



# Subdivision Ordinance

Adopted November 19, 1996  
As Amended Through **March 04, 2019**

**Commented [ES1]:** Update when approved

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**SECTION 1.**

**1.000 PURPOSE AND APPLICABILITY**

**1.100 SHORT TITLE**

This ordinance will be known and may be cited as the Huntersville Subdivision Ordinance.

**1.200 PURPOSE**

The provisions of this ordinance are adopted pursuant to the authority conferred by Section 160D-801, through Section 160D-808, of the General Statutes of North Carolina for the purpose of providing for the orderly development of the Town of Huntersville, North Carolina and its environs by regulating the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for future development of the town; to coordinate transportation networks and utilities within subdivisions with existing or planned streets or with public facilities; to secure or protect adequate rights-of-way and easements for street or utility purposes; to secure adequate spaces for recreation and school sites; to provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding; to protect and enhance environmental quality; to ensure the proper legal description, monumentation, and recording of subdivided land; and to create conditions that substantially promote public health, safety, convenience, and the general welfare.

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**1.300 JURISDICTION**

The provisions of this ordinance shall apply to all subdivision activities, as defined in Section 2.100 of this ordinance, within the corporate limits and the extraterritorial zoning jurisdiction of the Town of Huntersville, North Carolina as now or hereafter established. Any subdivision for which a preliminary plan has been approved by Mecklenburg County prior to becoming subject to the Huntersville Subdivision Ordinance, may, at the option of the developer, be developed in its entirety in accordance with the Mecklenburg County Subdivision Ordinance. Any subdivision for which a preliminary plan has been submitted to Mecklenburg County, but not approved prior to becoming subject to the Huntersville Subdivision Ordinance, shall comply with Huntersville ordinance standards.

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**1.400 SEPARABILITY**

If any section, paragraph, subdivision, clause or provision of this ordinance is adjudged invalid by a court of competent jurisdiction, such adjudication will apply only to such section, paragraph, subdivision, clause or provision so adjudged and the remainder of this ordinance will be deemed valid and effective.

Commented [JS4]: Cluster development removed as this subsection is no longer relevant

**1.500 COMPLIANCE WITH ORDINANCE**

All plats for the subdivision of land must conform to the requirements of this ordinance and be submitted in accordance with the procedures and specifications established herein. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land will not exempt the transaction from compliance with this ordinance. No utility shall be extended nor any permit be issued by an administrative agent of the Town of Huntersville for the construction of any building or other improvement upon any land for which a plat is required until the requirements of this ordinance have been met and the final plat approved.

Deleted: 1.600 MODIFICATION OF CERTAIN STANDARDS FOR CLUSTER DEVELOPMENTS¶  
Appendix A of these regulations did set forth special development standards for Cluster Developments. All cluster developments submitted for review and approval by the Huntersville Board of Commissioners after July 11, 1995, the effective date of this amendment, and prior to November 19, 1996, date of removal of ¶  
¶  
Appendix A from these regulations, shall meet the development standards of Appendix A. At the option of the developer, cluster developments submitted prior to the effective date of this amendment may be reviewed and approved, and further revised and modified, based upon the development standards applicable to the project at the time of submission.¶

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**1.600 EFFECTIVE DATE**

This ordinance shall become effective November 1, 1989.

**2.000 DEFINITIONS AND RULES OF CONSTRUCTION**

**2.100 DEFINITIONS**

As used in this ordinance, the following terms will have the meanings indicated in this section:

Commented [ES5]: All of the definitions in this section should align with the zoning ordinance, as well as 160D-102.

We will likely continue to have to update this Section, as well as the definition of the Zoning Ordinance containing definitions (Article 12) until all updates are complete to ensure that we have captured all updated definitions as edits progress.

**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.

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**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.

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**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).

Commented [JS6]: Consistent with zoning ordinance definition

**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.

Deleted: Building face. ¶  
The dominant structural plane of the elevation of any side of a building. For example, the building face of a two-story dwelling with one-story porch is considered to be the two-story elevation of such structure.... ¶

**Conservation Easement.**

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

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**Consulting Engineer.**

A North Carolina Registered Engineer appointed from time to time by the Town Board of Huntersville.

Deleted: Cluster Development. ¶  
A tract of land planned and developed as an integral unit in a single development operation or a definitely programmed... series of series of development operations, and in accordance with an approved site plan. The development on the tract is limited by overall density or intensity. The site-specific vesting plan for a cluster development requires review and approval by the Town Board. ¶

**Corner Lot.**

A lot which abuts the right-of-way of two streets at their intersection.

Deleted: series of development operations, and in accordance approved site plan. The development on the tract is limited by overall density or intensity. The site-specific vesting plan for a cluster development requires review and approval by the Town Board. ¶

**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.

**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.

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**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:

Deleted: ¶

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 of 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:
    - a. Any lot dimension size requirements of the applicable land-use regulations, if any.
    - b. The use of lots is in conformity with the applicable zoning requirements, if any.
    - c. 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 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 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:** High volume, moderate speed roadway. Includes median and may incorporate interchanges as appropriate. Access strongly controlled, typically provided at street intersections.

**Deleted: Land Clearing and Inert Debris (LCID) Landfill.** A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes meeting the standards of the State of North Carolina...

**Deleted:**

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**Deleted:** and controls the technical standards for construction of public and private improvements relating to streets, sidewalks, drainage and other facilities. Whenever, in this ordinance, reference is made to "standards" or "manual" it refers to the most recent edition of the "Town of Huntersville Engineering Standards and Procedures Manual"...

**Deleted:** 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. In the Farmhouse Cluster, open space may also include deed-restricted portions of private building lots. Urban Open Space assumes one or more of the forms detailed in Article 7 of the Huntersville Zoning Ordinance, and may contain recreation equipment and amenities as indicated. Natural, Recreational and Agricultural Open Space is site specific in its designation. Golf courses and other neighborhood and outdoor recreational uses which are designed and sited to preserve rural appearance will be construed, in whole or in part, to be Recreational open space as permitted in Article 7 of the Huntersville Zoning Ordinance.

**Commented [JS11]:** Matches with Open Space definition in Zoning Ordinance

**Deleted: Planning Area.** 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...

**Deleted:**

**Commented [JG13]:** Definition from 160D.

**Deleted: Reverse Frontage.**

The configuration of lots or a development site so that vehicular access to the lots or development site does not involve individual driveway connections to the street to which access is restricted, but rather is from another means such as a public or private street or easement which either intersects or runs parallel to the street to which access is restricted. Reverse frontage does not relate to any particular orientation of a structure to the street...

**Deleted:**

**Commented [JS15]:** Definitions changed to match Zoning Ordinance and Comprehensive Transportation Plan

**Deleted: or Expressway (Class I).**

**Deleted:** A multi-lane, grade-separated, limited access major road connecting this region, major activity centers or major roads with other regions, major activity centers or major roads. It is designed to accommodate large volumes at high speeds. Such a facility may be part of the interstate, federal, or state primary highway system. A Class I road will be built to or approaching interstate design standards.

**Deleted: Limited Access Arterial (Class II).**

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.

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 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.

#### **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

**Deleted:** A multi-lane limited access major road connecting major activity centers or major roads. It is designed to accommodate large volumes of traffic at moderate speed. Intersections are at grade, with access only at cross streets, rather than at individual driveways. All types of land uses are acceptable along this road with proper consideration to environmental stresses related to the road. ...

