is rented and utilities are provided for the installation or placement of mobile homes.

Mobile Home Subdivision. Any parcel of land which is subdivided, with utilities extended for the installation or placement of mobile homes.

Modular Home. A dwelling unit which is constructed in compliance with the State Building Code and composed of components substantially assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Mooring or Float. An object or structure secured in the water, such as by cables, lines, chains, or anchors, and intended or used for securing one or more boats in the water.

Motel. A building containing more than four individual rooms for the purpose of providing overnight lodging to the general public for compensation, and which has common facilities for reservations, cleaning services, combined utilities, on-site management and reception, and some or all of whose rooms open directly on a parking area.

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Multiple Building Site. A group of two or more nonresidential buildings established on a single development tract, having unified design of buildings and coordinated organization of open space, parking, and service areas.

Nadir. Lowest point on the fixture.

Neighborhood Gasoline Station. A building and use for the sale of gasoline primarily to non-commercial vehicle operators, having no more than two pumping canopies, and providing only minor automotive repairs.

Neighborhood Recreation. Public or private neighborhood tennis, or other courts, swimming pools or similar indoor and/or outdoor uses that are operated on a fee or membership basis primarily for the use of persons who reside in the neighborhood that the facility is located. "Neighborhood Recreation" structures shall include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

Nightclub. Any commercial establishment serving alcoholic beverages and/or providing entertainment for patrons, including bars, lounges, taverns, cabarets, and similar establishments.

Nonconforming Structure. Any structure, lawfully existing on the effective date of these regulations or on the effective date of any subsequent amendments to these regulations or the Zoning Maps which render such structure nonconforming, which does not comply with all of the standards and regulations of this ordinance or any amendments thereto, whichever may be applicable.

Nonconforming Use. Any use, lawfully being made of any land, building or structure on the effective date of these regulations or on the effective date of any subsequent amendments to these regulations or the Zoning Maps which render such use nonconforming, which does not comply with all of the regulations of this ordinance or any amendments thereto, whichever may be applicable.

Nonconforming Vacant Lot. Any lot of record which does not meet the minimum area or width requirements established in these regulations or any amendment thereto, whichever may be applicable.

Non-residential use. All uses that are not a residential use.

Nursing home, rest home, or home for the aged. A facility or housing development in which an agency, organization, or individual provides care for 3 or more sick, handicapped, and/or aged persons, not related by blood or marriage to the operator. Such congregate care

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facilities are classified as "dependent living facilities" or "independent living facilities" depending upon the degree of support services on site.

Off-street parking. Parking which occurs on a lot and not on a street or other public right of way.

Office. A use or structure in which business or professional services are conducted or rendered.

Open Space. Any area which is not divided into private or civic building lots, streets, rights-of-way, parking, or easements for purposes other than open space conservation. Unless specifically allowed by this ordinance in Conservation Subdivisions, and Minor Subdivisions. Reference Article 7.11 Urban, Agricultural, Common, Natural and Recreational Open Space for specific qualitative criteria.

Outdoor lighting. Any light source that is installed or mounted outside of an enclosed building, but not including street lights installed or maintained along public or private streets.

Outdoor recreation. Public or private golf courses, country clubs, swimming pools, tennis courts, ball fields and ball courts which are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. "Outdoor recreation "shall include any accessory uses, such as snack bars, pro shops, and club houses which are designed and intended primarily for the use of patrons of the principal recreational use.

Overnight camping trailer park. Any lot upon which two or more overnight camp sites and/or overnight camping trailers occupied for temporary shelter, dwelling, recreation, or vacation uses may be located on a non-profit or for-profit basis.

Owner. The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

Parallel conditional zoning district. A conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general use district having a parallel designation or name. Parallel conditional zoning shall not require the issuance of a special use permit or permitting process apart from the establishment of the district and its application to particular properties.

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Parcel. Any quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries. It may be established as distinct from other parcels which are designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

Park. Any land owned by the public and open for use by the general public for active or passive recreational purposes or as a refuge for wildlife.

Parking Lot. An area, not within a building, where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking. A parking area also includes all areas for storage and trash facilities.

Parking Zone. An area to accommodate on-street parking adjacent to uses where on-street parking provides convenience. Parking widths and layout may vary. This area may also include transit stops and provide provisions for transit pull-outs.

Participating Landowner. A landowner under lease or other property agreements with the Facility Owner or Operator pertaining to the Alternative Wind Energy Facility.

Pedestrian Access, Main. The principle architectural and functional means of a public ingress and egress into a building as part of normal and customary establishment operations.

Pedestrian Access, Secondary. An ancillary architectural and functional means of public ingress and egress into a building as part of normal and customary establishment operations.

Pedestrian Oriented Development. Any development type which accommodates the needs of the pedestrian. Such development will have parking to the side or rear of a building, will mix uses and provide them in proximity to one another, will allow the pedestrian the option of accomplishing certain trips without automobile use, and will provide a variety of interesting and detailed streetscapes which balance the need of the pedestrian and car equally.

Pedestrian Zone. The area intended for pedestrian travel. The walkway section of the pedestrian zone should be of sufficient width to allow pedestrians to walk safely and comfortably for current and future pedestrian activity.

Person. An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

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Pier. A structure extending into or along the water for use as a landing place for boats or as a promenade.

Pilot plant. A building or operation in which processes planned for use in production elsewhere can be tested, but not including the production of any good on the premises primarily or customarily for sale, or for use in production operations.

Planned commercial development. Any planned project including, shopping centers, office complex, church, institutional, business campuses and similar large complexes which have a variety of tenants or uses.

Planning Board. The Town of Huntersville Planning and Zoning Board, established by ordinance in accordance with N.C.G.S. 160D-301.

Planning Jurisdiction. The land located within the boundaries of the most recently adopted Huntersville Land Development Plan, and consistent generally with the Town's annexation sphere of influence, in which the Town may undertake planning and apply the development regulations authorized by this ordinance.

Plant Nursery. Any tract of land which is used for the growth, nurture, production, acclamation, marketing or sale (whether at wholesale or retail) of plants, flowers, fruits, vegetables, shrubbery, trees or other agricultural, ornamental or forestry products, as well as activities ancillary or incidental thereto, including, without limitation, the distribution and sale of goods and materials used in connection with those items.

Plaza. An urban open space, constructed entirely or largely of hard-surfaced paving blocks, stone, brick, or similar materials, framed on at least two sides by the vertical rise of building walls; occasionally framed by closely planted large maturing trees in lieu of buildings. May be used for occasional parking in front of a civic or public building.

Principal building or structure. A building or structure containing the principal use of the lot.

Principal use. The primary purpose or function that a lot serves or is proposed to serve.

Private courtyard. An area enclosed on at least three sides by the vertical rise of building walls providing a pedestrian open space constructed of hard-surfaced paving materials and/or landscaping. Hard-surfaced paving materials include paving blocks, stone, brick, and either concrete or asphalt that has been scored, colored, or otherwise configured to resemble pavers, stone, or brick.

Project area. Any area of land and/or water, regardless of the number of individual parcels contained therein, on which development is proposed under these regulations.

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Promenade. See Esplanade.

Proposed right-of-way line. The margin of a thoroughfare's right-of-way at its ultimate intended width, determined by (1) the thoroughfare's classification and (2) dimensional requirements or locational criteria as established in the Subdivision Ordinance.

Prototype production plant. A building or operation in which goods are produced only in a quantity necessary for full investigation of the merits of a product, but not including the production of any goods on the premises primarily or customarily for sale or for use in production operations on the premises.

Pruning. The cutting off or removal of dead or living parts of a tree or shrub for the intentions of improving growth.

Public utilities. Above ground or underground publicly licensed utilities including water, sanitary sewer collection and distribution line, natural gas, cable television, storm water drainage, transit or transportation, or electrical services and any associated structures such as pumping stations, treatment plants, and transformer stations for providing to the public a utility service deemed necessary for the public health, safety, and welfare. Utility service to the public has been defined broadly to mean all consumers-industrial, commercial, or residential.

Public utility structure. An electricity or gas substation, water or wastewater pumping station, telephone repeater station or similar structure used as an intermediary switching, boosting, distribution, or transfer station for electricity, water, wastewater, cable television, or telephone services between the point of generation and the end user, or a public or private wastewater treatment plant or water treatment plant, but not including satellite dish antennae, facilities for the handling of solid waste, or radio, television, or microwave transmission or relay towers.

Quadrangle. A rectangular area, such as a courtyard, enclosed by buildings.

Quarry. An operation for the dredging, digging, extraction, mining, or quarrying of stone, sand, gravel, or minerals for commercial purposes.

Quasi-judicial decision. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations.

Reach. A longitudinal segment of a stream or river, such as the segment between two bridge crossings or the mouths of two tributaries to the stream or river.

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Redevelopment. The demolition and reconstruction of a building or a portion of a building.

Reclassification of land. A change in the zoning district assigned to a lot pursuant to a public hearing before the Town Board and a subsequent decision by the Board. (Also, Rezoning).

Regulatory Flood. A flood representative of large floods reasonably characteristic of what can be expected to occur on a particular stream, with an average recurrence interval of 100 years, determined from an analysis of floods on a particular stream and other streams in the same general region.

Religious institution. A church, synagogue, temple, mosque, or other place of religious worship, including any accessory use or structure, such as a school, day care center, cemetery or dwelling, located on the same lot.

Research laboratory. A facility equipped for basic and applied research or experimental study, testing, or analysis in the natural sciences, including any educational activities associated with and accessory to such research, but not including a medical, dental, optical, or veterinary clinic, or a research facility located on the principal site of a health institution or university.

Residential cottage. A rental unit associated with Country Inn Development that consists of sleeping quarters and bathroom facilities which are typically associated with overnight stays.

Residential use. Any detached, duplex, triplex, quadraplex, attached, or multifamily dwelling, manufactured home, mobile home, group home for up to six clients, limited residence boarding house, or dormitory.

Restaurant. A building or operation, the purpose of which is to accommodate the consumption of food and beverages.

Retirement Communities. Single family and attached housing under single ownership on a parcel of land designed for active adults and independent persons over age fifty-five (55) not requiring health support services such as medical and nursing care on site. Each living unit is self-contained and is physically accessible to older and disable persons. Distinguished from apartments by the provision of some communal services.

Retail establishment. A building, property, or activity the principal use or purpose of which is the sale of goods, products, or merchandise directly to the consumer.

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Riding Academy. A facility the principal use of which is the provision of lessons in horseback riding on a non-profit or for-profit basis. Permitted in the Rural and Transitional District, according to the standards of Section 9.33.

Sanitary Landfill. A solid waste disposal facility designed to meet the minimum standards of the State of North Carolina wherein refuse and other waste defined by State standards is disposed of by utilizing acceptable landfill engineering technology.

Saw-mill. A mechanized facility for cutting logs into timber for carpentry.

Screening. A fence, wall, hedge, landscaping, buffer area or any combination of these provided to create a visual separation between certain land uses. A screen may be located on the property line or elsewhere on the site, as determined by the use to be screened.

Setback, established. The distance between a street line and the front building line of a principal building or structure, as constructed, projected to the side lot lines. See also Yards.

Setback, required. The minimum distance required by this ordinance or established by recorded plat between the street right-of-way line and the front building line of a principal building or structure, projected to the side lines of the lot. For flag lots, the minimum setback shall be measured between the front property line of the buildable portion of the lot and the front building line of the principal structure, projected to the side lines of the lot.

Shared Vehicle Zone. The primary travel way for vehicles which can include a mixture of traffic (cars, trucks, buses, and bicycles).

Shielded Light Fixture. A light fixture with cutoff optics that allows no direct light emissions above a vertical cutoff angle of 90 degrees above nadir, through the light fixture's lowest light emitting part. Any structural part of the light fixture providing this cutoff angle must be permanently affixed.

Shopfront. A business or retail use with façade aligned directly on the frontage line and the entrance at grade. Found in sidewalk retail.

Shopping Center. A group of two or more retail establishments or restaurants, including all associated out parcels (whether or not they have been subdivided from the primary tract), having a unified design of buildings, coordinated parking and service areas, and developed in accordance with the requirements of the zoning district in which it is located.

