

## TA21-02 Repeal of the Adequate Public Facilities Ordinance and Related References

### **PART 1: DESCRIPTION**

TA21-02 is a text amendment repealing the Adequate Public Facilities Ordinance (APFO) and related references. Two ordinances are proposed to accomplish this: (1) repeal of Article 13 and amendment of Article 11 of the Zoning Ordinance; and (2) amendment of Section 6 of the Subdivision Ordinance. Approval of TA21-02 is recommended by Planning staff, was prepared at the direction of the Planning Board, and was recommended for approval by the Ordinance Advisory Board.

### **PART 2: BACKGROUND**

The purpose of the APFO is to prevent the approval of development proposals if the service capacity of the Town's Police, Fire, or Parks & Recreation departments fall below certain capacity levels and to provide a capital facilities planning tool. When a new development application is submitted to the Planning Department, the proposed project is subject to approval of a 'Determination of Adequacy' that calculates the impact of additional households or floor space on Level of Service standards established on a Town-wide basis.

At the time of adoption (2007), the APFO served a useful purpose. The Town's population had grown from about 25,000 to about 38,000 between 2000 and 2006, and with projections showing continuing rapid growth, the addition of a tool to address potentially overwhelming service demand made sense. However, Huntersville has consistently improved capital capacity of Police, Fire, and Parks & Recreation services, and these departments have improved the efficiency and effectiveness of their operations.

Specific reasons the APFO should be repealed include:

1. The Level of Service (LOS) standards contained in the ordinance are intentionally set as minimum thresholds meant to delay or deny a development application should extreme service capacity problems arise. The fact that this "stopgap" measure has never been triggered in the 13 years since the APFO was adopted indicates that the Town has responded favorably to service demands, even in the face of rapid growth.
2. The database required for administration of the APFO is cumbersome and expensive to maintain. On two occasions (2009 and 2010), the Town hired consultants to update APFO data. Planning staff will continue to maintain a detailed development database even if the APFO is repealed, but related tasks will be less complicated and more useful for departments that use the data.
3. Huntersville Police, Fire, and Parks & Recreation staff representatives provided input regarding the impact of the APFO on their capital facilities planning and budgeting. None of the affected departments rely on the APFO as guide to plan service programs or related budget proposals. Instead, they use professionally accredited programs, comparable city studies, citizen surveys, and frequent review sessions (including budget review) with the Town Board to determine appropriate capital improvements and service levels.
4. The APFO sets minimum LOS thresholds tied to 6 capital facility standards with the specific intent to deny or delay development proposals. This is a simplistic system that doesn't allow discretion, nor does it recognize the complexities of service delivery for the affected departments. For example, the Police Department responds to far more service calls for the Walmart Superstore than it does for any other retail business (or combination of businesses) with the same amount of floor space.
5. The Town Manager and Board of Commissioners employ a budget review and adoption process that allows better flexibility and more comprehensive treatment of public facilities than does the APFO.

The Ordinance Advisory Board asked for more detailed information about how affected departments plan for capital facilities in the absence of the APFO. Police, Fire, and Parks & Recreation representatives provided the following input:

- None of them use the APFO LOS thresholds to determine service delivery needs.
- They employ other professionally accepted service delivery standards
- All of them spend considerable time with elected officials and citizens to discuss improvement priorities and long-term budget strategies.
- The Police Department is accredited through CALEA (Commission on Accreditation for Law Enforcement Agencies) and complies with over 400 law enforcement standards.
- The Fire Department follows the National Fire Protection Association Handbook, the National Fire Protection Association Standards, and Office of the North Carolina Fire Marshal's Office requirements.
- The Huntersville 2030 Comprehensive Parks, Recreation + Open Space Master Plan (adopted 09/21/2020) contains a specific chapter devoted to Levels of Service + Benchmarking (Pages 101-113) and contains a Capital Improvement Plan (pages 131-133).

### **APFO Review Process To-Date**

**Feb 2019** The Huntersville Planning Board requested an examination of the calculations, methodology and requirements for the Adequate Public Facility Ordinance.

**April 2019** The Town Board Commissioners approved the Planning Board's request.

**May 2019** Three Planning Board members met with Town Planning staff to discuss how the APFO examination would be performed.

**Jan 2020** The Planning Board received a detailed APFO presentation and reviewed comments from affected departments. Staff recommended rescission of the APFO.

**May 2020** The Planning Board recommended starting the process to rescind the APFO, including all references to the APFO in any Town-related regulations.

**Nov 2020** The Ordinance Advisory Board reviewed basic APFO requirements and functions, and discussed the pros and cons of the ordinance.

**Jan 2021** The Ordinance Advisory Board recommended rescission of the APFO and related references, and requested additional explanation of how the Town will account for public facilities in the future.