**Deleted: Major Arterial (Class III).**

**Deleted:** A multi-lane major roadway connecting Class I, II, or III streets with lesser streets in the network. The Class III road may also provide connections between this and other regions. It is designed to accommodate large volumes of traffic at moderate speeds, but it is not intended to provide primary access to adjoining high trip generating uses. ¶

**Commercial Arterial (Class III-C). ¶**

A multi-lane, major roadway connecting Class I or II roads with lesser streets in the network, the Class III-C road may also connect this region to other regions. It is designed to accommodate large volumes of traffic at moderate speeds while also providing direct access to nonresidential high trip generating land uses. A Class III-C road may be part of state primary or secondary highway systems. ¶

**Deleted: Arterial (Class IV).**

**Deleted:** A roadway, frequently two lanes, providing a connection from Class II and Class III roads to other lesser roads in the system. It is designed to accommodate moderate volumes of traffic at moderate speeds. It does not have a significant function in connecting this region to other regions. Therefore, it usually only handles trips for short to moderate distances. ¶

**Deleted:** .

**Deleted:** . The Collector Street is characteristic of conventional subdivisions approved prior to November 19, 1996, the effective date of this amendment. Its function is replaced by one or a combination of the Town Street types defined in Article 5, Huntersville Zoning Ordinance. ¶

**Deleted:** The Local Street is characteristic of conventional subdivisions approved prior to November 19, 1996. It is replaced by one or more of the Town Street types defined in Article 5, Huntersville Zoning Ordinance. ¶

**Deleted:** The street types defined in Article 5 of the Huntersville Zoning Ordinance, intended to serve developments submitted and approved after November 19, 1996, the effective date of this amendment. ¶

**Commented [JS16]:** Consistent with Zoning Ordinance

**Deleted:** Highway Commercial Zoning District where existing development or limited access arterial prohibits extension and connection of the public street network; not dedicated to or maintained by the public. ¶

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 subdivided and recorded lots 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 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 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.
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.

**Commented [JG17]:** 160D-102 (31) Subdivision. - The division of land for the purpose of sale or development as specified in G.S. 160D-802.

**Commented [ES18R17]:** Noted areas where our ordinance differs

**Deleted:** 1.

**Deleted:** parcels platted

**Commented [ES19]:** Statute says 10; 160D-802(a)(2)

**Commented [JS20R19]:** Huntersville set at 5 acres

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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.

**Deleted:** A subdivision not otherwise exempt from the provisions of this ordinance where no new public streets are to be created and the tract to be subdivided is 40 acres or more, subdivided into single family building lots at a gross density not exceeding 1 dwelling unit per 20 acres, and subject to the restrictions of an irrevocable conservation easement held by a conservation organization authorized by N.C.G.S 121-35(1) . . .

*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.

**Commented [JS23]:** Consistent with Zoning Ordinance

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*Subdivision, Major.*

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

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

*Subdivision, Minor.*

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

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

**Deleted:** 1.

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

*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 thoroughfare or minor thoroughfare, Thoroughfare Plan.

**Deleted:** Any street designated on the adopted thoroughfare plan or any street which is an extension of any street on the thoroughfare plan and which extends into the area not covered by the thoroughfare plan. The words thoroughfare and arterial are used synonymously and indicate streets which are designated as Class I, II, III, III-c, or IV.

**Commented [JS24]:** Consistent with Zoning Ordinance

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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.~~

**Commented [JS25]:** Consistent with Zoning Ordinance

**Deleted:** with frontage on two streets.

*Town Board.*

The Board of Commissioners of the Town of Huntersville.

**Deleted:** ¶

*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.

**2.200 RULES OF CONSTRUCTION**

For the purposes of these regulations, the following rules of construction apply.

1. ~~These regulations will be construed to achieve the purposes for which they are adopted.~~
2. ~~In the event of any conflict in limitations, restrictions, or standards applying to a project, the provision more consistent with the Huntersville Zoning Ordinance shall apply.~~
3. ~~The words "shall", "must", and "will" are mandatory in nature, implying an obligation or duty to comply with the particular provision.~~
4. ~~The word "may" is permissive in nature except when used in the negative.~~
5. ~~References to "days" will always be construed to be working days, as defined in Article 12 of the Zoning Ordinance, unless the context of the language clearly indicates otherwise.~~

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**3.000 DECISION MAKING AND ADMINISTRATIVE BODIES**

**3.100 PLANNING STAFF**

In addition to any authority granted to the Planning Director by other ordinances of the Town of Huntersville, the Planning Director and the employees under his or her direction, ~~or other Designee, may~~ from time to time, be designated by the Board of Commissioners to administer the Subdivision Ordinance ~~and~~ will have the following duties in accordance with these regulations.

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**Deleted:** (Designee)

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1. ~~To review all petitions for subdivisions of land, within the authority and jurisdiction of these regulations, and comment on completeness of petitions and conformity to the requirements of these regulations.~~
2. ~~To review and provide comments on variance petitions.~~
3. ~~To maintain files and other public records related to the administration and enforcement of these regulations.~~
4. ~~To comment on proposed amendments to these regulations.~~
5. ~~To interpret the provisions of these regulations.~~
6. ~~To coordinate all local, state, and other appropriate agency review and comment on all subdivisions proposed under these regulations.~~

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7. To establish such procedures as necessary and proper for the administration of their responsibilities under these regulations.
8. To approve for recordation in the Mecklenburg County Register of Deeds those divisions of land which, according to the definition of Subdivision found in Section 2.100, are not subject to the requirements of this ordinance.
9. To approve for recordation in the Mecklenburg County Register of Deeds those divisions of land, defined as Limited Subdivisions and Minor Subdivisions in Section 2.100, which meet the standards of the Subdivision Ordinance and Zoning Ordinance, except as otherwise provided in Section 6.550.
10. To approve Major Subdivision Preliminary Plans and Final Plats which are identical to, or include only minor revision(s) to, the approved sketch plan. Minor revisions include, but are not limited to, minor shifts in streets to adjoining properties, shift in streets internal to the subdivision, minor shifts in open space location, reduction of lot and/or unit count not inconsistent with the intent of the most detailed plan approved by the Board of Commissioners, and other changes which do not alter the overall layout of the plan. Major revisions include, but are not limited to, the addition of lots, the addition of streets, change(s) to the pattern of street connections, changes to open space provisions, reduction in dedications to the public, or any other feature(s) of the subdivision which assumed significance at the time of sketch plan approval.
11. To approve minor revisions to sketch plans, preliminary plans, and final plats; **Minor revisions** include, but are not limited to, minor shifts in streets to adjoining properties, shift in streets internal to the subdivision, minor shifts in open space location, reduction of lot and/or unit count not inconsistent with the intent of the most detailed plan approved by the Board of Commissioners, and other changes which do not alter the overall layout of the plan.
12. To approve subdivision sketch plans that are consistent with or show minor changes to an approved conditional rezoning plan. Minor changes to a conditional rezoning plan shall include, but not be limited to, minor shifts in street and open space location (not less open space), fewer lots and other changes which do not alter the overall layout of the plan or which were significant at the time of the conditional rezoning plan approval.
13. To approve final plats for recordation in conjunction with an Expedited Subdivision Review.

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**Commented [ES26]:** Since we are referencing minor revisions, we should define minor revisions rather than the converse. Or at least define both.

**Commented [JS27]:** Town Board indicated staff should approve street shifts internal to a development provided they do not affect access to adjacent properties: January 28, 2021 Retreat. This was in reference to Bryton single-family amendment where streets shifted and density was reduced.

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**Commented [JS28]:** While Statute 160D-703(b) mentions minor changes do not include modifications to “density of overall development”, it is a common practice as engineering plans are prepared that lot counts are reduced. Staff supports keeping a reduction in lots defined as a minor change because the impact will be less than what was approved. We believe reducing the impact of development is in keeping with the statute.

### 3.200 PLANNING BOARD

In addition to any authority granted to the Planning Board by other ordinances of the Town of Huntersville, the Planning Board will have the following powers and duties to be carried out in accordance with these regulations.