Shrub. Vegetation that is planted for ornamental or screening purposes.

Sign. Any object, device, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution,

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organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or of any fraternal, religious or civic organization; works of art which in no way identify a product; or scoreboards located on athletic fields.

Significant tree. Any tree other than a pine tree with a caliper of 18 inches or more.

Silviculture. Science and art of cultivating forest crops based on the study of life history and general characteristics of forest trees.

Site analysis. A site plan completed by a certified landscape architect, in conjunction with a licensed land surveyor, showing the subject property including the following features: existing tree lines, all specimen and heritage trees, topography at two feet intervals, lakes, streams, floodplain, SWIM buffers, watershed buffers, historic sites, slope analysis (0%-10%, 10%-15%, 15%-25%, >25%), natural drainage patterns, soils, site connectivity and access.

Site plan. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.

Small Maturing Trees. A tree whose height is less than 35 feet at maturity and meets the specifications of "American Standards for Nursery Stock "published by the American Association of Nurserymen.

Solar Energy Facility, Major. A solar energy facility that is not a minor solar energy facility.

Solar Energy Facility, Minor. A facility for the production of electrical energy or solar heat in which all of the following are met:

1. Is located on the power beneficiary's premises; and
2. Is intended primarily to offset part or all of the beneficiary's requirements for electricity/gas; or is any non-residential rooftop facility.
3. Is secondary to the beneficiary's use of the premises for other lawful purpose(s).

Solar Farm. See Solar Energy Facility, Major.

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Solar Hot Water Heater. A solar heater(s), or solar thermal system that provides heat for water, space heating, and swimming pools by collecting the sun's energy to heat air or a fluid which transfers solar heat.

Solar Panel. A device which is used to convert energy contained within the sun's rays into electricity, PV (photovoltaic) panel.

Solar Power. The conversion of solar energy into another form of energy.

Solid Waste. Any hazardous or nonhazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, agricultural, and land clearing operations. This term does not include the following:

1. Fowl and animal fecal waste;
2. Solid or dissolved material in any of the following:
 1. Domestic sewage, and sludge generated by the treatment thereof, in sanitary sewage disposal systems which have a design capacity of more than 3,000 gallons or which discharge effluents to the surface waters;
 2. Irrigation return flows; or
 3. Wastewater discharges, and the sludge incidental thereto and generated by the treatment thereof, which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1342 et seq.) and permits granted under G.S. 143-215.1 by the Environmental Management Commission;
3. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the North Carolina General Statutes;
4. Any radioactive material as defined by the North Carolina Radiation Protection Act (G.S. 104E-1 et seq.); or
5. Mining refuse covered by the North Carolina Mining Act (G.S. 74-46 et seq.), and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290).

Special Use Permit. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and

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discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

Specimen tree. A tree (or group of trees) that may be considered important community assets due to their unique or noteworthy characteristics or values. A tree may be considered a specimen tree based on its size, age, rarity or special historical or ecological significance and may also meet the following criteria:

1. Large hardwoods (e.g. oaks, poplars, maples, etc.) and softwoods (e.g. pines sp.) in good or better condition with a DBH of 24" or greater.
2. Smaller understory trees (e.g. dogwoods, redbuds, sourwoods, persimmons, etc.) in good or better condition with a DBH of 12" or greater.
3. Lesser-sized trees of rare species or special intrinsic value as approved by staff.

Stadium. A structure or facility designed, intended, or used primarily for athletic events or other performances and containing seating for spectators of those events, but not including a raceway or drag strip.

Storm Drainage Design Manual. The most recent edition of the manual adopted by the Town Board setting forth standard details for the design and construction of storm water management systems.

Story. That part of a building or structure above ground level between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds one-third of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one-third of the area of the roof. The under roof area with dormers does not count as a story.

Street Line. The outer boundary of a street right-of-way.

Street Orientation. The direction of the architectural front façade of a building in relation to the street.

Street, Private. An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

Street, Public. A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of Huntersville or the State of North Carolina.

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Street Right-of-Way. Street right-of-way shall mean any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Town of Huntersville or Mecklenburg County, if so authorized; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of Huntersville; or has otherwise been established as a public street prior to the adoption of this ordinance.

Street tree. A tree planted along a street right-of-way or public access easement, excluding alleys. The tree must be a large maturing deciduous canopy tree on the approved tree list.

Street Vista. A view framed by buildings at the termination of the axis of a thoroughfare or large neighborhood street.

Street Yard. The area of land along the front property line parallel to a right-of-way reserved for tree planting and landscaping. Also called street tree planting easement or Green Zone.

Streets. The term “streets” generally represents a continuum of roadway types that vary in form and function serving a variety of access and mobility needs. The types range from “Freeway” to “Local” and are further described below:

Freeway. High volume, high speed highways with access only at interchanges. Freeways are typically constructed to Interstate Highway standards. May incorporate special management techniques and may contain specialized accommodations for multi-occupant or transit vehicles. No parallel accommodation for non-motorized users.

Boulevard. Moderate to high volume, moderate speed roadway. Includes median and may incorporate interchanges as appropriate. Access strongly controlled, typically provided at street intersections and may be directional in nature (i.e. not full movement.) Shall incorporate provisions for transit, bicycle, and pedestrian users depending on context.

Other Major Thoroughfares. Multi-lane, moderate to high volume roadway, speed limits vary according to context. Often incorporate auxiliary lanes for turning vehicles. Typically includes median, individual driveways discouraged. Shall incorporate provisions for transit, bicycle, and pedestrian users.

Minor Thoroughfares. Usually two-lane roadways with low to moderate speeds depending on context. Balance of mobility and access functions. May include transit user provisions, shall incorporate non-motorized users.

Collector. A roadway which assemble traffic from local streets, and distributes it to the nearest thoroughfare. The collector road provides direct primary access to low/medium density land uses. It is designed to carry low to moderate traffic volumes at low to moderate speeds.

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Local. This is a two-lane roadway which provides access directly to adjoining low/medium density land uses. It also conducts traffic to local limited and collector streets which serve the area. The local road is designed to accommodate low volumes of traffic at low speeds.

Town Streets (Town of Huntersville classification). Town Street classification refers to the hierarchy of low speed, interconnected streets with pedestrian orientation of buildings and a fine-grained section which includes street tree plantings and sidewalks on either side of pavement. The required street elements can be assembled in a variety of ways depending on the fronting uses and the function/rank of the street in the hierarchy. Streets meeting the standards of Article 5 and the Engineering Standards and Procedures Manual (ESAPM) are eligible for acceptance and maintenance by the Town as public streets. Residential alleys will generally remain private.

Thoroughfare. Any street (existing or proposed) on the adopted Comprehensive Transportation Plan (CTP) Highway Map. The words thoroughfare and arterial are used synonymously and indicate streets which are designated as freeways, expressways, boulevards, other major thoroughfare or minor thoroughfare.

Structure. Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building, which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and similar accessory construction.

Substantial Improvement. Any repair, reconstruction, expansion, or improvement of a structure, the cost of which exceeds 50 percent of the assessed value of a structure as determined either before the expansion or improvement begins or before the damage occurred giving rise to there pair or reconstruction. "Substantial improvement" shall not include, however, any repair or improvement required to bring the structure into compliance with existing state or Town health, sanitary, safety, or building code specifications necessary to ensure safe habitation of the structure.

Temporary Storage Container. Transportable units designed and used primarily for temporary storage of building materials, household goods, personal items and other materials for use on a limited basis on residential property.

Temporary Structure. A building placed on a lot for a specific purpose which is to be removed within a specified time period. Examples of temporary structures are monitoring stations, mobile classrooms, construction trailers and guard houses, and produce stands.

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Terminated Vista. A view through or along a street, open space, or other opening which is brought to a close by a building, structure, significant natural feature, park or similar public space or feature.

Textured Glass. A patterned glass which has a specific pattern or design impressed into one surface. It allows the passage of light, but varying levels of obscuration, depending on the depth and configuration of pattern.

Threshold elements. Porches, stoops, stairs, balconies, eaves, and cornices, loggias, arcades, chimneys, doors and windows, which are placed at or near the build-to line and interface between the main body of the building and the street.

Topping. Any pruning practice that results in removal of the foliage and limbs that leads to disfigurement or abnormal shape of a tree. Also known as rounding-over, heading-back, dehorning, capping, and hat racking.

Town Attorney. The attorney for the Town of Huntersville, duly retained by the Board of Commissioners of the Town of Huntersville.

Town Manager. The Town Manager of the Town of Huntersville.

Traditional Neighborhood. A traditional neighborhood incorporates design principles that produce compact, mixed use, pedestrian scaled communities. The following conventions are generally employed in the design of traditional neighborhoods.

1. The neighborhood is limited in area to that which can be traversed in a 10 to 15 minute walk.
2. Residences, shops, workplaces, and civic buildings are located in close proximity.
3. A well defined and detailed system of interconnected streets serves the needs of the pedestrian and the car equally, providing multiple routes to all parts of the neighborhood.
4. Physically defined open spaces in the form of plazas, squares, and parks, in addition to finely detailed public streets, provide places for formal and informal social activity and recreation.
5. Private buildings form a clear edge, delineating the private from the public realm.
6. Civic buildings reinforce the identity of the neighborhood, providing places of assembly for social, cultural, and religious activities.

Traditional neighborhoods pursue certain objectives through their design.

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1. Independence of movement for the elderly and young by bringing many activities of daily living within walking distance.
2. Reduced traffic congestion and road construction costs by reducing number and length of car trips.
3. Use or preparation for future use of alternative forms of transportation by organizing appropriate building densities.
4. Improved security of public spaces organized to stimulate informal surveillance by residents and business operators.
5. Enhanced sense of community and improved security through provision of a range of housing types and workplaces in proximity to one another.
6. Accessible places for public assembly and civic engagement by identification of suitable sites for civic buildings.

Transitional Setback or Yard. That area, if any, along a thoroughfare, which lies between (a) the minimum setback or yard line for the zoning district measured from the existing street right-of-way line and (b) the minimum setback or yard line measured from the Proposed Right-of-Way Line. There will be no transitional setback or yard when the existing street right-of-way and the proposed right-of-way line are the same.

Transitional use. A permitted use or structure that, by nature, level of activity, or physical scale, acts as a transition or intermediate use between two or more incompatible uses.

Transit-Oriented Parking Lot. An area directly associated with a public transit system where motor vehicles may be stored for the purposes of temporary or daily off-street parking.

Transmittance. Percentage of normally incident visible light passing directly through the glazing.

Tree save area. Area to be preserved which equals the drip line of tree(s) plus an additional 5 feet around the entire perimeter of area.

Tree survey. A description, for the purposes of identification, of the existing trees, under story vegetation, and topographical features on a site prior to development and site design.

Turbine Blade Clearance. The distance measured from the grade at the center of the tower to the lowest point of the turbine rotor or tip of the turbine blade when it reaches its lowest elevation.

Turkey Shoot. A place or event at which contestants discharge shotguns in competition for prizes.

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Uniformity ratio. The ratio of average illumination to minimum illumination.

University, college and junior college. A use, whether privately-owned or publicly-owned, providing academic education beyond the high school level.

Used asphalt. Used asphalt or used asphalt mixed with dirt, sand, gravel, rock, concrete or similar non-hazardous material.

Vested right. The right to undertake and complete the development and use of the property under the terms and conditions of a development approval, including any amendments thereto, as specified in G.S. 160D-108(c) or under common law.

Vocational School. A use, whether privately-owned or publicly-owned, that trains persons in specific trades or occupations such as mechanics, stenography, or similar skills.

Warehousing. The indoor storage of goods, materials, or merchandise for shipment to, or processing on, other property.

Wastewater Treatment Facility. A facility operated by a licensed utility, in compliance with all applicable state, county, and town regulations, and intended or used for the treatment and surface or subsurface disposal of wastewater and which serves more than one use or more than four dwelling units; or a facility intended or used for the treatment and subsurface disposal of wastewater which serves only one use or up to four dwelling units.

Wind Energy Facility, Major. Wind farm that is not a minor wind energy facility.