### **PART 3: HUNTERSVILLE 2040 COMMUNITY PLAN CONSISTENCY**

The following are examples of relevant polices from the 2040 Huntersville Community Plan that may be incorporated into the Board's statement of consistency for approval or denial of the request. The Infrastructure and Public Services Policy Recommendations are proactive and more comprehensive than the services addressed in the APFO.

#### **Adequate Public Facilities statement (Page 90)**

Setting benchmarks and monitoring performance can help maintain and communicate the achievements and service levels of public infrastructure access and service provision. Respondents to surveys for this plan indicated that excellent public services were valued. Interdepartmental coordination, including outside public service providers (water, sewer, electric, etc.), is important so that new development does not stretch existing budgets and resources beyond levels acceptable to the public. A coordinated approach can identify metrics to monitor that serve as indicators for maintaining high-quality facilities and services.

**Policy PS-1:** Work with partners to provide and maintain public facilities required to offer residents and property owners with quality municipal services, consistent with progressive government practices and sound fiscal policy.

**Policy PS-3:** Coordinate with police and fire departments to ensure adequate resources to provide public safety services to desired development.

**Policy PS-4:** Plan for long-term personnel, facility, and equipment needs of the Fire Department.

**Policy PS-8:** Provide public services to new development in a fiscally responsible manner.

**Policy EOS 8.1:** Implement the 2030 Comprehensive Parks, Recreation & Open Space Master Plan.

**Policy EOS-10:** Improve bicycle and pedestrian facilities throughout Town.

#### **PART 4: STAFF RECOMMENDATION**

Staff recommends:

- Adoption of the two draft ordinances prepared for Text Amendment TA21-02:
  - An Ordinance repealing Article 13 and amending Article 11 of the Huntersville Zoning Ordinance; and
  - An Ordinance to amend Section 6 of the Huntersville Subdivision Ordinance.

The draft ordinances make changes to the same Town development regulations affected by the original 2007 APFO ordinance.

#### **PART 5: PUBLIC HEARING**

The Public Hearing took place March 1, 2021. No public comments were offered.

#### **PART 6: PLANNING BOARD RECOMMENDATION**

The Planning Board is scheduled to hear Text Amendment TA21-02 on March 23, 2020.

#### **PART 7: ATTACHMENTS**

Attachment A: Text Amendment Application

Attachment B: Proposed Zoning Ordinance Repeal & Amendment

Attachment C: Proposed Subdivision Ordinance Amendment

**PART 8: CONSISTENCY STATEMENTS**

Planning Department	Planning Board	Board of Commissioners
<p><b>APPROVAL:</b> In considering the proposed Text Amendment TA21-02, repealing Article 13 and amending Article 11 of the Zoning Ordinance and amending Section 6 of the Subdivision Ordinance, Planning staff finds the repeal and amendment of the above referenced articles and sections consistent with Policies PS-1, PS-3, PS-4, PS-8, EOS 8.1, and EOS-10. It is reasonable and in the public interest to approve Text Amendment 21-02 because the Town has, over time, established procedures to address capital facility needs that are more comprehensive and detailed than the Level of Service measures contained in the Adequate Public Facilities Ordinance.</p>	<p><b>APPROVAL:</b> In considering the proposed Text Amendment TA21-02, repealing Article 13 and amending Article 11 of the Zoning Ordinance and amending Section 6 of the Subdivision Ordinance, the Planning Board recommends approval based on the amendment being consistent with <b><u>(insert applicable plan reference)</u></b></p> <p>It is reasonable and in the public interest to approve Text Amendment TA21-02 because...<i>(Explain)</i></p>	<p><b>APPROVAL:</b> In considering the proposed Text Amendment TA21-02, repealing Article 13 and amending Article 11 of the Zoning Ordinance and amending Section 6 of the Subdivision Ordinance, the Planning Board recommends approval based on the amendment being consistent with <b><u>(insert applicable plan reference)</u></b></p> <p>It is reasonable and in the public interest to approve Text Amendment TA21-02 because...<i>(Explain)</i></p>
<p><b>DENIAL:</b> N/A.</p>	<p><b>DENIAL:</b> In considering the proposed Text Amendment TA21-02, repealing Article 13 and amending Article 11 of the Zoning Ordinance and amending Section 6 of the Subdivision Ordinance, the Planning Board recommends denial based on the amendment being <b><u>(consistent OR inconsistent) with (insert applicable plan reference).</u></b></p> <p>It is not reasonable and in the public interest to amend the Zoning Ordinance because....<i>(Explain)</i></p>	<p><b>DENIAL:</b> In considering the proposed Text Amendment TA21-02, repealing Article 13 and amending Article 11 of the Zoning Ordinance and amending Section 6 of the Subdivision Ordinance, the Planning Board recommends denial based on the amendment being <b><u>(consistent OR inconsistent) with (insert applicable plan reference).</u></b></p> <p>It is not reasonable and in the public interest to amend the Zoning Ordinance because....<i>(Explain)</i></p>



# Text Amendment Application

Date of Application January 25, 2021

## Fee

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

## Type of Change

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

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

## Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Subdivision Ord. Article(s): \_\_\_\_\_ Section(s): 6

Zoning Ordinance - Articles 11.6 and 13

### Current Ordinance

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A proposed resolution is attached that provides specific language that will amend Huntersville Subdivision and Zoning Ordinances.