1. To hear and make advisory recommendations on proposed amendments to the text of these regulations; to propose, as needed, amendments to change the text of these regulations.
2. To review and make recommendation on sketch plans for major subdivisions (unless otherwise provided), and major changes to approved sketch or preliminary plans for major subdivisions in accordance with the regulations set forth by the zoning and subdivision ordinances.
3. To hear, recommend and comment on requests for variances from the standards of this ordinance in accordance with the provisions of Section 4.000.
4. To hear and make recommendation on appeals from the interpretation of any provisions of this ordinance by the Town Staff or Designated Administrative Agent. The Planning Board may recommend reversal or modification of any action under appeal upon finding an error in the application of these regulations.

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In all of these matters, the Planning Board may recommend approval of the request, denial of the request, or approval of the request with conditions relating to the intent and standards of this ordinance.

### 3.300 TOWN BOARD OR DESIGNATED ADMINISTRATIVE AGENT

In addition to all other authority reserved to the Town Board by other ordinances, the Town Board will have the following powers and responsibilities in accordance with these regulations.

1. To hear and decide proposed amendments to the text of these regulations.
2. To review and decide all applications for approval of Major Subdivision Sketch Plans (unless otherwise provided), major changes to approved sketch plans or preliminary plans for Major Subdivisions, and Farmhouse Clusters as provided in Article 3 of the Zoning Ordinance.
3. To hear and decide requests for variances from the standards of this ordinance in accordance with the provisions of Section 4.000.
4. To hear and decide appeals from the interpretation of any provisions of this ordinance by the Town Staff or Designated Administrative Agent. The Town Board may reverse or modify any action under appeal upon finding an error in the application of these regulations.

In all of these matters, the Town Board may approve the request, deny the request, or approve the request with conditions relating to the intent and standards of this ordinance.

### 3.400 PLANNING STAFF ADDITIONAL POWERS.

The Planning Director and the employees under his or her direction will have the following additional powers and duties to be carried out in accordance with these regulations:

1. To maintain the text of these regulations.
2. To recommend and prepare amendments to the text of these regulations.
3. To accept and file petitions for variances.
4. To accept and file notices of appeals within ten (10) days of the day an administrative interpretation or decision is issued.

## 4.000 APPEALS AND VARIANCES

### 4.100 AUTHORITY

The Planning Board may recommend, and the Town Board shall hear and decide petitions for appeals from an interpretation or decision made by Planning Staff or Designated Administrative Agent and petitions for variances from the requirements of these regulations. Any reversal, modification, or affirmation of an interpretation or any variance thus authorized will be entered in writing in a decision of the Town Board with the justification set forth.

### 4.200 INITIATION

Any person who has standing under G.S. 160D-1402(c) or the local government may appeal an administrative decision made pursuant to this ordinance to the board. An appeal is taken by filing a notice of appeal with the Planning Staff. The notice of appeal shall state the grounds for the appeal. 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.

### 4.210 FILING OF NOTICE OF APPEAL

The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. A notice of appeal, in the form prescribed by the Planning Director, must be filed with the Planning Staff, accompanied by a nonrefundable filing fee as established by the Huntersville Board of Commissioners. The official who made the decision shall transmit to the board 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.

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**Commented [ES29]:** 160D-406(j) requires quasi-judicial decisions. Applies to each quasi-judicial decision, including variances, appeals, AND quasi-judicial subdivision decision.

160D-406(j) Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and 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 development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective.

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**Deleted:** A petition for an appeal of an administrative interpretation or decision may be initiated by any person aggrieved or by any officer or department of the Town of Huntersville. ...

**Commented [JG30]:** Language from 160D-405(d)

**Deleted:** within 10 days of the day an administrative interpretation or decision is issued. The notice filed with the Planning Staff must be

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**Deleted:** Failure to timely file such notice and fee will constitute a waiver of any rights to appeal under this section. ...

**Deleted:** The filing of such notice will require the

**Commented [JG31]:** 160D-405(e)

**Deleted:** officer whose action is appealed to transmit to the Town Manager and Planning Director all administrative papers, records, and other information regarding the subject matter of the appeal.¶

#### 4.220 STANDARDS FOR GRANTING AN APPEAL

The Planning Board may recommend and the Town Board may decide to reverse or modify the decision or interpretation under appeal upon finding an error in the application of these regulations on the part of the administrative official rendering the decision or interpretation.

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#### 4.300 FILING OF VARIANCE PETITION

A petition for a variance from the requirements of this ordinance, in the form prescribed by the Planning Director, must be filed with the Planning Staff, accompanied by a nonrefundable filing fee as established by the Town Board.

#### 4.400 STANDARDS FOR GRANTING A VARIANCE

Before granting a variance from the requirements of this ordinance, the Town Board must determine that:

(1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

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Commented [JG32]: 160D-705

(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.

(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 is not a self-created hardship.

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(4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved

(5) 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.

#### 4.500 PLANNING BOARD REVIEW

After receipt of a complete variance petition, the Planning Board will review the petition and send a recommendation and supporting reasons for granting or denying the variance to the Town Board. Recommendation and supporting reasons shall be recorded in the minutes of the Planning Board.

Deleted: 1. The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property; and ¶  
2. (a) The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties used for the same purposes; or ¶  
(b) The relationship of the property to natural topography or to the nature of adjoining properties warrants relief from the standard in question; or ¶  
(c) The difficulty or hardship from the application of these regulations would prevent the owner from making a reasonable use of the property. The fact that the property could be utilized more profitably with the variance than without the variance will not be considered as grounds for granting the variance; or ¶  
(d) The granting of a variance would permit the preservation of an historic structure or site, or a significant natural feature.¶

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#### 4.600 ACTION BY TOWN BOARD

The Town Board of Adjustment may approve or deny the variance application, or approve with conditions relating to the intent and standards of the ordinance. The board shall follow all procedures as specified in G.S. 160D-406 and G.S. 160D-705. The findings of fact used by the board to reach its decision shall be recorded in the written decision.

#### 4.700 REHEARING

When the Town Board has denied any petition for a variance, it will not thereafter accept any other petition for the same variance affecting the same subdivision or any portion thereof, unless it finds that there have been substantial changes in the conditions or circumstances relating to the matter.

#### 4.800 EFFECT OF GRANT OF VARIANCE

After the approval of a variance by the Town Board, the petitioner will be required to follow the procedures for preliminary and final plat approval in order to proceed with development of the subject property. All decisions made by administrative officers under those procedures will comply with the variance to these regulations granted to the petitioner by the Town Board.

## 5.000 AMENDMENTS

The Planning Staff may from time to time, and at the request of the Huntersville Town Board or Planning Board shall, prepare certain amendments to the text of the subdivision ordinance to correct errors, update or modify the requirements, or otherwise modify the operation of the ordinance in regulating the subdivision of land.

**Deleted:** improvements

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Amendments to this ordinance may only be enacted pursuant to public notice and public hearing on the proposed amendments. Notice of such public hearing shall be published once per week for two successive weeks in a newspaper of general circulation in the Town of Huntersville. The notice shall be first published not less than ten (10) days nor more than twenty-five (25) days prior to the date fixed for the hearing. The notice shall indicate the date, time, and place of the hearing and shall include a statement of the substance of the proposed amendment.

All text amendments must be referred to the Planning Board for a recommendation prior to final action by the Town Board. If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the Planning Board report.

**Deleted:** elected officials

**Commented [ES34]:** 160d-604(b). No provision that failure to act constitutes an affirmative recommendation.

**Deleted:** Failure of the Planning Board to act within forty-five (45) days following the public hearing will be deemed to constitute an affirmative recommendation on the proposed amendment...