Wind Energy Facility, Minor. A facility for the production of electrical energy in which all of the following are met:

1. Is located on the power beneficiary's premises; and
2. Is intended primarily to offset part or all of the beneficiary's requirements for electricity/gas; and
3. Is secondary to the beneficiary's use of the premises for other lawful purpose(s).

Wind Farm. See Wind Energy Facility, Major.

Wind Power. The conversion of wind energy into another form of energy.

Wind Turbine, or Windmill. A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower and pad transformer.

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Wind Turbine Height. The distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Wholesale Establishment. A building, property, or activity the principal use or purpose of which is the sale of goods, products, or merchandise stored on the premises to persons who are intermediaries between the producer and the consumer.

Working Day. Any day on which the offices of the Town of Huntersville are officially open, not including Saturdays, Sundays, and other holidays designated by the Town Board.

Yard, rear, required. When required by this ordinance or established through recorded plat, a minimum distance between the rear of a principal building or structure and the lot line farthest from the street fronting the lot, projected to the side lines of the lot on which the building or structure is located.

Yard, rear, established. The distance between the rear of a principal building or structure and the lot line farthest from the street fronting the lot, projected to the side lines of the lot on which the building or structure is located.

Yard, side, required. When required by this ordinance or established by recorded plat, a minimum distance between the side lot line and the side building line, extending from the established setback to the required rear yard. For buildings not set back from the street right-of-way, the side yard shall be defined as extending from the street line to the required rear yard.

Yard, side, established. The distance between the side lot line and the side building line, extending from the established setback to the established rear yard. For buildings not set back from the street right-of-way, the side yard shall be defined as extending from the street line to the established rear yard.

Yard, tree, required. A tree or trees required to be planted in the front or rear yard of a lot to satisfy the requirements of Article 7 of the Zoning Ordinance.

Yard Trash. Solid waste consisting of vegetative material resulting from landscaping and yard maintenance, such as brush, grass, tree limbs and similar material.

Zero lot line. The location of a building on a lot in such a manner that one of the building's sides rests directly on a lot line; also referred to as a sideyard house.

Zoning Administrator. The employee(s) or agent(s) designated by the Town Manager to oversee the administration and enforcement of these regulations.

12.2.3 Watershed Definitions

Water Supply Watershed Protection. Regulations embodied in the Mountain Island Lake and Lake Norman Watershed Overlay Districts pursuant to G.S. 143-214.5. For purposes of the watershed regulations, the following special definitions apply:

Agricultural Use. The use of waters for stock watering, irrigation, and other farm purposes.

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

Non-structural BMPs. Non-engineered methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

Structural BMPs. Engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply. Structural BMPs allowed for use under the High Density Option are those which have been approved by the North Carolina Division of Water Quality and Mecklenburg County. These are wet detention ponds, extended dry detention ponds, and grass swales.

Buffer. A natural or vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized, and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Built-upon Area (B.U.BUA). Built-upon areas shall include that portion of a development project and/or lots that are covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), etc. (NOTE: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

Impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil.

For the purposes of this section, none of the following surfaces shall be considered "built-upon area" or an impervious or partially impervious surface:

(1) A slatted deck.

(2) The water area of a swimming pool.

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(3) A surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric.

(4) A trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour).

(5) Landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle.

(6) Artificial turf, manufactured to allow water to drain through the backing of the turf, and installed according to the manufacturer's specifications over a pervious surface.

Critical Area. The area adjacent to a water supply intake where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area of the Mountain Island Lake Watershed Protection Area is divided into four sub areas as defined in Section 3.3.3. The Lake Norman Watershed within the Huntersville jurisdiction consists of a single critical area.

Density Averaging Certificate. Approval for density averaging granted by the Board of Adjustment acting as the Watershed Review Board at a Board of Adjustment meeting after it is proven by the applicant that the request meets all the requirements of Section 3.3.2-A: h) or 3.3.3-A: i) of the Huntersville Zoning Ordinance.

Discharge. The introduction, either directly or indirectly, of any man induced waste effluent into North Carolina surface waters.

Discharging Landfill. A landfill which discharges treated leachate and which requires a National Pollution Discharge Elimination System (NPDES) permit.

Existing Development. Existing development, as defined for the purpose of this section, means projects that are built or projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of the amendment incorporating Water Supply Watershed Regulations into the Huntersville Zoning Ordinance based on at least one of the following criteria:

1. Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or

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2. Having an outstanding valid building permit; or
3. Having an approved site specific or phased development plan under the provisions of Section 2.2.2.

Existing Lot (of Record). A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

Hazardous Material. Any substance listed as such in: EPCRA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or 33 U.S.C. 1321 of CWA (oil and hazardous substances).

Industrial Discharge. The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

1. wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
2. wastewater resulting from processes of trade or business, including wastewater from Laundromats and car washes, but not wastewater from restaurants;
3. storm water will not be considered to be an industrial wastewater, unless it is contaminated with industrial wastewater; or
4. wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

Nonconforming Lot of Record. A lot described by a plat or a deed that was recorded prior to the effective date of this ordinance (or its amendments) that does not meet the minimum lot size or other development requirements of this ordinance.

Nonresidential Development. All development other than residential development, agriculture and silviculture.

Normal Pool Elevation. The Mountain Island Lake normal pool elevation which is at contour interval 648 feet above the Mean Sea Level, as determined by United States Geological Survey (U.S.G.S.) Datum. The Lake Norman normal pool elevation, which is at contour interval 760 feet above the Mean Sea Level, as determined by United States Geological Survey (U.S.G.S.) Datum.

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Paired-parcel averaged-density development. A development proposal that includes a parcel pair meeting the standards of Huntersville Zoning Ordinance and that qualifies for local development approval under the density-averaging provision of N.C.G.S. 143-214.5.

Parcel pair. Two noncontiguous parcels of land under the same or separate ownership, or two contiguous parcels of land under separate ownership, the development plans for which have been submitted in tandem so as to qualify for a density averaging certificate.

Perennial Stream. A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions. They shall be delineated in the field by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology.

Protected Area. The area adjoining and upstream of the Critical Areas and encompassing the remainder of the watershed where risk of water quality degradation from pollution is less than in the Critical Area. The Mountain Island Lake Protected Area is divided into three sub areas as defined in Section 3.3.3. Within Huntersville’s jurisdiction the regulated watershed of Lake Norman is classified, in its entirety, as Critical Area.

Septic Tank System. A ground absorption sewage disposal system consisting of a holding or settling tank and a ground absorption field.

Stormwater Control Measure (SCMs). A structural or nonstructural management based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals described as follows:

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

Subdivider. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision. A subdivision will include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development of any type (including both residential and non-residential multiple building sites and multi-site projects even if there is no division of the underlying land into separate parcels for recordation with the Register of Deeds) and also includes all divisions of land involving the dedication of a new street or a new street right-of-way or a change in existing streets; provided, however, that the following will not be included within this definition:

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1. The combination or recombination of portions of parcels platted and recorded prior to the effective date of this ordinance, or portions of lots platted in compliance with this ordinance after its effective date, where the total number of lots is not increased and the resultant lots are equal to the standards of this ordinance and the appropriate zoning classification.
2. The division of land into parcels greater than 5 acres where street right-of-way dedication or reservation is not involved.
3. The creation of strips of land for the widening or opening of streets or the location of public utility rights-of-way.
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where street right-of-way dedication or reservation is not involved and where the resultant lots are equal to or exceed the standards of the appropriate zoning classification.
5. The division of land into plots or lots for use as a cemetery.
6. The creation of a separate lot or property interest by a less than fee simple instrument, such as a lease, when the property interest created is divided from the original parcel for less than 10 years including option to renew.
7. The division of a tract or parcel into separate tracts or parcels, or the creation of interest in lots or parcels, by means of (a) a deed of trust, mortgage, or similar security interest solely for the purpose of securing any bona fide obligation (including transfers of such parcels or tracts pursuant to foreclosure or deeds in lieu of foreclosure) and (b) releases from the liens and operation of such deeds of trust, mortgages, or similar security interests.
8. Easements for the purposes of utilities, driveways, parking, footpaths, trails or other similar purposes.
9. Proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this ordinance or the Subdivision Ordinance of the Town of Huntersville.
10. Transfers of tracts or parcels by inheritance or bonafide gift.
11. Condemnation or deed in lieu of condemnation, by either a public or private condemnor; provided, however, that the condemnor must comply with the

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

Total Pollutant Load Per Facility. The sum of the Total Pollutant Loads per Parameter discharged to a water body (typically expressed in pounds per day).

Total Pollutant Load Per Parameter. The total mass of an individual water quality pollutant discharged to a water body (typically expressed in pounds per day).

Vegetative conveyance. A permanent, designed waterway lined with vegetation that is used to convey stormwater runoff at a non-erosive velocity within or away from a developed area.

Watershed. The entire land area contributing surface drainage into a specific stream, creek, lake or other body of water.

Watershed Administrator. The individual appointed and duly sworn by the Board of Commissioners of the Town of Huntersville to administer and enforce the provisions of this section as follows:

1. The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits according to the provisions of this section. A record of all permits issued shall be kept on file in the office of the Watershed Administrator.
2. The Watershed Administrator or designee shall serve as staff to the Board of Adjustment when it is serving in its capacity as the Watershed Review Board.

Water Dependent Structures. Those structures for which the use requires access or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads and similar structures. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

14.4.2 Mitigation

Infrastructure shall be considered sufficient if the ICU percentage is at or below those established in Section 14.4.1 or when, as a result of proposed development, an increase in the ICU percentage is three (3) percent or less.

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Where an ICU percentage is above those established in Section 14.4.1 or, as a result of proposed development, becomes greater than the adopted standard and has increased by more than 3 percent; a development application may be approved if the applicant proposes measures that fully mitigate the transportation impacts of the proposed development.

Proposed mitigation shall fully reduce the ICU percentage of the impacted intersection to either the adopted standard in Section 14.4.1 or to within 3 percent of the no-build ICU percentage.

Proposed mitigation measures to meet the ICU percentage standards of Article 14.4.1 may be modified, subject to Town Board approval, in order to substantially achieve the intent of this ordinance with input provided by the Town Engineer.

A modification to the proposed mitigation, which may be considered by the Town Board as meeting the intent of the ordinance, is where proposed mitigation at an impacted intersection provides measurable and beneficial surplus capacity (above and beyond the minimum ICU percentage standards) such that the surplus capacity may be counted toward credit in the mitigation of other impacted intersections. The method of measurement considered in determining the acceptability of such modifications will be the net effect on the cumulative ICU percentage totals.

Proposed mitigation may also include the provision of funding for transportation improvements on planned or funded Town or NCDOT projects previously adopted such that the improvements can be advanced to mitigate the impacts of the proposed development. This funding mitigation may be accepted by the Town Board only where it is shown that such mitigation is a reasonable substitute for actual construction based on the ICU percentage totals and anticipated construction schedules of the projects. Proposed mitigation shall be included as a condition of approval.

Transportation improvements provided through mitigation, pursuant to this Article, shall be completed and available within three (3) years of the approval of the development proposal, unless expressly provided otherwise by the Town Board or other applicable Town permitting authority. Any improvements not completed prior to the issuance of a Certificate of Occupancy, shall be secured by a performance guarantee at 12+5 percent of the cost to complete the remaining required improvement(s), as reviewed and approved by the Town Engineer. All necessary right-of-way for the required transportation improvements shall be acquired prior to the issuance of a Certificate of Occupancy, whenever practicable.

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Mitigation measures shall be consistent with the Standards found within the Town of Huntersville TIA Process and Procedures Manual and the Town Engineering Standards and Procedures Manual.

2.100 DEFINITIONS

As used in this ordinance, the following terms will have the meanings indicated in this section:

Alley. A vehicular way used for providing service access along rear or side property lines of lots which are also served by one of the listed street types defined herein or in Article 5 of the Huntersville Zoning Ordinance. An alley may be accepted for public maintenance only if it serves a broad public function. Residential alleys will generally remain private.

Administrative Decision. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this ordinance. These are sometimes referred to as ministerial decisions or administrative determinations.