### Proposed Text

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The intent is to rescind the Adequate Public Facilities Ordinance (APFO) and related references.

### Reason for Proposed Change

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The Huntersville Planning Board and Ordinance Advisory Board have reviewed background information provided by Town staff regarding APFO rescission.

Attach additional pages if needed.

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

**Applicant**

Printed Name Dave Hill

Corporation    Limited Liability Company    Trust    Partnership    Other: Town of Huntersville

Signature \_\_\_\_\_ Date January 25, 2021

Title Sr. Planner Email dhill@huntersville.org

Address of Applicant Town Center, 3<sup>rd</sup> Floor, Huntersville, NC

**Property Owner (if different than applicant)**

\* Printed Name N/A

Corporation    Limited Liability Company    Trust    Partnership    Other: \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_ Email \_\_\_\_\_

Address of Property Owner \_\_\_\_\_

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

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

**Contact Information**

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

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

Date Received By Planning Department: \_\_\_\_\_

Staff Initials: \_\_\_\_\_

**AN ORDINANCE AMENDING SECTION 6 OF THE SUBDIVISION ORDINANCE  
AND ARTICLES 11 AND 13 OF THE ZONING ORDINANCE**

**BE IT ORDAINED** by the Town Board of Huntersville, North Carolina, as follows:

**SECTION 1: Section 6.200(19) of the Huntersville Subdivision Ordinance shall be amended to read as follows:**

***19. Impact of Development on Public Facilities***

When reviewing certain subdivisions, the town shall consider the impacts the proposed development will have on public facilities in light of the requirements of Section 6.300(13) and ~~Article 13 and~~ Article 14 of the Town Zoning Ordinance, as applicable. The developer shall demonstrate the proposed subdivision does not adversely affect the health, safety and welfare of the community, and where applicable, the developer may provide mitigation measures to minimize adverse impacts. 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 Articles ~~13 and~~ 14 of the Zoning Ordinance.

**SECTION 2: Section 6.300(13) of the Huntersville Subdivision Ordinance shall be amended to read as follows:**

13. ~~Adequate Public Facilities Applications;~~ Traffic Impact Assessments; Physical Analysis.
1. ~~an Adequate Public Facilities Application for certain subdivisions, as required under Article 13 of the Town Zoning Ordinance, which is hereby incorporated by this reference;~~
  2. a Traffic Impact Assessment for certain subdivisions, as required by Article 14 of the Town Zoning Ordinance, which is hereby incorporated by this reference.
  3. for developments of twenty (20) or more residential units or equivalent traffic generation a Physical Analysis (type of units expected including number of bedrooms, projected values, size and timing of phases, etc.).

**SECTION 3: Section 6.850 of the Huntersville Subdivision Ordinance shall be amended to read as follows:**

***6.850 ADEQUATE PUBLIC FACILITIES AND TRAFFIC IMPACT ASSESSMENTS***

Where required, an Adequate Public Facilities Application and Traffic Impact Assessment shall be provided by the applicant, in accordance with Articles ~~13 and~~ 14 of the Town Zoning Ordinance, which are incorporated by this reference.

**SECTION 4: Article 11.6 of the Huntersville Zoning Ordinance shall be amended to read as follows:**

## **11.6 Zoning Compliance**

### **.1 Zoning Compliance**

- a) A completed application form for a Zoning Permit shall be submitted by filing a copy of the application in the office of the appropriate Zoning Administrator.
- b) The Administrator shall approve the Zoning Permit unless he finds, after reviewing the application and consulting with the applicant that:
  - 1) the requested Permit is not within his 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 13, no Determination of Adequacy has been issued by the Zoning Administrator; or
  - 5) 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**

- a) 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 Articles 13 or 14, an Adequate Public Facilities Determination of Adequacy and Traffic Impact Assessment shall be submitted with the residential or nonresidential site plan.

## **SECTION 5: The Huntersville Zoning Ordinance shall be amended to delete Article 13 in its entirety.**

### **SECTION 6: Conflict**

In the event of any conflict between the provisions of this Ordinance and any other provision, law, ordinance, or regulation of the Town, the more restrictive provision shall apply.