**Deleted:** An action to defer a recommendation for cause will constitute an action for the purposes of this section. ¶

## 6.000 THE SUBDIVISION PROCESS

### 6.100 COMPLIANCE REQUIRED

After the effective date of this ordinance, no plat of a subdivision of land subject to the jurisdiction of this ordinance will be filed or recorded by the Mecklenburg County Register of Deeds until it has been submitted to and approved by the Town of Huntersville in accordance with these regulations, and until this approval shall have been entered on the face of the plat in writing by an authorized representative of the local government. This applies to all subdivision activities included in the definition of Subdivision, found in Section 2.100.

**Commented [ES35]:** 160D-803(d)

### 6.200 GENERAL REQUIREMENTS

The following statements provide general requirements and policies to be used in the design, review, and approval of any subdivision under the jurisdiction of this ordinance. Questions of interpretation of any of these provisions should be discussed with the Planning Director or Designated Administrative Agent at the earliest possible time in the development of a subdivision proposal. (*See Section 4.000 for appeal process.*)

#### 1. Consistency with adopted public plans and policies.

All subdivision of land approved under these regulations should be consistent 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. Conformity.

All proposed subdivisions shall be planned so as to facilitate the most advantageous development of the entire neighboring area. In areas with established and/or approved development, new subdivisions shall be planned to protect and enhance the stability, environment, health, and character of neighboring areas. The geometry of streets and intersections and the location of street connections will be assessed to minimize the detrimental effects of high volume, high speed neighborhood through traffic. This assessment will consider the location of large-scale traffic generating uses as well as the adopted thoroughfare plan and other adopted plans. Proposed subdivisions shall not endanger the public health and safety of the community, further, orientation of principal structures shall avoid backing up to public streets because of lack of privacy and inappropriate relationship to the public realm. Use of single-loaded streets where development is only on one side of the street or providing large expanses of open space where principal structures are visually buffered from the road may be appropriate in circumstances where such structures should not front on the existing public street. The Town Board of Commissioners may allow a deviation to the orientation due to topography issues or existing vegetation visually buffering structures from the public street.

**Deleted:** the Land Development Plan

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**Commented [JS36]:** Clarifies what a single-loaded street is

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**3. Access Between Adjoining Properties.**

To the extent practicable, all streets shall connect to create a comprehensive transportation network, which allows free movement of automobiles, bicyclists, and pedestrians. The purposes and design standards for Town streets, as further described in Article 5 of the Huntersville Zoning Ordinance, shall be met.

- Deleted: of public areas
- Deleted: , hierarchy,
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**4. Relation to topography.**

In sloping terrain, streets will generally parallel the contours of the land insofar as practicable, to avoid steep grades and the concentration of surface storm water runoff. Variations are allowed to meet design objectives for the development and/or to calm vehicular speeds.

**5. Mature trees and natural vegetation.**

Streets and development sites shall be designed to protect and preserve, to the greatest extent practicable, stands of mature trees and other areas of significant natural vegetation. Minor adjustment of street alignment on the ground is permitted to achieve this objective, so long as standard drainage requirements continue to be met and the actual location of the street on the ground is reflected on the final plat or an amended final plat.

**6. Access to parks, schools, etc.**

Streets and sidewalks shall be designed to assure convenient access to parks, greenways, playgrounds, schools, and other places of public assembly. 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.

**7. Discourage through traffic.**

Methods to discourage high volume, high speed through traffic should consider street geometry, intersection design, and other traffic calming measures.

**8. Relationship to railroad rights-of-way.**

When a subdivision adjoins a railroad right-of-way, the subdivider may be required to arrange the street pattern to provide for future grade separation of street and railroad crossings.

**9. Half streets.**

Whenever an existing half street is adjacent to a tract of land to be subdivided the other half of the street should be platted within such tract. New half streets are prohibited except when essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where it will be practicable to require the dedication of the other half when the adjoining property is subdivided.

**10. Parallel streets along thoroughfares.**

Where a tract of land to be subdivided adjoins a federal or state highway or a major arterial street, the subdivider may be required to provide a marginal access street parallel to the highway.

**11. 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, public park, greenway, or open space site 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

- Commented [ES37]: Technically, there is only specific statutory authority to reserve school sites. I am aware of the Batch v. Town of Chapel Hill case regarding planned road development, which also applies to planned utility lines. See 160D-804(a).
- A broad interpretation of 160D-804(e) regarding the construction of community service facilities in accordance with local government plans may impliedly provide authority for additional reservations.

be approved without such reservation. ~~With regards to future school sites, 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 18-month period, none of the actions listed above have commenced, the subdivider may consider the land free of any reservation.~~

As an alternate to the above for public park sites, the Town Board may accept payment of funds to be used to acquire or develop recreation areas serving residents of the development or subdivision or 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 the amount of funds that are to be provided under this subsection shall be based on the value of the development or subdivision for property tax purposes. A combination or partial payment of funds and partial dedication of land may be allowed when the governing board determines that this combination is in the best interests of the citizens of the area to be served.

### **12. 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.~~

### **13. Proposed street names**

Proposed street names shall be coordinated with Charlotte-Mecklenburg Planning Commission staff, Town Engineering Department, or other designee.

### **14. Easements.**

Easements established to the width and in the locations required by the Consulting Engineer, Utility Department, or Town Engineering Department, should 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.

### **15. 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.

- (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 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

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**Commented [ES38]:** The required 18-month deadline is specific to reservation of school sites. We might want to use something shorter for reservations that are not specifically authorized by the statutes.

**Commented [ES39]:** 160D-804(f)

**Deleted:** preliminary plan

**Commented [ES40]:** Makes the last sentence unnecessary

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**Deleted:** The subdivider may choose to dedicate the area to be reserved....

**Commented [JS42]:** Alternative provided in 160D-804(d).

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**Deleted:** The appropriate agency will have 18 months from the date of preliminary plan approval to acquire the site by purchase, receipt of a dedication or by initiating condemnation proceedings. If, at the end of the 18-month period, none of the actions listed above have commenced the subdivider may consider the land free of any reservation. The subdivider may choose to dedicate the area to



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.

Where local standards exceed those of State or Federal agencies and where those standards may be enforced over those of State or Federal agencies, then the Department of Environmental Protection will coordinate all reviews for such standards. However, the approval of the proposed systems remains with the responsible agency or agencies, which may include the Department of Environmental Protection.

#### 16. Restrictions on the subdivision of land subject to flooding.

Lots that are subject to flooding should not be established in subdivisions except as provided in Section 7.280.

#### 17. Reserved.

Neighborhood Parks: Dedication of Land or Fees in Lieu of Dedication of Land.

#### 18. Open Space

Open space, where required, shall be consistent with the standards established in Article 7 of the Huntersville Zoning Ordinance.

#### 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 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 14 of the Zoning Ordinance.

### 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 should show in sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. It should 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;
4. the location of all property lines which intersect the boundaries of the property being subdivided; the zoning district of each adjacent property;

**Commented [ES43]:** 160D-804(d):

The regulation may provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or, alternatively, for payment of funds to be used to acquire or develop recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area. All funds received by cities pursuant to this subsection shall be used only for the acquisition or development of recreation, park, or open space sites. All funds received by counties pursuant to this subsection shall be used only for the acquisition of recreation, park, or open space sites. Any formula enacted to determine the amount of funds that are to be provided under this subsection shall be based on the value of the development or subdivision for property tax purposes. The regulation may allow a combination or partial payment of funds and partial dedication of land when the governing board determines that this combination is in the best interests of the citizens of the area to be served.

Durham has sample language we might be able to borrow from to a certain extent. However, we cannot charge impact fees (they may have local legislation allowing) so we wouldn't use that part of the language <https://durham.municipal.codes/UDO/12.5.1>

Note: If not specifically included in the ordinance, then fees in lieu are not an option.