Appeal. An action requesting reversal or modification of an interpretation or decision made by Town Staff or Administrative Agent in the application of these regulations.

Board of Adjustment. The Zoning Board of Adjustment of the Town of Huntersville.

Build-to line. A line extending through a lot which is generally parallel to the front property line and marks the location from which the principle vertical plane of the front building elevation, exclusive of porches, bay windows and similar appurtenances, must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

Building Setback Line. A line extending through a lot which is parallel to the front property line and between which and such line no building shall be erected.

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

Consulting Engineer. A North Carolina Registered Engineer appointed from time to time by the Town Board of Huntersville.

Corner Lot. A lot which abuts the right-of-way of two streets at their intersection.

Designated Administrative Agent (also Designee). A government agency or consulting professional which has been designated by the Huntersville Board of Commissioners through contract or agreement to administer the Subdivision Ordinance.

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Easement. A grant by the property owner for use by the public, a corporation, or person(s) of a strip of land for specified purposes.

Expedited Subdivision Review. The review and approval of the division of a tract or parcel of land in single ownership for which only a Final Plat Review is required. Any subdivision of land, whether major, minor, or other will qualify for Expedited Subdivision Review if in single ownership and all of the following criteria are met:

1. The tract or parcel to be divided is not already exempt as a division of land under Section 2.100 DEFINITION, "Subdivision", paragraph 2 of the Subdivision Ordinance (which exempts the division of land into parcels greater than 5 acres where street right-of-way dedication or reservation is not involved).
2. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
3. The entire area of the tract or parcel to be divided is greater than five acres.
4. After division, no more than three lots result from the division.
5. After division, all resultant lots comply with all of the following:
 1. Any lot dimension size requirements of the applicable land-use regulations, if any.
 2. The use of lots is in conformity with the applicable zoning requirements, if any.
 3. A permanent means of ingress and egress is recorded for each lot.

Land Development Standards Manual. The most recent edition of the Town of Huntersville Engineering Standards and Procedures Manual, which sets forth standard details for the design and construction of various aspects of development.

Lot. A portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

Lot Front. That side of a lot which fronts on a street. In the case of a corner lot, the subdivider shall designate the front of the lot for purposes of these regulations and the Huntersville Zoning Ordinance by labeling the front and side building lines as such on the final plat.

Open Space. Any area which is not divided into private or civic building lots, streets, rights-of-way, parking, or easements for purposes other than open space conservation. Unless specifically allowed by this ordinance in the Farmhouse Cluster, Conservation

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Subdivisions, and Minor Subdivisions. Reference Article 7.11 Urban, Agricultural, Common, Natural and Recreational Open Space for specific qualitative criteria.

Planning Board. The Planning Board of the Town of Huntersville established pursuant to N.C.G.S. § 160D-301.

Plat. A map or plan of a parcel of land which is to be, or which has been, subdivided.

Streets (by classification).

Freeway. High volume, high speed highways with access only at interchanges. Freeways are typically constructed to Interstate Highway standards. May incorporate special management techniques and may contain specialized accommodations for multi-occupant or transit vehicles. No parallel accommodation for non-motorized users.

Boulevards. Moderate to high volume, moderate speed roadway. Includes median and may incorporate interchanges as appropriate. Access strongly controlled, typically provided at street intersections and may be directional in nature (i.e. not full movement.) Shall incorporate provisions for transit, bicycle, and pedestrian users depending on context.

Other Major Thoroughfares. Multi-lane, moderate to high volume roadway, speed limits vary according to context. Often incorporate auxiliary lanes for turning vehicles. Typically includes median, individual driveways discouraged. Shall incorporate provisions for transit, bicycle, and pedestrian users.

Minor Thoroughfare. Generally, two-lane roadways with low to moderate speeds depending on context. Balance of mobility and access functions. May include transit user provisions, shall incorporate non-motorized users.

Collector. A roadway which assembles traffic from local streets and distributes it to the nearest thoroughfare street. The collector road provides direct primary access to low/medium density land uses. It is designed to carry low to moderate traffic volumes at low to moderate speeds.

Local. This is a two-lane roadway which provides access directly to adjoining low/medium density land uses. It also conducts traffic to collector streets which serve the area. The local road is designed to accommodate low volumes of traffic at low speeds.

Cul-de-sac. A short minor street having one end open to traffic and the other permanently terminated by a vehicular turnaround. Cul-de-sacs may not exceed 350 feet in length and must be accessed from a street providing internal or external connectivity. They are permitted where topography makes a street connection impracticable.

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Marginal Access Street. A public or private street adjoining or parallel to an arterial street to relieve the arterial street of the necessity of providing access to abutting property.

Town Streets. Town Street classification refers to the hierarchy of low speed, interconnected streets with pedestrian orientation of buildings and a fine-grained section which includes street tree plantings and sidewalks on either side of pavement. The required street elements can be assembled in a variety of ways depending on the fronting uses and the function/rank of the street in the hierarchy. Streets meeting the standards of [Article 5](#) and the Engineering Standards and Procedures Manual (ESAPM) are eligible for acceptance and maintenance by the Town as public streets. Residential alleys will generally remain private.

Street, Private. An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

Street Right-of-Way. Street right-of-way shall mean any public right-of-way set aside for public travel which has been accepted for maintenance by the State of North Carolina or the Town of Huntersville or Mecklenburg County, if so authorized, or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of Huntersville or has otherwise been established as a public street prior to the adoption of this ordinance.

Subdivision. A subdivision will include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose, whether immediate or future, of sale or building development of any type (including both residential and non-residential multiple building sites and multi-site projects even if there is no division of the underlying land into separate parcels for recordation with the Register of Deeds) and also includes all divisions of land involving the dedication of a new street or a new street right-of-way or a change in existing streets; provided, however, that the following will not be included within this definition nor be subject to the requirements of this ordinance:

1. The combination or recombination of portions of previously subdivided and recorded lots prior to the effective date of this ordinance, or portions of previously subdivided and recorded lots platted in compliance with this ordinance after its effective date, where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance and the appropriate zoning classification.

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2. The division of land into parcels greater than 5 acres where street right-of-way dedication is not involved.
3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors or the location of public utility rights-of-way.
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where street right-of-way dedication is not involved and where the resultant lots are equal to or exceed the standards of the Zoning Ordinance and Subdivision Ordinance.
5. The division of land into plots or lots for use as a cemetery.
6. The creation of a separate lot or property interest by a less than fee simple instrument, such as a lease, when the property interest created is divided from the original parcel for less than 10 years including option to renew.
7. The division of a tract or parcel into separate tracts or parcels, or the creation of interest in lots or parcels, by means of (a) a deed of trust, mortgage, or similar security interest solely for the purpose of securing any bona fide obligation (including transfers of such parcels or tracts pursuant to foreclosure or deeds in lieu of foreclosure) and (b) releases from the liens and operation of such deeds of trust, mortgages, or similar security interests.
8. Easements for the purposes of utilities, driveways, parking, footpaths, trails, or other similar purposes.
9. Proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this Ordinance.
10. Transfers of tracts or parcels by inheritance or bona fide gift.
11. Condemnation or deed in lieu of condemnation, by either a public or private condemner; provided, however, that the condemner must comply with the requirements of this ordinance as to the property acquired, either prior to the commencement of any development of the property acquired, or prior to the issuance of any building permit on the property acquired, or within six months following the date of acquisition, whichever occurs first.

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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, Farmhouse Cluster.* A subdivision of land for up to six house lots accessed by way of a shared private drive with a minimum project area of 10 acres with a minimum of 30 feet of frontage on a public road either by fee simple ownership or by exclusive easement. 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.~~

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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, 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.
2. A future public school, park, greenway, or open space site shown in any adopted plan or policy document.
3. A multi-building site.
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 five (5) lots or less, not otherwise exempt from the provisions of this ordinance and that is not a “Major Subdivision” as that term is defined in this Ordinance.

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

Thoroughfare. Any street (existing or proposed) on the adopted Comprehensive Transportation Plan (CTP) Highway Map. The words thoroughfare and arterial are used synonymously and indicate streets which are designated as freeways, boulevards, other major thoroughfares or minor thoroughfares.

Thoroughfare Plan. The most recent map adopted by the Metropolitan Planning Organization which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck, and transit transportation. The words thoroughfare plan and arterial street plan are used synonymously.

Through Lot. A lot other than a corner lot with frontage on more than one street.

Town Board. The Board of Commissioners of the Town of Huntersville.

Town Manager. The Town Manager of the Town of Huntersville.

Variance. An action requesting consideration for relief from the strict enforcement of the standards of the ordinance where special circumstances or unusual considerations may exist on the parcel of land.

6.200B GENERAL REQUIREMENTS

- 1. Consistency with adopted public plans and policies.** All subdivision of land approved under these regulations must comply with the most recently adopted public plans and policies for the area in which it is located. This includes general policy regarding development objectives for the area as well as specific policy or plans for public facilities such as streets, parks and open space, schools, and other similar facilities. Plans and policies for the community are on file in the offices of the Town of Huntersville.
- 2. Access to parks, schools, etc.** Streets and sidewalks shall be designed to access to parks, greenways, playgrounds, schools, and other places of public assembly.

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Supplemental walkways not associated with streets may not be less than 10 feet in width and may be required to be large enough to provide vehicular access for maintenance vehicles.

3. **Half streets.** Whenever an existing half street is adjacent to a tract of land to be subdivided the other half of the street shall be platted within such tract.
4. **Access Between Adjoining Properties.** The purposes and design standards for Town streets, as further described in Article 5 of the Huntersville Zoning Ordinance, shall be met.
5. **Reservation and Dedication of Public School and Public Park Sites.** The subdivider shall determine if the tract of land to be subdivided appears in any adopted plan or policy document as a future public school or public park (including public greenways, or open spaces) by contacting the appropriate agency. The subdivider shall provide certification to the Planning Director or Designated Administrative Agent to indicate whether or not the area proposed to be subdivided includes any identified future public school or public park site. If no certification is provided, the Planning Director or Designee shall make the determination by contacting the appropriate agencies. If such site(s) are included in the area to be subdivided, the Planning Director or Designee will notify the appropriate agency of the proposed subdivision and its effect on the future public site. The appropriate agency must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision will be processed in the normal fashion. If the agency does wish to reserve the site, then the subdivision will not be approved without such reservation. The appropriate agency will have 18 months for future school sites and 12 months for future public park sites from the date of final approval of the subdivision or site plan to acquire the site by purchase, receipt of a dedication, or by initiating condemnation proceedings. If, at the end of the applicable period, none of the actions listed above have commenced, the subdivider may consider the land free of any reservation. The developer may also offer dedication of any public park that appears in any adopted plan or policy document as a future public park (including public greenways and open spaces).

Pursuant to N.C.G.S. § 160D-804(d), the Town , may accept payment of funds to be used to acquire or develop the open space and/or recreation areas which serve residents of more than one subdivision or development within the immediate area. All funds received pursuant to this subsection shall be used only for the acquisition or development of recreation, park, or open space sites. The formula to determine

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the amount of funds that are to be provided under this subsection shall be 300 percent of the pre-development property tax value of the subdivision site to be developed. A combination or partial payment of funds and partial dedication of land may be allowed when the Town Board determines that this combination is in the best interests of the citizens of the area to be served.