### **SECTION 7. Severability.**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decisions of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

### **SECTION 8. Effective Date.**

This Ordinance shall become effective upon the date of adoption.

**PLANNING BOARD MOTION:** Recommended starting the process to rescind the APFO, 9-0.

**HUNTERSVILLE ORDINANCE ADVISORY BOARD:** Recommended rescission of the APFO and related references on January 7, 2021, 8-0.

**PUBLIC HEARING DATE:** March 1, 2021

**PLANNING BOARD MEETING:** March 23, 2021

**TOWN BOARD DECISION:** April 19, 2021



## **AN ORDINANCE REPEALING ARTICLE 13 AND AMENDING ARTICLE 11 OF THE HUNTERSVILLE ZONING ORDINANCE**

**BE IT ORDAINED** by the Board of Commissioners of the Town of Huntersville, North Carolina, that Article 13 of the Huntersville Zoning Ordinance is repealed, and Article 11 of the Huntersville Zoning Ordinance is amended as follows:

**Section 1. Article 13 of the Zoning Ordinance entitled “Adequate Public Facilities Ordinance (APF)” is repealed in its entirety.**

**Section 2. Section 11.6 of the Huntersville Zoning Ordinance shall be amended to read as follows:**

### *11.6 Zoning Compliance*

#### **.1 Zoning Compliance**

- a) A completed application form for a Zoning Permit shall be submitted by filing a copy of the application in the office of the appropriate Zoning Administrator.
- b) The Administrator shall approve the Zoning Permit unless he finds, after reviewing the application and consulting with the applicant that:
  - 1) the requested Permit is not within his 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 13, no Determination of Adequacy has been issued by the Zoning Administrator; or~~
  - 5) 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**

- a) 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 ~~Articles 13 or 14, an Adequate Public Facilities Determination of Adequacy and~~ Traffic Impact Assessment shall be submitted with the residential or nonresidential site plan.

#### **Section 3. Effective Date.**

This Ordinance shall become effective upon the date of adoption.

**PLANNING BOARD:** Recommended starting the process to repeal the APFO on 5/26/2020, 9-0.

**HUNTERSVILLE ORDINANCE ADVISORY BOARD:** Recommended APFO repeal on 1/7/2021, 8-0.

**PUBLIC HEARING DATE:** March 1, 2021

**PLANNING BOARD MEETING:** March 23, 2021

**TOWN BOARD DECISION:** April 5, 2021

## AN ORDINANCE TO AMEND SECTION 6 OF THE HUNTERSVILLE SUBDIVISION ORDINANCE

**BE IT ORDAINED** by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 6 of the Subdivision Ordinance is hereby amended as follows:

**Section 1. Section 6.200(19) shall be amended to read as follows:**

***19. Impact of Development on Public Facilities***

When reviewing certain subdivisions, the town shall consider the impacts the proposed development will have on public facilities in light of the requirements of Section 6.300(13) and ~~Article 13 and~~ Article 14 of the Town Zoning Ordinance, as applicable. The developer shall demonstrate the proposed subdivision does not adversely affect the health, safety and welfare of the community, and where applicable, the developer may provide mitigation measures to minimize adverse impacts. 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 ~~Articles 13 and~~ 14 of the Zoning Ordinance.

**Section 2. Section 6.300(13) shall be amended to read as follows:**

13. ~~Adequate Public Facilities Applications; Traffic Impact Assessments; Physical Analysis.~~
- ~~1. an Adequate Public Facilities Application for certain subdivisions, as required under Article 13 of the Town Zoning Ordinance, which is hereby incorporated by this reference;~~
  2. 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.
  3. 2. for developments of twenty (20) or more residential units or equivalent traffic generation a Physical Analysis (type of units expected including number of bedrooms, projected values, size and timing of phases, etc.).

**Section 3. Section 6.850 shall be amended to read as follows:**

***6.850 ADEQUATE PUBLIC FACILITIES AND TRAFFIC IMPACT ASSESSMENTS***

Where required, an ~~Adequate Public Facilities Application and~~ Traffic Impact Assessment shall be provided by the applicant, in accordance with ~~Articles 13 and~~ 14 of the Town Zoning Ordinance, which are incorporated by this reference.

**Section 4. Effective Date.**

This Ordinance shall become effective upon the date of adoption.

**PLANNING BOARD:** Recommended starting the process to repeal the APFO on 5/26/2020, 9-0.

**HUNTERSVILLE ORDINANCE ADVISORY BOARD:** Recommended APFO repeal on 1/7/2021, 8-0.

**PUBLIC HEARING DATE:** March 1, 2021

**PLANNING BOARD MEETING:** March 23, 2021

**TOWN BOARD DECISION:** April 5, 2021