**Commented [JS44R43]:** Payment option added to 11 above

**Deleted:** ¶

**Commented [ES45]:** In looking back at Article 7, we should reword Article 7.8.2 (maintenance surety for trees) to require a "warranty period" similar to how I edited Section 8.4 below. See 160D-804.1(4), which is specific to subdivisions, but applies to zoning regulations pursuant to 160D-702(a):

160D-804.1

(4) Coverage. - The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

Per UNC-SOG (see section entitled Completion vs. Maintenance), warranties are ok.

<https://canons.sog.unc.edu/subdivision-performance-guarantees-legislative-changes/>

Note that the statutory references in the article have been replaced with the above 160D references.

Also note, there is a specific allowance for maintenance of stormwater facilities.

**Commented [JS46R45]:** Section 7.8.2 adjusted for warranty

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**Commented [ES47]:** Caution: 160D-701(replaced 160A-383) has been interpreted to link the requirement of adequate public facilities to land use regulation. However, per David Owns "[a]ssuming the local government has done appropriate planning and analysis to support the decision, it has the legal authority to deny or delay development approvals that would overburden public facilities. A local government cannot, however, use development regulations to mandate payment of impact fees to address inadequate public facilities unless the particular fee invol... [1]

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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~~

- (a) a Traffic Impact Assessment for certain subdivisions, as required by Article 14 of the Town Zoning Ordinance, which is hereby incorporated by this reference.
- (b) 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.).

**Deleted:** Adequate Public Facilities Applications;

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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;...

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

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- (a) the location and area calculations of constraining features including wetlands, slopes over 25%, watercourses, intermittent streams and floodways, S.W.I.M. buffers (outside of floodways), watershed buffers, and all rights-of-way and easements (current and future);
- (b) the location of significant features such as woodlands, tree lines, specimen and heritage trees, open fields or meadows, scenic views into or out of the property, watershed divides and drainage ways; existing structures, cemeteries, roads, tracks and trails; significant wildlife habitat; prime agricultural farmland; historic, archeological and cultural features listed (or eligible to be listed) on national, state or county registers or inventories; and aquifers and their recharge areas;
- (c) the location of existing or planned utility easements (above and below ground) to include, but not limited to power/transmission, water, sewer, gas, phone, and cable;
- (d) a topographical map showing original contours at intervals of not less than four feet and existing tree lines;

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

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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.
  - (a) 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.
  - (b) 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.
  - (c) 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.
  - (d) Lot Lines: The fourth step is simply to draw in the lot lines where applicable.

#### **6.310 SKETCH PLAN NOT REQUIRED FOR MINOR SUBDIVISIONS**

A sketch plan shall not be required for a Minor Subdivision.

#### **6.315 SKETCH PLAN NOT REQUIRED FOR CONSERVATION SUBDIVISIONS**

To offer property owners an incentive to maintain land in the Open Space zoning district in a largely undeveloped and rural condition, conservation subdivisions as defined in the Huntersville Zoning and Subdivision Ordinances are eligible for a streamlined approval process. ~~Compliance with the requirements below, and with Section 3.2.1(f) of the zoning ordinance, shall entitle the subdivider to choose to divide the property by deed, as a metes and bounds subdivision, or by final plat according to the requirements of subdivision ordinance Section 6.600.~~

1. Documents prepared by the property owner in association with an authorized conservation organization that have resulted in the grant of an irrevocable conservation easement will be accepted in lieu of the sketch plan requirements of the preceding Sections 6.300 and 6.310.
2. The submitted documents must show that the following conditions have been met:
  - (a) An irrevocable ~~conservation easement~~ held by a conservation organization has been recorded on the tract(s) to be subdivided; documentation of the easement includes a boundary description of the area subject to the conservation easement.
  - (b) Limits on location and extent of land disturbance and building construction have been set out in the conservation easement(s), which at a minimum preserve the rural appearance of the land when viewed from public roads and from abutting properties.
  - (c) 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.

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**Commented [ES48]:** See comment from Article 3 regarding adding a definition to the definition section for conservation easement:

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

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- (d) The proposed subdivision conforms to the minimum project size of 40 acres and the maximum gross density of one dwelling unit per 20 acres.
- (e) All parcels within the conservation subdivision have been provided with permanent access by way of public road frontage or a permanent 20-foot wide access easement that connects to a public right-of-way. Landlocked parcel(s) are not created.
- (f) 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 has been made, either by the filing of a deed or the filing of a plat map.

**6.316 SKETCH PLAN NOT REQUIRED FOR EXPEDITED SUBDIVISION REVIEW**

A sketch plan shall not be required for divisions of land qualifying for Expedited Subdivision Review.

**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. A technically deficient sketch plan shall be returned to the subdivider with comments once final adjustments are made by the applicant to address staff comments and minimum submission requirements are met, the sketch plan, shall be forwarded by the staff to the Planning Board to place on the Planning Board's agenda for their next scheduled meeting. Mailed notice about the request shall be sent to all owners of property within 250 feet of proposed subdivision prior to the Planning Board meeting. Prior to the Planning Board meeting, the subdivider must file with the Planning Department a written report of at least one community meeting held by the subdivider. The community meeting shall not be held on regularly scheduled Town Board and Planning Board meeting nights. Notice of such a meeting shall be given to all of the following using the parcel ownership information listed in the current Mecklenburg County tax records:

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- a. Owner of each property petitioned for subdivision
- b. Owner of each abutting property
- c. Owner of each property within 250 feet of the petitioned property
- d. Owner of each property directly across a street, easement, or right-of-way, public or private, from the petitioned property
- e. 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
- f. 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).
- g. 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 by the Town Board but shall not be subject to judicial review.

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If, however, a sketch plan shows only minor revisions (see 3.100.11) to a sketch plan or is consistent with or shows minor changes to a conditional zoning district plan(s) approved by the Huntersville

Board of Commissioners and remaining in effect on all of the property subject to the sketch plan submittal, then the Planning Director or staff under his direction is authorized to approve the sketch plan, approve with conditions, or deny the plan. Administrative decisions to deny approval of a sketch plan may be appealed to the Huntersville Board of Commissioners.

- .2 Town staff shall prepare a written report setting forth the proposed findings concerning the application's compliance with applicable regulations. If the staff report 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 proposed findings or conclusions.
- .3 Sketch Plan documents shall be submitted in accordance with published review schedules in order to be placed on the applicable Planning Board or Town Board agenda
4. The Planning Board shall have forty-five (45) consecutive days from their first meeting to review and make a recommendation to the Town Board on the Sketch Plan. However, the developer may request one additional regular Planning Board meeting to address any issues raised, subject to approval by the Planning Board. The Planning Board shall report to the Board of Commissioners whether it concurs in whole or in part with the staff's proposed findings, and to the extent there are differences the Planning Board shall propose its own recommendations and the reasons therefore. In response to the Planning Board's recommendations, the applicant may modify his application prior to submission to the Town Board, and the staff may likewise revise its recommendations.
5. A Sketch Plan subdivision hearing will be conducted as a quasi-judicial hearing before the Town Board. The applicant has the burden of producing competent, material, and substantial evidence establishing that the proposed subdivision will comply with all of the applicable standards which apply. The burden of producing competent, material, and substantial evidence establishing the proposed subdivision should be denied for any of the reasons set forth in these regulations rests on the party or parties urging that the requested Sketch Plan should be denied. In considering whether to approve an application for a subdivision Sketch Plan, the Town Board shall proceed according to the following format:
  - (a) the Board shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the Board that the application is complete;
  - (b) the Board shall consider whether the application complies with all of the applicable requirements. Separate votes may be taken with respect to each requirement not met by the application. If the Town Board concludes that all applicable requirements are met, it shall approve the Sketch Plan. If the Board concludes that the application fails to comply with one (1) or more of the applicable requirements, it shall adopt a motion to deny the application for one (1) or more of the reasons set forth within this ordinance. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

**Commented [ES49]:** See above comments regarding quasi-judicial decisions and Planning Board involvement.

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#### 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. Detailed standards and specifications for construction of state standard road are contained in the Mecklenburg County Land Development Standards Manual available from the Mecklenburg County Land Use and Environmental Services Agency. For Town streets, the standards of Article 5 of the Huntersville Zoning Ordinance 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 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.
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:
  - (a) Project Name
  - (b) Owner Name
  - (c) Landscape Architect's seal and signature
  - (d) Tree save calculations
  - (e) Tree save areas – must also be shown on all sheets to be included within the Preliminary Plan
  - (f) Street Trees Proposed
  - (g) Additional trees to be planted to meet minimum tree save requirements and appropriate table (if any)
  - (h) Individual residential lot trees and a table showing total amount by lot type
  - (i) Internal/Perimeter landscaping for parking lots
  - (j) Landscape easements properly labeled – must also be shown on the site plan and final plat
  - (k) 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.
  - (l) 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 BMP, 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-term maintenance of all BMPs. The Town of Huntersville shall review the permit application to determine compliance with the approved Performance Criteria. Approval of the storm water permit application by the Town of Huntersville 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.