6. **Community Service Facilities.** When a tract of land that appears in any adopted plan or policy document as a future site for any community service facility, including but not limited to police and fire stations, libraries, public housing, and other public uses, falls within an area proposed to be subdivided, the Planning Director or Designated Administrative Agent will notify the appropriate agency of the proposed subdivision and its effect on the future community service facility site. The appropriate agency must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision will be processed in the normal fashion. If the agency does wish to reserve the site, then the subdivision will not be approved without such reservation. The subdivider may choose to dedicate the area to be reserved.
7. **Proposed street names.** Proposed street names shall be coordinated with Mecklenburg County staff or other designees.
8. **Easements.** Easements established to the width and in the locations required by the Consulting Engineer, Utility Department, or Town Engineering Department, shall be provided for open or piped storm drainage, sanitary sewers, water lines, and other utilities. This requirement applies to such lines installed at the time of the development of the subdivision, and to easements for such lines which may reasonably be expected to be installed in the future.
 - a. Where, at the time of preliminary plan approval, these systems are to be a part of the public water and sanitary sewerage system owned and operated by the Charlotte-Mecklenburg Utility Department, the preliminary subdivision plan shall be accompanied by a complete set of construction plans for the proposed systems, prepared by a registered engineer, which shall be required to meet the standards established by said utility owner/operator for connection to the system upon completion and dedication.
 - b. Where, at the time of preliminary plan approval, the proposed systems to serve more than one structure do not contemplate the use of facilities owned and operated by the Charlotte-Mecklenburg Utility Department, the

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proposed systems must be reviewed and approved by the agency or agencies with jurisdiction over the approval. This shall also include, but not be limited to, review and approval by Charlotte-Mecklenburg Utility Department to establish that construction plans meet public utility standards for adequacy and compatibility with the public system(s) in order to provide for the future orderly development of the town. Whether the proposed system serves one structure or more than one structure the developer must provide evidence prior to preliminary plan approval of the required discharge permit or a perk test for sewage disposal on each lot, whichever is applicable. Where lots are to be served by septic tank systems, the preliminary plan and the final plat shall clearly label any lots which do not perk and for which a building permit shall not be issued until alternate sewage disposal methods are available to such lots. Prior to final plat approval, evidence must be provided that both the sewage and water system designs have been approved for construction. Prior to the issuance of any certificate of occupancy for any structure, evidence must be provided that both the water and sewer systems have been approved and are operational for the structures in question.

9. **Proposed Water and Sewerage System.** At the sketch plan stage, the subdivision plan shall contain information as to the availability and method of providing potable water and a system of sanitary sewage collection and disposal. The preliminary subdivision plan must be accompanied by satisfactory evidence as to the proposed method of providing potable water and a system of sanitary sewage collection and disposal.
10. **Restrictions on the subdivision of land subject to flooding.** Lots that are subject to flooding shall comply with the provisions of Section 7.280.
11. **Open Space.** Open space, where required, shall be consistent with the standards established in Article 7 of the Huntersville Zoning Ordinance.
12. **Mature Trees and Vegetation.** The purposes and development standards for landscaping, as further defined in Article 7 of the Zoning Ordinance, shall be met.
13. **Through Traffic.** Methods to prevent high-volume, high-speed traffic shall be employed using street geometry, intersection design, and other traffic calming measures.
14. **Impact of Development on Public Facilities.** When reviewing subdivisions, the town shall consider the impacts the proposed development will have on public facilities, including traffic network infrastructure, in light of the requirements of

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Section 6.300(13) and Article 14 of the Town Zoning Ordinance, as applicable. The developer shall demonstrate the proposed subdivision is in compliance with the Intersection Capacity Utilization Percentage Standards as set forth in Article 14.4 of the Zoning Ordinance, and where applicable, the developer may provide mitigation measures to satisfy the requirements of Article 14 of the Zoning Ordinance. Examples of mitigation measures include altering development layout and plans, providing improvements at nearby intersections to address impacts of that development (not existing deficiencies), and providing street connections to adjoining property for safe and efficient movement of traffic, as further provided in Section 6.300(13) and Article 14 of the Zoning Ordinance.

6.310 SKETCH PLAN NOT REQUIRED FOR MINOR SUBDIVISIONS

A sketch plan shall not be required for a Multi-building site or a Minor Subdivision, ~~except for Section 6.300(1)(14) and Section 6.300(3), which are required for Farmhouse Cluster developments.~~

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6.315 SKETCH PLAN NOT REQUIRED FOR FARMHOUSE CLUSTERS

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~~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.~~

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6.300 SKETCH PLAN REQUIRED FOR MAJOR SUBDIVISIONS

1. Prior to the filing of an application for approval of a major subdivision Preliminary Plan, a Sketch Plan shall be submitted to the Planning Director and any Designated Administrative Agent for review. When submitted, this **Sketch Plan shall be on a topographical map showing original contours at intervals of not less than four feet highlighting slopes over 25% and existing tree lines.** It shall show in sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. It shall include the following information:
 1. The boundary lines of the property being subdivided;
 2. Water courses on the land to be subdivided;
 3. The location, names, and rights-of-way of any existing streets on or within 300 feet of the land to be subdivided;

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4. The location of all property lines which intersect the boundaries of the property being subdivided; the zoning district of each adjacent property;
5. Rough finished grades, the location of proposed streets, lots, parks or other open spaces, reservations, building lines, street cross-sections, number and type of buildings, and the location of any building restriction flood lines required by Section 7.280;
6. Zoning information for the proposed project site;
7. Proposed front, rear, and side yard dimensions for each building type along each street type;
8. For projects within a regulated watershed protection area, the location of required buffers and high density option detention, if applicable;
9. The location of general buffers or screens required for the project area, as a whole;
10. The scale of the plan, which shall not be smaller than 100 feet to the inch; north point; date;
11. A small scale vicinity map.
12. Information necessary to evaluate the proposed development site for compliance with the water quality standards of Section 8.17 of the Huntersville Zoning Ordinance and the Performance Criteria as detailed in Section 9 of the Huntersville Water Quality Design Manual. Further, the Site Evaluation Tool (SET) output shall be submitted for each proposed development site. Section 9 of the Huntersville Water Quality Design Manual contains detailed information concerning the submission requirements for SET.
13. **Traffic Impact Assessments; Physical Analysis.**
 1. a Traffic Impact Assessment for certain subdivisions, as required by Article 14 of the Town Zoning Ordinance, which is hereby incorporated by this reference.
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

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(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:

1. 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);
 2. 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;
 3. 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;
 4. A topographical map showing original contours at intervals of not less than four feet and existing tree lines;
 - 4.5. Proposed limits of disturbance.
2. The Existing Features (Site Analysis) Plan shall identify areas to be preserved as described in Section 7.12 of the Huntersville Zoning Ordinance. These areas comprise the development's proposed open space, the location of which shall be consistent with the locational design criteria listed in Section 7.12 of the Huntersville Zoning Ordinance. The Existing Features (Site Analysis) Plan shall form the basis for the conceptual Sketch Plan, which shall show the tentative location of buildings, streets, lot lines and greenway lands in new subdivisions, according to the four-step design process described below.
 3. **Four-Step Process. Within the Rural and Transitional zoning district**, each Sketch Plan shall follow a four-step design process as described below. When the conceptual Sketch Plan is submitted, applicants shall be prepared to demonstrate to the town that these four design steps were followed by their site designers in determining the layout of their proposed streets, house lots, and open space.

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1. **Designating the Open Space.** During the first step all potential preservation areas are identified, using the Existing Features (Site Analysis) Plan. Areas to be designated should consist of wetlands, floodways, flood fringe, and significant trees as well as sensitive and noteworthy natural, scenic and cultural resources on the property.
2. **Location of House Sites.** During the second step, potential house sites are tentatively located. Because the proposed location of houses within each lot represents a significant decision with potential impacts on the ability of the development to meet the evaluation criteria contained in Section 7.13 of the Huntersville Zoning Ordinance, subdivision applicants shall identify tentative house sites on the conceptual Sketch Plan.
3. **Street and Lot Layout.** The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on both the Primary and Secondary Conservation Areas. To the greatest extent practicable, wetland crossings shall be strongly discouraged.
4. **Lot Lines.** The fourth step is simply to draw in the lot lines where applicable.

6.320 REVIEW OF MAJOR SUBDIVISION SKETCH PLAN

1. Upon submission, the Planning Director and any Designated Administrative Agent shall have fifteen (15) working days to review and comment on the Sketch Plan. Upon completion of review, Planning Staff shall provide comments to the subdivider on any portions of the Sketch Plan that are not in compliance with the Town's Sketch Plan submission requirements or the Town's Zoning and Subdivision Ordinances.
2. The subdivider shall address all Town Staff comments prior to refining a revised Sketch Plan with the Planning Department. If subsequent corrections or changes to a sketch plan are necessary, the reviewer shall have fifteen (15) working days to review any revised sketch plan.
3. A written report of at least one community meeting held by the subdivided must be submitted ~~before acceptance of the second review cycle within forty-five (45) days of the initial filing~~ of the sketch plan ~~for review~~ by the Planning Department. Community meetings for major subdivision applications submitted with conditional district rezoning applications shall defer to the timeline for community meetings set

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forth in Article 11 of the Zoning Ordinance. The community meeting shall not be held on ~~regularly~~ scheduled Town of Huntersville Board of Commissioners ~~and or~~ Planning Board meeting nights. Notice of such a meeting shall be provided to all of the following via certified mail using the parcel ownership information listed in the current Mecklenburg County tax records:

1. Owner of each property petitioned for subdivision
2. Owner of each abutting property
3. Owner of each property within 250 feet of the petitioned property
4. Owner of each property directly across a street, easement, or right-of-way, public or private, from the petitioned property
5. Owner of each property across a street, easement, or right-of-way, and within 250 feet of the right-of-way boundary opposite the petitioned property
6. Contact person for each neighborhood association, property owner association, and homeowner association registered with the Town Planning Department that has jurisdiction over property within 2000 feet of any portion of the subdivision site (distance scaled on a Town of Huntersville or Mecklenburg County official map).

The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a copy of any materials presented at the meeting, a summary of issues discussed at the meeting, including changes suggested by the participants and a description of any changes to the subdivision petition made by the petitioner as a result of the meeting. In the event the subdivider has not held at least one meeting pursuant to this paragraph, the subdivider shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this paragraph shall be considered but shall not be subject to judicial review.

4. Within 30 days of receiving the final Sketch Plan, the Planning Director or Designated Administrative Assistant shall prepare a written decision setting forth findings concerning the application's compliance with applicable regulations. If the staff decision proposes a finding or conclusion that the application fails to comply with applicable regulations, it shall identify the requirement in question and specifically state supporting reasons for the

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proposed findings or conclusions. Notice of the decision to approve or deny a sketch plan shall be provided in accordance with N.C.G.S. § 160D-403. Administrative decisions to deny approval of a sketch plan may be appealed in accordance with Section 4.000.

6.400 PRELIMINARY PLAN REQUIREMENTS

The preliminary subdivision plan must be drawn to the following specifications and must contain or be accompanied by the information listed below. No processing or review of a preliminary plan will proceed without all of the information listed. Construction of state standard roads shall be in accordance with NCDOT regulations. For Town streets, the standards of Article 5 of the Huntersville Zoning Ordinance and Engineering Standards and Procedures Manual shall control.

1. The boundary of the area to be subdivided and the location within the area, or contiguous to it, of any existing streets, railroad line, water courses, easements or other significant features of the tract.
2. The location, size, elevations of existing sanitary sewers, storm drains, and culverts within the tract and immediately adjacent thereto.
3. Original contours, including tree lines, shown at intervals of not less than 4 feet for the entire area to be subdivided and extended into adjoining property for a distance of 300 feet at all points where street rights-of-way connect to the adjoining property. These contours shall be referenced to mean sea level datum established by the U.S. Coast and Geodetic survey. Proposed contours for the full width of all street rights-of-way, along open drainage channels and in all other portions of the subdivision where extensive grading is proposed must be shown. These requirements shall not apply where the size of the subdivision and the topography make such information unnecessary.
4. The location of proposed streets, alleys, easements, lots, parks or other open spaces, reservations, other property lines, front build-to lines and rear and side yard dimensions for each lot, street dimensions, tentative building locations, and the location of any building restriction flood lines required by Section 7.280. The location and area calculations of constraining features including wetlands, slopes over 25%, watercourses, intermittent streams and floodways, S.W.I.M. buffers (outside of floodways), watershed buffers, and all rights-of-way and easements (current and future).
5. The location of all proposed storm drains and appurtenances with grades, inverts, and sizes indicated, together with a map of the drainage area or areas tributary to

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the proposed storm drains, a copy of the data used in determining the sizes of drainage pipes and structures, and the Building Restriction Floodline and Flood Protection Elevation for each lot subject to flooding as defined in Section 7.280.

6. The name of the subdivision; the name and signature of the owner or the owner's duly authorized agent; the name of the surveyor, engineer or designer; the names of proposed streets; the names of adjoining subdivisions or property owners. The name assigned to the subdivision and the names assigned to streets at this time will be used throughout the review and approval process for preliminary and final plats and may not be changed without approval of the Planning Director and or Designated Administrative Agent.
7. The scale of the plan which shall not be smaller than 100 feet to the inch, north point, date.
8. Typical cross sections of internal or abutting streets showing width, sidewalk, and planting details and proposed construction of roadways.
9. Proposed profiles of roadways. Where a proposed street is an extension of an existing street the profile shall be extended to include 300 feet of the existing roadway and storm drains if present and a cross section of the existing street shall be shown. Where a proposed street within the subdivision abuts a tract of land that adjoins the subdivision and where said street may be expected to extend into said adjoining tract of land, the profile shall be extended to include 300 feet of the said adjoining tract.
10. The proposed method of water supply and sewer disposal.
11. A small scale vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
12. The location of any existing LCID landfills on the site and the location of any proposed LCID landfills on the site.
13. A timetable for estimated project completion of the area covered by the preliminary plan.
14. The zoning district(s) in which the project is located.
15. For projects in the Mountain Island Lake Watershed Overlay District, the calculated built-upon area permitted for each building lot, taking into account permanently preserved open space.

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16. For subdivisions within which open space is required, a draft of the documents by which irrevocable preservation of open space shall be assured.
17. A Landscape/Preservation Plan is required for all subdivisions. Items to be included on the plan are as follows:
 1. Project Name
 2. Owner Name
 3. Landscape Architect's seal and signature
 4. Tree save calculations
 5. Tree save areas – must also be shown on all sheets to be included within the Preliminary Plan
 6. Street Trees Proposed
 7. Additional trees to be planted to meet minimum tree save requirements and appropriate table (if any)
 8. Individual residential lot trees and a table showing total amount by lot type
 9. Internal/Perimeter landscaping for parking lots
 10. Landscape easements properly labeled – must also be shown on the site plan and final plat
 11. Notes on plan related to maintenance of street trees by individual homeowner or homeowners association – must also be noted on all preliminary plans and final plats to be recorded and documented within the homeowner's covenants and restrictions.
 12. Proposed utilities in relation to tree save areas.
18. **Storm Water Permit Application.** A Storm Water Permit Application shall be submitted along with preliminary plans for each proposed development. The permit application shall demonstrate compliance with Section 8.17.6, Performance Criteria of the Huntersville Zoning Ordinance, unless otherwise exempted. The storm water permit application shall contain computations, drawings, soil analyses, calculations for each **BMPSCM**, and overall site hydrology calculations as well as other information sufficient to describe the manner, location, and type of measures for managing storm water from the development in compliance with Section 8.17.6. In addition, the permit application shall specify those parties responsible for long-

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term maintenance of all **BMPsSCMs**. The Town Staff shall review the permit application to determine compliance with the approved Performance Criteria. Approval of the storm water permit application by the Town Staff is required prior to the initiation of land disturbing activities and said storm water permit application shall serve as the basis for all subsequent construction.

7.290 LOTS WITHIN THE MOUNTAIN ISLAND LAKE WATERSHED PROTECTION AREA

The purpose of the Mountain Island Lake Watershed Protection Area is to provide for the protection of public water supplies as required by the North Carolina Water Supply Watershed Protection Act and regulations promulgated thereafter.

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

A map showing the Mountain Island Lake Watershed Protection Area and the subareas CA1, CA2, CA3, CA4, PA1, PA2, and PA3 is incorporated into the Official Zoning Map, In any event of any difference or inconsistency between the areas as depicted on the map and the definition, the map or definition which describes or depicts the greater geographical area shall control. Should these subareas be more specifically defined in the Huntersville Zoning Ordinance by use of major landmarks such as roads and property lines to adjust the subarea boundaries, the subarea boundaries as described in the Zoning Ordinance shall control over those described in this ordinance.

1. Exceptions to applicability.

1. Existing development, as defined in this section, is not subject to the requirements of the Mountain Island Lake Watershed Overlay District.
2. An existing lot owned prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes subject only to the buffer requirements of

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sub-sections 3. or 4. of this section, whichever is applicable; however, this exemption is not applicable to multiple contiguous lots under single ownership.

3. Existing public utilities may expand without being subject to the restrictions of this part provided that:
 1. Such expansion complies with all applicable laws of the State of North Carolina and the United States of America; and
 2. Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

This Section 7.290 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 N.C.G.S. § 143-214.5(d3) and as further described in Article 3 of the Town of Huntersville Zoning Ordinance.

2. **Definitions.** For the purpose of this section the following terms will have the definitions indicated below.

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

~~*Non-structural BMPs- Non-engineered methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.*~~

~~*Structural BMPs- Engineered structures that are designed to reduce the delivery of*~~

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~~pollutants from their source or to divert contaminants away from the water supply. Structural BMPs allowed for use under the High Density Option are those which have been approved by the North Carolina Division of Water Quality and Mecklenburg County. These are wet detention ponds, extended dry detention ponds, and grass swales.~~

Buffer. A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized, and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Built-upon Area (B-U-BUA). ~~Built-upon areas shall include that portion of a development project and/or lots that are covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), etc. (NOTE: Wooden slatted decks and the water area of a swimming pool are considered pervious.)~~

~~Impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil.~~

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~~For the purposes of this section, none of the following surfaces shall be considered "built-upon area" or an impervious or partially impervious surface:~~

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~~(1) A slatted deck.~~

~~(2) The water area of a swimming pool.~~

~~(3) A surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric.~~

~~(4) A trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour).~~

~~(5) Landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle.~~

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(6) Artificial turf, manufactured to allow water to drain through the backing of the turf, and installed according to the manufacturer's specifications over a pervious surface.

Critical Area. The area adjacent to a water supply intake where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area of the Mountain Island Lake Watershed Protection Area is divided into four subareas as follows:

- **CA1 - Lower Gar Creek.** From normal pool elevation of Mountain Island Lake extending up Gar Creek to Beatties Ford Road and to approximately the ridgeline along the north side of Gar Creek and to Mt. Holly-Huntersville Road on the south side of Gar Creek.
- **CA2 - Upper Gar Creek.** From Beatties Ford Road upstream along Gar Creek to the limits of the Gar Creek drainage basin and to approximately the ridgeline along either side of Gar Creek.
- **CA3 - McDowell Creek.** From normal pool elevation of Mountain Island Lake extending one mile upstream on McDowell Creek and to approximately the ridgeline along either side of McDowell Creek.
- **CA4 - Lake Front.** Extending landward one half mile from normal pool elevation along Mountain Island Lake and the Catawba River between Cowan's Ford Dam and Mountain Island Lake Dam.

Discharging Landfill. A landfill which discharges treated leachate and which requires a National Pollution Discharge Elimination System (NPDES) permit.

Existing Development. Existing development, as defined for the purpose of this section, means projects that are built or projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of the amendment incorporating Water Supply Watershed Regulations into the Huntersville Subdivision Ordinance based on at least one of the following criteria:

1. Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
2. Having an outstanding valid building permit; or

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3. Having an approved site specific or phased development plan under the provisions of Section 2.2.2 of the Huntersville Zoning Ordinance.

Nonconforming Lot of Record. A lot described by a plat or added that was recorded prior to the effective date of this ordinance (or its amendments) that does not meet the minimum lot size or other development requirements of this ordinance.

Normal Pool Elevation. The Mountain Island Lake normal pool elevation which is at contour interval 648 feet above the Mean Sea Level, United States Geological Survey (U.S.G.S.) Datum.

Perennial Stream. A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions. They are identified on United States Geological Survey Quadrangle Maps by solid blue lines.

Protected Area. The area adjoining and upstream of the Critical Areas and encompassing the remainder of the watershed where risk of water quality degradation from pollution is less than in the Critical Area. The Protected Area is divided into three subareas as follows:

- **PA1.** The area extending from the outer limits of the critical areas to five hydrologic miles from the normal pool elevation and draining to Mountain Island Lake.
- **PA2.** The area extending from the outer limit of the PA1 area where it intersects with N.C. 73 and running in a north-northeasterly direction along N.C. 73 to the intersection of I-77 and thence proceeding in a southerly direction along I-77 to the intersection of Gilead Road and thence in an easterly direction along Gilead Road to the intersection of N.C. 115 and thence in a southerly direction along N.C. 115 to the intersection of Hambright Road and thence in a westerly direction along Hambright Road to the intersection of Mt. Holly-Huntersville Road and thence in a northwesterly direction along the outer limits of the CA2 and PA1 areas to the beginning point.
- **PA3.** The area extending from the outer limits of the PA2 area to the limits of the Mountain Island Lake Watershed.

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Stormwater Control Measure (SCMs). A structural or nonstructural management based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals described as follows:

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

Septic Tank System. A ground absorption sewage disposal system consisting of a holding or settling tank and a ground absorption field.

Watershed. The entire land area contributing surface drainage into a stream, creek, lake or other body of water.

Water Dependent Structures. Those structures for which the use requires access or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads and similar structures. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

3. Critical area development standards. Only development activities that require an erosion/ sedimentation control plan under Mecklenburg County regulations, as may be amended from time to time, are required to meet the development standards of this subsection.

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

CA1	6% B-U:BUA ¹
CA2	12% B-U:BUA ¹
CA3	12% B-U:BUA ¹
CA4	24% B-U:BUA ¹

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

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Notwithstanding the above, an applicant shall be allowed to exceed the allowable Built-Up 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 Article 3 of the Zoning Ordinance.
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 this Section.

Vegetative buffers are required in the Critical Areas along the shoreline of Mountain Island Lake, measured from the normal pool elevation, and along all perennial streams, measured from the bank on each side of the stream.

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

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

1. No trees larger than 2 inch caliper are to be removed except for dead or diseased trees. Undergrowth and trees less than 2 inch caliper may be removed to be replaced by an effective stabilization and filtering ground cover based upon

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Mecklenburg County Water Quality Program guidelines and as approved on a plan submitted to the Mecklenburg County Water Quality Program.

2. Streambank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the Mecklenburg County Water Quality Program.
3. Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural **BMP's-SCM's** and pervious materials.
4. The Town can require enhancement of the existing vegetation in the buffer if necessary so that the buffer can effectively perform its filtering and absorption functions based on the most recent edition of the "Watershed Buffer Guidelines for Mecklenburg County, NC".

4. Protected area development standards. Only development activities that require an erosion/sedimentation control plan under the Town of Huntersville regulations, as may be amended from time to time, are required to meet the development standards of Section 7.290.4 of this ordinance.

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

PA1 and PA2, low density option	24% B-U:BUA with curb and gutter streets ¹ 36% B-U:BUA without curb and gutter streets ¹
PA1 and PA2, high density option, where permitted**	70% B-U:BUA with BMPSCM

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

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Notwithstanding the above, an applicant shall be allowed to exceed the allowable Built-Up 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 Article 3 of the Zoning Ordinance.
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 this Section.

Vegetative buffers are required in the Protected Areas along all perennial streams, measured from the bank on each side of the stream.

** STRUCTURAL ~~BMP'S~~SCM'S. Wet detention ponds, or alternative stormwater management measures limited to extended dry detention ponds and grass swales, are required where the High-Density Option is permitted within the Protected Area. Other types of Structural ~~BMP's~~SCM's may also be required.

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

In the PA1 and PA2 subareas non-impervious recreational development and non-impervious pedestrian trails may be allowed in the required buffer if located a minimum of 30 feet from the stream bank.

High density option is permitted in subareas PA1 and PA2.

5. **Posting of financial security required.** When Structural **BMPs-SCMs** (wet detention ponds and all other **BMPs-SCMs**) are required under the High Density Option, the approval of the High Density Development Permit will be subject to developer compliance with Section 8.400 of the Huntersville Subdivision Ordinance.

7.295 LOTS WITHIN THE LAKE NORMAN WATERSHED PROTECTION AREA

The purpose of the Lake Norman Watershed Overlay District is to provide for the protection of public water supplies as required by the North Carolina Water Supply Watershed Protection Act and regulations promulgated thereafter.