## **6.500 PROCEDURES FOR APPROVAL**

### ***6.510 PRELIMINARY PLAN: SUBMISSION AND APPROVAL***

A preliminary plan of the proposed subdivision developed in accordance with the specifications set forth in Section 6.400 must be submitted to the Planning Director or Designated Administrative Agent. The plan must be accompanied by an application in duplicate signed by the owner or his duly authorized agent on application forms to be furnished by the Planning Director or Designated Administrative Agent. At the time of submission, the applicant will be advised as to the number of copies of the plan and related data required in Section 6.400. Application for preliminary plan approval shall be accompanied by the appropriate development review fee(s) as established by ordinance.

The Planning Director or Designee shall have twenty (20) working days to review and comment on the initial preliminary plan. If subsequent corrections or changes to the initial preliminary plan are necessary, the reviewer shall have fifteen (15) working days to review any revised plan. The preliminary plan time limits listed above do not apply to plans for which no sketch plan has been submitted, nor to plans which

contain any proposed school, park, greenway, or other public facility for which reservation is required. The applicant may consent to an extension of any of the time limits. Upon determination by the Planning Director or Designee and Town Engineering Department, or such other engineering agent designated by the Town Board to review Subdivision Plans, that the preliminary plan is complete, correct, and in compliance with Section 6.200 as submitted, or has been resubmitted and found complete and correct, the plan is eligible for approval.

If the preliminary plan shows only minor revisions (see 3.100.11) to the approved sketch plan, the Planning Director or staff under his direction is authorized to approve the plan, approve with conditions, or deny the plan. Administrative decisions to deny approval of a preliminary plan may be appealed to the Town Board.

If the preliminary plan includes major revisions (see 3.100.10) to the approved sketch plan, or if a sketch plan has not been submitted and approved by the Town Board, the Planning Director will schedule consideration of the preliminary plan before the Planning Board within 30 working days. Upon receipt of the Planning Board's recommendation, the Planning Director will, within 30 working days, place the preliminary plan and the Planning Board's recommendation for approval, denial, or approval with conditions on the agenda of the Town Board. The time limits do not apply to plans for which no sketch plan has been submitted to the Planning Director, nor to plans which contain any proposed street, school, park, greenway, or other public facility for which reservation may be required. The applicant may consent to an extension of any of the above time limits. Should the Planning Director or Designated Administrative Agent fail to respond within the time limits set out above, the application will be considered recommended for denial.

The Town of Huntersville reserves the right to approve, disapprove in whole or in part, or condition its approval of the whole or any of its parts upon such requirements of this ordinance as may be necessary for the health, safety and general welfare, and to achieve compliance with Section 6.200. If a preliminary plan is disapproved, the Planning Director will furnish a written notice of the denial and the reasons for the denial upon request of the applicant. An administrative disapproval may be appealed to the Planning Board and Town Board in accordance with the provisions of Section 4.000.

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**6.520 EXCEPTIONS: WHEN PRELIMINARY PLAN NOT REQUIRED**

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

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

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

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

**6.530 EFFECT OF APPROVAL OF PRELIMINARY PLAN**

An approved preliminary plan will be valid for a period of two (2) years from the date of approval. If no work in furtherance of the plan except grading on the site has commenced within the two-year period, the preliminary 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, and such work involves any utility installations or street improvements except grading, the plan will remain valid and in force.

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**6.540 RELEASE OF GRADING PERMIT**

Preliminary Plan approval is required for the issuance of a grading permit for any grading work on the site for the installation of any improvements in furtherance of the development. Once the preliminary plan is approved, further approvals under this provision are not required for grading permits for individual sites within the development, so long as grading conforms to the approved Preliminary Plan.

**6.550 FINAL PLAT: SUBMISSION AND APPROVAL**

Upon approval of the preliminary subdivision plan, the subdivider may proceed to comply with the other requirements of this ordinance, and the preparation of the final subdivision plat. The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plan, provided that all required improvements to any existing or new streets shown on the preliminary plan within the boundaries of the final plat have been provided for or been assured by the posting of a surety as provided for in Section 8.400.3 prior to any final plat approval.

The final subdivision plat must be developed in accordance with the specifications set forth in Section 6.600. The official plat or plats, together with copies thereof sufficient for distribution, shall be presented for approval to the Planning Director or Designated Administrative Agent for review. The plat shall be accompanied by an application for final plat approval, submitted in duplicate and signed by the owner and/or his duly authorized agent. The reviewer shall have fifteen (15) working days to review and comment on the final plat.

If the final plat for a major subdivision shows only minor revisions (see 3.100.11) to the approved preliminary plan and/or sketch plan, the Planning Director or staff under his direction is authorized to approve the plat.

If the final plat for a major subdivision includes major revisions (see 3.100.10) to the approved preliminary plan and/or sketch plan, the staff’s comments along with final plat copies will be forwarded to the staff to the Huntersville Planning Board for Planning Board review at their next scheduled meeting date. The staff to the Planning Board must receive the final plat and staff comments at least fourteen (14) days before the next regularly scheduled meeting of the Planning Board in order to place the final plat on their agenda. If subsequent corrections or changes to the initial final plat are necessary, the reviewer shall have fifteen (15) working days to review any revised plan.

The Planning Board shall recommend approval, disapproval, or approval with conditions of said plat. The final plat and Planning Board recommendation shall within 30 working days be presented to the Town Board, which shall approve, disapprove, or approve with conditions. The Town Board shall approve the final plat if all requirements of this ordinance, including Section 6.200, have been met.

The Planning Director or staff under his direction is authorized to approve final plats of minor subdivisions and limited subdivisions which meet all the requirements of this ordinance, including Section 6.200. If the Planning Director determines that the final plat fails to meet any of the requirements of Section 6.200, or that the manner in which the tract is proposed for subdivision significantly affects the implementation of adopted public plans or policies, the Planning Director shall present the final plat to the Planning Board for recommendation and to the Town Board for approval, approval with conditions, or disapproval, in the manner provided in this section. For Limited Subdivisions the owner shall be required to plat only the parcel to be transferred or leased and only that parcel shall be subject to the requirements of this ordinance. If a final plat is disapproved, the Planning Director will furnish a written notice of the denial and the reasons for the denial upon request of the applicant. An administrative disapproval may be taken to the Planning Board and Town Board in accordance with the provisions of Section 4.000.

Upon approval, the final plat will be noted approved and made available to applicant for recordation in the Office of the Register of Deeds for Mecklenburg County, North Carolina, which such Register of Deeds is authorized to accept the plat for recordation.