The Lake Norman Watershed Protection Area is that area within the jurisdiction of the Town of Huntersville which contributes surface drainage into that portion of the Catawba River known as Lake Norman and its tributaries. The Lake Norman Watershed Protection area is specifically defined on the Huntersville Zoning Maps with the designation LN-O (Lake Norman Overlay District).

1. Exceptions to applicability.

1. Existing development, as defined in Section 7.290, subsection 2., is not subject to the requirements of the Lake Norman Watershed Overlay District.
2. An existing lot owned prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes subject only to the buffer requirements of subsection 3. of this section; however this exemption is not applicable to multiple contiguous lots under single ownership.
3. Existing public utilities may expand without being subject to the restrictions of this part provided that:
 1. Such expansion complies with all applicable laws of the State of North Carolina and the United States of America; and
 2. Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

This Section 7.290 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

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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 N.C.G.S. § 143-214.5(d3) and as further described in Article 3 of the Town of Huntersville Zoning Ordinance.

2. **Definitions.** The definitions below supplement the definitions of section 7.290, subsection 2.

Lake Norman Watershed Critical Area. The Lake Norman Critical Area is defined as the land area which begins at the normal pool elevation of Lake Norman and extends one-half mile inland or to the ridgeline, whichever is closest, as shown more specifically on the Huntersville Zoning Maps.

Lake Norman Normal Pool Elevation. The Lake Norman normal pool elevation, which is at contour interval 760 feet above Mean Sea Level, as determined by United States Geological Survey (U.S.G.S.) Datum.

3. **Lake Norman critical area development standards.** Only development activities that require an erosion/sedimentation control plan under the Town of Huntersville regulations, as may be amended from time to time, are required to meet the development standards of this subsection.

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

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

4. **¹Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but not less than 150 sq. ft. impervious area per lot to allow for**

addition of future impervious areas by homeowner/occupant

Vegetative buffers are required along the shoreline of Lake Norman measured from the normal pool elevation and along each side of all perennial streams measured from the top of stream bank. Minimum buffer widths are:

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

5. No permanent structures, impervious covers, septic tank systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:
 1. No trees larger than 2-inch caliper are to be removed except for dead or diseased trees. Undergrowth and trees less than 2 inch caliper may be removed to be replaced by an effective stabilization and filtering ground cover based upon the most recent edition of the “Watershed Buffer Guidelines for Mecklenburg County, NC” and as approved by the Mecklenburg County Water Quality Program.
 2. Stream bank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the Mecklenburg County Water Quality Program.
 3. Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural ~~BMP's~~ ~~SCM's~~ and pervious materials.
 4. The Town can require enhancement of the existing vegetation in the buffer, if necessary, so that the buffer can effectively perform its filtering and absorption functions based on Mecklenburg County Water Quality Program guidelines.
 5. Non-impervious recreational development and non-impervious pedestrian trails are allowed in the required buffer if located a minimum of 30 feet from the stream bank.

High density option is permitted in the Lake Norman Critical Area.

6. **Posting of financial security required.** When Structural ~~BMPs-SCMs~~ (wet detention ponds and all other ~~BMPsSCMs~~) are required under the High Density Option, the approval of the High Density Development permit will be subject to developer compliance with Section 8.400 of the Huntersville Subdivision Ordinance.

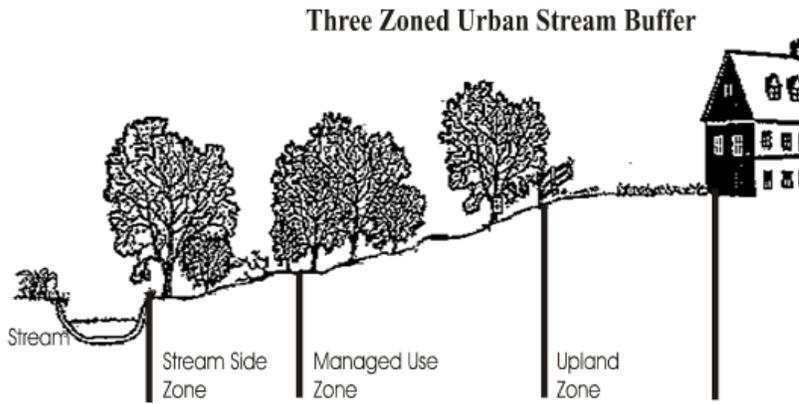
7.300 DESIGN STANDARDS FOR SWIM (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS

1. **Purpose.** The purpose of a stream buffer network is to filter pollutants, store floodwaters, provide habitat, and contribute to the “green infrastructure.” Stream systems are comprised of each stream and its respective drainage basin.
 - Streams have the primary natural functions of conveying storm and ground water, storing floodwater, and supporting aquatic life.
 - Vegetated lands adjacent to the stream channel in the drainage basin serve as “buffers” to protect the stream’s ability to fulfill its natural functions. Buffers have the primary natural functions of protecting water quality by filtering pollutants, providing intermittent storage for floodwaters, allowing channels to meander naturally, and providing suitable habitat for wildlife.
2. **Definitions.** For the purposes of this section, the following words and phrases shall be defined as specified below:

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

Buffer. A vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.

Buffer Zones. Buffer widths are measured in three (3) zones as shown below. The buffer width is measured horizontally on a line parallel to the surface water, landward from the top of the bank on each side of the stream.



Drainage Basin. The area of land which drains to a given point on a body of water.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the allowable surcharge (currently one foot).

Flood Fringe. The land area located between the limits of the floodway and the maximum elevation subject to inundation by the base (1% chance) flood.

Floodplain. The low, periodically flooded lands adjacent to rivers and lakes. For land use planning purposes, the regulatory floodplain is usually viewed as all alongside a watercourse that would be inundated by the base (1% chance) flood; the floodway plus the flood fringe.

Mitigation. Actions taken on-site and/or off-site to offset the effects of temporary or permanent loss of a buffer.

Stormwater Control Measure (SCMs). A structural or nonstructural management based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals described as follows:

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

Top of Bank. The landward edge of the stream channel during high water, bank full conditions at the point where water begins to overflow onto the floodplain.

3. Applicability.

- a. All properties shall comply with the buffer requirements of this Section except those which, as of the effective date of October 19, 1999, have previously secured a right to proceed by:
 - Being subject to a recorded subdivision plat;
 - Being subject to a subdivision sketch plan prior to the effective date of this Section;
 - Being subject to a site specific development plan defined under Section 2.2.2 of the Zoning Ordinances; or
 - Having otherwise secured a vested property right under state law.
- b. Redevelopment or expansion of development projects included in a), above, shall comply with the buffer requirements of this Section; however, uses and structures previously approved and constructed in a buffer may remain.
- c. A site-specific vesting plan amended subsequent to adoption of this Section shall comply, in its amended form, with the S.W.I.M. buffer requirements. However, uses and structures previously approved for construction in a buffer may remain.
- d. Where stream buffers are also required as part of the Lake Norman or Mountain Island Lake Watershed Overlay Districts, the more stringent of the stream buffer requirements shall apply.

- 4. Buffer Delineation.** S.W.I.M. Stream Buffers, throughout the jurisdiction of the Town of Huntersville shall be delineated for the purposes of land development permits by an on-site stream delineation prepared by a certified professional using U.S. Army

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Corps of Engineers and/or N.C. Division of Water Quality methodology, which has been approved by the Town. Delineation by Mecklenburg County through its geographic information system (GIS) is allowed for development not requiring a land development permit.

5. **Minimum buffer widths.** All perennial and intermittent streams draining less than 50 acres shall have a minimum 30-foot vegetated buffer including a 10-foot zone adjacent to the bank. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the 10-foot zone adjacent to the bank shall require stream bank stabilization using bioengineering techniques as specified in the Design Manual. All perennial and intermittent streams draining greater than or equal to 50 acres and less than 300 acres shall have a 35-foot buffer with two (2) zones, including a 20-foot stream side and 15-foot upland zone. Streams draining greater than or equal to 300 acres and less than 640 acres shall have a 50-foot buffer with three (3) zones, including a 20-foot stream side, 20-foot managed use and 10-foot upland zone. Buffers for streams draining greater than or equal to 640 acres shall be a 100 feet in width or include the entire floodplain, whichever is greater. This buffer shall consist of a 30-foot stream side, 45-foot managed use and 25-foot upland zone or the entire FEMA floodplain, whichever is greater. All buffers shall be measured from the top of the bank on both sides of the stream. A summary of minimum buffer widths is provided in the table below.

Table of Minimum Buffer Widths by Basin Size and Buffer Zone

Area Designation	Stream Side Zone	Managed Use Zone	Upland Zone	Total Buffer Width each side of Stream	Notes
< 50 acres	N/A	N/A	30	30 feet	(1), (2)
> 50 acres	20 feet	None	15 feet	35 feet	(2)
> 300 acres	20 feet	20 feet	10 feet	50 feet	(2)
> 640 acres	30 feet	45 feet	25 feet or balance of floodplain, whichever is greater	100 feet or entire floodplain, whichever is greater	(2), (3)

Notes:

1. All perennial and intermittent streams draining less than 50 acres shall have a minimum 30-foot vegetated buffer including a 10-foot zone adjacent to the bank. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the 10-foot zone adjacent to the bank shall require stream bank stabilization using bioengineering techniques as specified in the Design Manual.
2. Buffer widths are surveyed horizontally on a line parallel to the surface water, landward from the top of the bank on each side of the stream.
3. Floodplain and buffer calculations will be based upon the FEMA flood fringe and floodway encroachment lines, as locally adopted and as may be amended from time to time.
6. **Buffer Description.** Buffer function, vegetation and use vary according to the different buffer zones and are described in the following table.

Table of Buffer Treatment by Buffer Zone

	Stream Side Zone	Managed Use Zone	Upland Zone	Notes
Function	Protect the integrity of the ecosystems	Provide natural filter; provide distance between upland development and the stream side zone	Prevent encroachment and filter runoff	
Land Disturbance/ Vegetative Requirements	Undisturbed (no cutting, clearing or grading). If existing tree density is inadequate,	Limited clearing (no grading). Existing tree density must be retained to a minimum of 8 healthy trees of a	Herbaceous ground cover, including grass, is allowed; maintenance of existing forest or reforestation is encouraged.	(1)

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	reforestation is required.	minimum 6-inch caliper per 1000 square feet. If existing tree density is inadequate, reforestation is encouraged.	Limited grading that does not change the functionality or extent of the floodplain is permitted.	
Development Uses	Very restricted. Limited to flood control structures and bank stabilization (where permitted) as well as installation of parallel or near perpendicular ($\geq 75^\circ$) water and sewer utilities and near perpendicular road crossings ($\geq 75^\circ$) with stabilization of disturbed areas as specified in Section 7.300, 10.	Restricted. Limited to those allowed in the Stream Side Zone, as well as bike paths and greenway trails up to 102 feet in width.	Restricted. Limited to those allowed in Stream Side and Managed Use Zones, as well as gazebos, non-commercial storage buildings less than 150 square feet, limited grading that does not change the functionality or extent of the floodplain, and storm water structural best management practices (BMPSCMs) if approved in accordance with Section 7.300 11. b), as a condition of a buffer width variance or if they are located a minimum distance of 100 feet from the stream bank.	(2), (3), (4)

Notes:

(1) When reforestation of disturbed buffers is required, tree planting shall be as specified in the Water Quality Buffer Implementation Guidelines.

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(2) Fill material **cannot** be brought into any required buffer. In the Upland Zone only, limited grading that does not change the extent or functional characteristics of the floodplain is permitted. Uses permitted in the buffer zones should be coordinated to ensure minimal disturbance of the buffer system. For example, if it is necessary to install utilities within the buffer, then if greenway trails are built they should follow these cleared areas instead of necessitating additional clearing.

(3) Notwithstanding the uses and structures permitted in the “Upland Zone”, the stricter standards of floodway regulations, if applicable, shall apply.

(4) Greenway Trails referenced in this table refer exclusively to those approved by and dedicated to the Town of Huntersville or Mecklenburg County Parks and Recreation Departments. Other paths or trails in the buffer shall be in accordance with the Charlotte-Mecklenburg SWIM Stream Buffer Implementation Guidelines.