**6.600 FINAL PLAT REQUIREMENTS**

The final plat will be prepared by a registered surveyor and must be drawn to scale not smaller than 100 feet equal 1 inch, and must contain the following information:

1. The exact boundary of the tract of land being subdivided, showing clearly the disposition of all portions of the tract.
2. The lines and names of all streets, alley lines, lot lines, lot and block numbers, front build-to line and side and rear yard dimensions for each lot, easements, reservations, and areas dedicated to public purposes with notes stating their purposes. In addition, on-site LCID landfills must be shown on the final plat and on deed(s) for affected lot(s). Also, the plat for all lots subject to flooding shall include a statement as follows: "This lot is subject to flooding during heavy rainfall and the construction of buildings or structures below the flood protection elevation of \_\_\_\_\_ is prohibited", as further described by Section 7.200 of this ordinance. Plats for multiple lots may include the flood protection elevations in tabular form.

In areas where the floodway regulations are applicable, the following statement shall be inscribed on the plat:

"Any construction or use within the areas delineated by floodway fringe district boundary line and floodway district encroachment line is subject to the restrictions imposed by Floodway Regulations."

For subdivisions within which open space is required, a designation on the plat denoting the area of preservation and the limitations on its use and a reference to the recorded documents by which irrevocable preservation of open space shall be assured. A copy of such documents shall also be provided to the Planning Department.

Any amendment to a previously approved final plat must note in writing on the amended plat the nature and extent of the changes and the deed or plat book and page number where previously recorded.

3. Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, building line, easements required hereunder or of record in Mecklenburg County or ascertainable by physical inspection of the property, and boundary lines of reserved or dedicated areas. All linear dimensions shall be in feet and hundredths thereof. The maximum allowable error of linear closure shall not be in excess of 1: 10,000. In closed traverses the sum of the measured angles shall vary with the theoretical sum by a difference not greater than an average of 7.5 seconds per angle, or the sum of the total shall not differ from the theoretical sum by more than 90 seconds, whichever is smaller.
4. Sufficient data to determine readily and reproduce accurately on the ground the location and extent of rural and/or urban open space to be preserved, the method of preservation, and any limits on use. In addition, the subdivider shall provide to the Huntersville Planning Staff a copy of any covenants and restrictions governing disposition and use of preserved open space.
5. ~~"As built" drawings and plans of all water system, sewer system, and storm drainage system facilities. Such plans should show all easements and rights-of-way to demonstrate that the facilities are properly placed. These drawings need not be placed on the final plat but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.~~
6. "As built" cross-sections of each town street type used in the development. Such cross-sections should show improvements in the public rights-of-way and in any easement associated with the detail of the street. Features to be shown will usually include: travel lanes, parking lanes (if any), curb and gutter (or ditch), planting strip, sidewalk, utility allocation. These drawings need not be placed on the final plat, but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.
7. For projects in the Mountain Island Lake or Lake Norman Watershed Overlay Districts, the calculated built-upon area permitted for each building lot, taking into account permanently preserved open space.

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8. The name of the township in which the subdivision is located, the name of the subdivision, the zoning district, the name of the owner, the name, registration number and seal of the registered surveyor under whose supervision the plat was prepared, the date of the plat and north point, with indication of whether the north point is true, magnetic, or grid, and a small vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
9. Control corners and permanent markers with adequate and sufficient description to enable a surveyor to locate such control corners or markers shall be shown on the plat. One or more corners shall be designated as control corners, and shall establish two or more street center lines or offset lines within or on the street right-of-way lines to be permanently monumented at intersecting center line or offset lines, points of curvature or such other control points, which monuments shall also be designated as control corners. In addition to the above, control corners must be established along the rear property lines of lots with a minimum of two (2) per block located along a common line. Coordinates must be computed from North Carolina Plane Rectangular Coordinate System and the City of Charlotte Primary Control System monuments, as extended therefrom, provided such a control monument is within two thousand (2,000) feet of the subdivision. Design and material of the concrete monument must be in accordance with the standard detail contained in the [Mecklenburg County Land Development Standards](#) Manual. The corners of all lots and parcels must be marked with iron pins driven flush with the ground. The iron pins must be placed where lot boundaries intersect railroad and public street rights-of-way.
10. The following signed certificates (lettered or stamped) shall appear on each copy of the final plat submitted by the subdivider:
  - (a) Certificate of Ownership and Dedication:  
I hereby certify that I am the owner of the property shown and described hereon and that I hereby adopt this plan of subdivision with my free consent, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I dedicate all sewer lines and all water lines to the Charlotte-Mecklenburg Utility Department, if applicable.

Date	Owner(s)
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Final written approval by the Planning Director or staff under his direction must be entered on the plat for recording. Changes or amendments to an approved final plat which already bears the written approval prior to recording the plat constitutes a violation of this ordinance. A copy of the sealed and recorded final plat must be delivered to the Huntersville Planning Department within 5 days of recording.

11. The exact boundary of all water quality best management practices shall be shown on final plats prepared by a registered surveyor. Final plats shall contain the following statement: "This lot contains a water quality feature that must be maintained in accordance with the recorded Maintenance Covenant as specified in Section 8.17.21(a) of the Huntersville Zoning Ordinance."

#### **6.700 PLATS ALREADY ESTABLISHED BY SURVEY AND RECORD**

Plats already established by survey and recorded in the Mecklenburg County Register of Deeds prior to the effective date of this ordinance will be eligible for development and other administrative permits without complying with the requirements of this ordinance, but must be developed in accordance with the provisions of the subdivision ordinance in effect at the time of the approval.

A subdivision for which a preliminary plan has been approved but for which a final plat has not been recorded in the Mecklenburg County Register of Deeds prior to November 1, 1989 shall be approved for recording without complying with the requirements of this ordinance if final plats conform to the requirements of the subdivision ordinance in effect at the time of preliminary plan approval. Such subdivision will be inspected and must be developed in accordance with the provisions of the subdivision ordinance in effect at the time of preliminary plan approval.

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### **6.800 MULTI-BUILDING SITES**

The following requirements will apply for the preparation, submission, and approval of preliminary site plans for both residential and non-residential developments with more than one principal building on a single lot.

#### **6.810 PRE-APPLICATION CONFERENCE**

A pre-preliminary site plan conference will be arranged by the developer with both the Planning Staff and any other Designated Administrative Agent prior to the submission of a preliminary site plan for a multi-building site.

#### **6.820 PRELIMINARY PLAN REQUIREMENTS**

A developer must submit to the Planning Director or Designee a preliminary site plan and supplemental documents for review and approval. The preliminary site plan must be prepared in accordance with the requirements of Section 6.400 and must include the following additional information:

1. The use, approximate height, bulk, and location of all buildings and structures.
2. All proposed land uses and, for residential development, the densities of dwelling units.
3. In the case of plans which call for development over a period of years, a schedule showing the time within which application for final approval of all parts of the development are intended to be filed.
4. The proposed location, use, improvements, ownership, and manner of maintenance of common open space areas.
5. Final drafts of legal documents dedicating and restricting the common areas and establishing the means of common area ownership and maintenance.
6. Proposed off-street parking and circulation plan showing the location and arrangement of parking spaces and any driveways for ingress and egress to and from adjacent streets and highways.

#### **6.830 PRELIMINARY PLAN REVIEW CRITERIA**

The Planning Director or employees under his or her direction will review the preliminary site plan to insure conformance with the requirements of the zoning ordinance. The Planning Director or Designated Administrative Agent will review the preliminary site plan to insure conformance with the requirements of this ordinance. In addition, the multi-building site will be evaluated on the standards listed below.

1. The character, amount and arrangement of open space areas will adequately serve the needs of residential or non-residential occupants.
2. Proposed means of dedication, ownership, and maintenance of all common areas, the restrictions on its uses, and the organization and authority of such associations as may be established for ownership and maintenance of common areas will assure the continuance of such space for its designed purpose.
3. Site planning for the overall development will provide protection of the development from potentially adverse surrounding influences and protection of surrounding areas from potentially adverse influences within the development.
4. The terms and conditions proposed for development over a period of years are sufficient to protect the interests of the public and the occupants of the development.