7. **Diffuse flow requirement.** Diffuse Flow Requirement. Diffuse flow of runoff shall be maintained in the buffer by dispersing concentrated flow through the use of level spreaders or other such devices to create sheet flow and by reestablishing vegetation. Techniques for providing diffuse flow are specified in the Charlotte-Mecklenburg **BMPSCM** Design Manual.

- Maximum drainage area size shall be no greater than 10 acres for all outfalls discharging directly into a stream buffer.
- When practical, a drop structure should be installed prior to the last section of outfall pipe discharging to a buffer. A short length of outfall pipe should be laid flat (0% Slope Energy Dissipater), prior to the riprap apron or other energy dissipater.
- Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the buffer.
- Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to impede the formation of erosion gullies.

8. **Ponds that intersect the stream channel.** Ponds that intersect the stream channel shall have the same buffers as the original stream. Buffer requirements do not apply to wet ponds used as structural **BMPSCM**s.

9. **Buffer delineation.** The following buffer delineations are required:

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- a. Buffer boundaries including all buffer zones must be clearly delineated on all site-specific plans for approval, on all construction plans, including grading and clearing plans, erosion and sediment control plans, and site plans.
 - b. The surveyed outside buffer boundary, including all buffer zones, must be clearly marked on-site with orange “tree-protection” or “high-hazard” fence prior to any land disturbing activities. Tree protection is required by Section 7.4(3) of this Ordinance. Where existing trees are to be preserved in a buffer zone, the limits of grading shall equal the drip line of those trees plus an additional five (5) feet on the upland side of the buffer. All Specimen and Heritage trees require a tree survey prior to land-disturbing activity and shall be saved in all buffer zones.
 - c. The surveyed outside boundary of the buffer must be permanently marked with an iron pin at the intersection of the watershed buffer and each property line on each parcel following the completion of land disturbing activities and prior to **final plat, passing final inspection, and** occupancy. Properties greater than 200’ in width shall be marked at a maximum of 100’ intervals.
 - d. Separate buffer zones must be permanently marked at highway stream crossings.
 - e. Buffer boundaries including all buffer zones as well as all buffer requirements must be specified on the record plat, on individual deeds, and in property association documents for lands held in common.
10. **Buffer impacts permitted under section 7.300.** The following buffer impacts are permitted, but design and construction shall comply with the specifications provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines and/or Design Manual for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.
- Near perpendicular (75° or greater) road crossings for connectivity or transportation links where the Town of Huntersville has granted site plan approval.
 - Near perpendicular (75° or greater) utility crossings as approved by Charlotte-Mecklenburg Utilities.
 - Parallel water and sewer utility installation as approved by Charlotte-Mecklenburg Utilities, where a logical and appropriate basis for the impact is demonstrated,

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where disturbance of the Stream Side Zone is minimized to the maximum extent practicable, and where guidelines for restoring vegetation within buffers disturbed as a result of parallel utility installation are met. These guidelines are specified in the Charlotte-Mecklenburg Buffer Implementation Guidelines.

- Public paths and trails parallel to the creek outside the Stream side Zone and near perpendicular stream crossings in any zone. Pathways must use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall preserve existing drainage patterns and avoid drainage structures that concentrate storm water.
- Incidental drainage improvements/repairs for maintenance.
- Individual pedestrian paths connecting homeowners to the stream in the form of narrow, pervious footpaths with minimal tree disturbance.
- New domesticated animal trails (farming) where existing trails are lost as a result of action beyond the farmer's control. Stream crossings should be constructed to minimize impacts to the Stream Side Zone and be maintained with fencing perpendicular to and through the buffer to direct animal movement.
- Mitigation approved by a state or federal agency acting pursuant to Sections 401 or 404 of the federal Clean Water Act.

11. Appeals and variances.

- a. An appeal to reverse or modify the order, decision, determination, or interpretation of the Zoning Administrator shall comply with the procedures and standards of Section 4.000 of these ordinances as well as the requirements of the Huntersville Zoning Ordinance.
- b. **Special Variance Provisions/Mitigation Techniques.**
 - When a “unnecessary hardship” would result from adherence to the buffer width requirements and/or buffer treatment standards, a petition for variance may be filed with the Planning Staff in compliance with the procedures of Section 4.300.

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• The Standards for Granting a Variance, as set out in Section 4.400 of these ordinances shall be met. Site-specific mitigation plans using the techniques below, and approved by the designated agency, shall constitute conditions relating to the intent and standards of this ordinance, and may be attached to variance approval by the Town Board. Specifications for these mitigation techniques are provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines. The techniques below are not construed to offset the requirement of Section 7.300 6. for diffuse flow.

1. Installation of Structural **BMPSCMs**. The installation of an on-site structural **BMPSCM** designed to achieve specified pollutant removal targets will allow for all proposed stream buffer impact on the specific site. The **BMPSCM** must remain outside of the Stream Side Zone and Managed Use Zone. A detailed **BMPSCM** design plan must be submitted to Charlotte-Mecklenburg Storm Water Services for approval based on specifications contained in the Charlotte-Mecklenburg Buffer Implementation Guidelines. This plan must also include a long-term maintenance strategy for the **BMPSCM**, complete with the establishment of adequate financing to support the proposed maintenance practices.
2. Stream Restoration. The owner may restore and preserve the buffer area on any stream of equivalent or greater drainage area the condition of which is determined to be qualified for restoration by Charlotte-Mecklenburg Storm Water Services on a 1:1 basis in linear feet of stream. This restoration shall include stream bank improvements and Stream Side and Managed Use Zone re-vegetation, in accordance with the Charlotte-Mecklenburg Buffer Implementation Guidelines and receive approval from the Charlotte-Mecklenburg Storm Water Services.
3. Stream Preservation. The owner may purchase, fee simple, other stream segments at equivalent or greater drainage area on a 1:1 linear foot basis and convey fee simple and absolute title to the land to the Town of Huntersville, Mecklenburg County, or conservation trust, with a plan approved from the Charlotte-Mecklenburg Storm Water Services.
4. Wetlands Restoration. On a 2:1 acreage basis for disturbed stream and buffer area (2 acres of wetland for each acre of disturbed area),

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the owner may provide a combination of the preservation and/or restoration of wetlands with protective easements and the implementation of structural or non-structural **BMPSCMs** to achieve specific pollutant removal targets within the impacted area. Restoration plan must be approved by Charlotte-Mecklenburg Storm Water Services.

5. Bottom Land Hardwood Preservation. On a 2:1 acreage basis for impacted stream and buffer area (2 acres of bottomland hardwood for each acre of disturbed area), the owner may provide a combination of the preservation of existing bottom land hardwood forest or other specifically approved natural heritage area by conservation easement or other legal instrument, and the implementation of structural or non-structural **BMPSCMs** to achieve specific pollutant removal targets within the impacted area. Plan to be approved by Charlotte-Mecklenburg Storm Water Services.
6. Controlled Impervious Cover for Disturbance landward of Stream Side Zone. The owner may commit to, and provide, a specific site development plan for the parcel with requested buffer disturbance. The plan shall limit overall site impervious cover to less than or equal to 24%. Preservation of the Stream Side Zone is still required. Plan to be approved by Mecklenburg County Land Use and Environmental Services Agency.
7. Open Space Development. The submission of a site-specific development plan that preserves 50% of the total land area as undisturbed open space. Plan to be approved by Charlotte-Mecklenburg Storm Water Services.
8. Mitigation Credits: The purchase of mitigation credits through the Stream Restoration Program on a 1:1 basis, utilizing linear feet of stream impacted and the prevailing rate of purchase as established by the Charlotte-Mecklenburg Buffer Implementation Guidelines. Mitigation credits purchased under any other program (i.e., U.S. Army Corp of Engineers) shall not cover this requirement unless the issuing agency agrees to relinquish the funds to the appropriate local government agency.

9. Alternative mitigation. The list of mitigation techniques shall not prevent the creative development of alternative mitigation plans that achieve the purposes of this section.

12. Posting of financial security required. When structural **BMPSCMs** (set detention ponds and other **BMPSCMs**) are approved for mitigation of a buffer disturbance, the approval will be subject to the owner filing a surety bond, ~~or~~ letter of credit, or making other financial arrangements which are acceptable to Charlotte-Mecklenburg Storm Water Services, in a form which is satisfactory to the County Attorney, guaranteeing the installation and maintenance of the required structural **BMPSCMs** until the issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to be built within the area which drains into the BMPs, allowing credit for improvements completed prior to the submission of the final plat. At such time that this level of occupancy is achieved, written notice thereof must be submitted by the owner to Charlotte-Mecklenburg Storm Water Services. The owner must also verify the adequacy of the maintenance plan for the **BMPSCMs**, including the necessary financing to support the proposed maintenance practices. Charlotte-Mecklenburg Storm Water Services will inspect the structural **BMPSCMs** and verify the effectiveness of the maintenance plan; if both are found to be satisfactory, the department will notify the owner within 30 days of the date of notice.

13. Maintenance requirements for structural **BMPSCMs — civil penalties.** Maintenance of all structural **BMPSCMs** will be the responsibility of the property owner or his designee. Any responsible party who fails to maintain the required **BMPSCMs** in accordance with the approved maintenance plan will be subject to a civil penalty of not more than \$5,000. Each day that the violation continues shall constitute a separate violation. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in assessment of a civil penalty or other enforcement action.

14. Request for determination of buffer requirement. When a landowner or other affected party believes that the S.W.I.M stream buffer delineation maps described in Section 8.25.4 inaccurately depict buffer requirements, he or she shall request a determination from the Storm Water Administrator. Such determinations shall be

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made by the Storm Water Administrator based on an on-site evaluation using the U.S. Army Corps of Engineers and N.C. Division of Water Quality methodology for stream delineation as well as information from databases maintained for stream delineation by Mecklenburg County. Such determinations can also be made at the discretion of the Storm Water Administrator in the absence of a request from a landowner or other concerned party. The buffer requirements of this ordinance shall apply based on determinations made by the Storm Water Administrator. Surface waters that appear on the maps shall not be subject to this ordinance if an on-site determination by the Storm Water Administrator shows that they fall into one of the following categories.

- a. Ditches and manmade conveyances other than modified natural streams.
- b. Manmade ponds and lakes that are not intersected by a buffered stream segment and that are located outside natural drainage ways.
- c. Ephemeral (storm water) streams.

8.170 STREET MARKERS AND BARRICADES

1. Standard street markers must be installed by the developer at one corner of all street intersections, including private streets, before any certificates of occupancy may be issued for buildings or residences along those streets. The design, material, location, and installation of the signs must be in accordance with standards specified in the Engineering Standards and Procedures Manual unless an alternative design is approved. Alternatives to the standard design for street markers may be submitted by the developer for consideration by the Town Board. If an alternative design is approved by the Town Board, responsibility for the installation, maintenance, and replacement of non-standard street markers remains with the developer and subsequently with the homeowners. If maintenance and replacement of non-standard street markers is not provided by the developer or homeowners, the Town shall install standard street markers as replacements are needed. All standard street markers will be maintained and replaced by the Town once initial installation has been completed and streets are accepted for maintenance.
2. Barricades must be installed at the end of all dead-end streets except cul-de-sac streets which have been improved with a permanent turnaround as required by this Ordinance. Design, material, and installation of the barricades must be in accordance with the Engineering Standards and Procedures Manual (ESAPM).

9.000 ENFORCEMENT

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, result in the assessment of a civil penalty of \$500.00 per offense and may result in other enforcement actions as allowed by law. 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.
2. In order to properly enforce the provisions of the subdivision regulations as stated in this ordinance prior to the beginning of any construction, reconstruction, use, or alteration of any land, building, or structure, the appropriate permit must be obtained from Mecklenburg County and the Town of Huntersville. No permit will be issued unless there has been a determination made that the proposed use, building, or structure complies with the requirements of this ordinance. Building permits required pursuant to N.C.G.S. § 160D-1110 may be denied for lots that have been illegally subdivided. In addition to other remedies, the Town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.