#### **6.840 PRELIMINARY PLAN APPROVAL AND FINAL PLAT**

The Planning Director or staff under his direction is authorized to approve, approve with conditions, or disapprove the preliminary site plan for a multi-building site which adheres to or shows only minor revisions (Section 3.100.11) to:

(1) an approved parallel conditional district or overlay district zoning plan which specifies the location of open space, edge conditions, approximate location of buildings, internal circulation, and relationship to public streets; or

(2) a sketch plan which has been reviewed by the Planning Board and approved by the Town Board in accordance with Section 6.300f.

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For multi-building sites which do not adhere to a detailed approved plan as described in (1) or (2) above, the Planning Board will recommend and the Town Board will take action to approve, tentatively approve with conditions, or deny the preliminary site plan. When granted tentative approval with conditions, the developer must submit a revised plan that is in conformance with those conditions. If a preliminary site plan is disapproved, the Planning Director will furnish a written notice of the denial and the reasons for the denial upon request of the applicant.

The final plat for a multi-building site or innovative housing development shall be prepared in accordance with the requirements of Section 6.600 and shall contain the following additional information:

- (a) The use, height, bulk, and location of all buildings and structures;
- (b) All land uses;
- (c) The location, use, improvements, ownership, and manner of maintenance for all open space and for all common areas.

The Planning Director or staff under his direction is authorized to approve, approve with conditions, or disapprove the final plat for a multi-building site which adheres to or shows only minor revisions (3.100.11) to an approved preliminary plan. If the final plat includes major revisions to the approved preliminary plan, it will be placed on the agendas of the Planning Board for recommendation and the Town Board for approval, approval with conditions, or disapproval.

An administrative disapproval may be appealed to the Planning Board and Town Board in accordance with the provisions of Section 4.000.

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**6.850 TRAFFIC IMPACT ANALYSIS**

Where required, a Traffic Impact Analysis shall be provided by the applicant, in accordance with Article 14 of the Town Zoning Ordinance, which are incorporated by this reference.

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**7.000 SUBDIVISION DEVELOPMENT REQUIREMENTS.**

**7.100 DESIGN STANDARDS FOR STREETS**

Detailed construction standards and specifications for state standard streets are contained in the Mecklenburg County Land Development Standards Manual. For Town Streets, the standards of Article 5 of the Huntersville Zoning Ordinance and the Huntersville Land Development Standards Manual shall control.

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- Commented [JS52]: Applicable manual

**7.110 RIGHT-OF-WAY**

1. On proposed streets, right-of-way must be of sufficient width to accommodate the required cross section. However, in no case will the dedicated and/or reserved right-of-way be proposed to be less than the standards below. The Town Board, on the advice of the Town Engineer or their designee or other designated consulting engineer, may certify that special circumstances exist which make the dedication and/or reservation of the full right-of-way unnecessary or impractical.

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Minimum R.O.W. by Street Classification	
Street Type	Feet
Freeway	250-350
Boulevard	100-200
Other Major Thoroughfare	

- Commented [ES53]: May need to be updated per Stephen's recent comment
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Minor Thoroughfare	<a href="#">70-120</a> <del><a href="#">70-100</a></del>
Town Streets (Collector, Local, Alley)	Varies according to the standards of Article 5 of the Huntersville Zoning Ordinance and Town's Engineering Standards and Procedures Manual.

**Commented [JS54]:** Changes for consistency with Zoning Ordinance and Comprehensive Transportation Plan

These street types (above) are consistent with the Comprehensive Transportation Plan (CTP)-Highway Map (as adopted by the Charlotte Regional Transportation Planning Organization (CRTPO)) and the Town Engineering Standards and Procedures Manual. These standards represent the normally required rights-of-way for highways designated on the CTP. These widths may be modified by contextual design, environmental impact studies, or other adopted planning documents. Additional right-of-way may be necessary in the area of interchanges, intersections, cut/fill areas, or areas where horizontal or vertical alignments must be improved and will be determined on a case-by-case basis.

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2. Along existing streets, neither right-of-way dedication nor reservation is required unless:
- (a) an existing street has a right-of-way less than 60 feet wide and will provide access to the subdivision, in which case a right-of-way up to 30 feet on each side of the centerline may be required to be dedicated; or
  - (b) an existing street will provide access to the subdivision and volume of traffic projected to be generated by the subdivision necessitates intersection and/or other improvement(s), in which case dedication of right-of-way sufficient for the subdivision developer to make intersection and/or other improvements to serve said subdivision may be required.

The Town Board, after consulting applicable plans and programs and after consulting with appropriate county, state, and/or federal officials, is responsible for classifying streets or segments thereof within the zoning and subdivision jurisdiction of the Town of Huntersville.

**7.120 FREEWAYS (NEW)**

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Whenever a tract of land to be subdivided includes any part of the right-of-way of a planned freeway or extension of a freeway, as shown on the adopted Comprehensive Transportation Plan, and whenever such a right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, the right-of-way for the freeway must be reserved, platted in the location and to the width specified in the plan, and remain undeveloped pending future acquisition by the state or other governmental unit. The subdivider is responsible for the reservation of the right-of-way in accordance with the provisions of Section 8.110, Improvement Responsibility. The entire right-of-way must be shown as such on the final plat. All measurements involving minimum lot standards under this ordinance and under the zoning ordinance will be made at the edge of the full right-of-way. Right-of-way that is dedicated by the subdivider will count toward the transfer of development rights in accordance with Section 7.135.

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**7.130 ARTERIAL STREET RIGHT-OF-WAY (NEW STREETS)**

Whenever a tract of land to be subdivided includes any part of a planned arterial or extension of an existing arterial street shown on the adopted Comprehensive Transportation Plan, and whenever a right-of-way for such a street has been further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the arterial street must be platted in the location and to the width specified in the plan. The subdivider is responsible for the dedication and/or reservation of the right-of-way in accordance with the provisions of Section 8.110, Improvement Responsibility. The entire right-of-way (that which has been reserved and that which has been dedicated) must be shown as such on the final plat. All measurements involving minimum lot standards under this ordinance and under the zoning ordinance will be made at the edge of the full right-of-way. Arterial Street right-of-way that is dedicated by the subdivider will count toward the transfer of development rights in accordance with Section 7.135.

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**7.135 TRANSFER OF DEVELOPMENT RIGHTS —R/W DEDICATION**

All of the area dedicated by the developer as right-of-way for any public street may be used in the computation of development rights, but may not be used for the computation of lot area or open space, or fulfill storm water detention, or any other mandatory requirement. On-street parking which is planned, provided for, and approved will, however, be applied to the mandatory parking requirement. A developer may choose to dedicate the full right-of-way and thereby use the entire dedicated area for the density calculation.

**7.150 CUL-DE-SAC**

Cul-de-sacs (streets designed to be permanently closed at one end), may not be longer than 350 feet and must be terminated by a vehicular turnaround design as accepted by the Town Engineering Department; provided, however, that this requirement may be waived where topographical or other unusual conditions exist.

**7.170 STREET OFF-SETS**

Where there is an offset in the alignment of a street across an intersection, the offset of the centerlines should not be less than 300 feet for arterials. Offsets for other street types will be determined based upon projected traffic volumes and the applicability of traffic calming measures.

**7.180 BLOCK LENGTHS AND WIDTHS**

Block lengths may generally not exceed the standards established in Article 5 of the Zoning Ordinance, except as hereinafter provided. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where longer blocks will result in an arrangement of lots and public space more consistent with Articles 5 and 7 of the Huntersville Zoning Ordinance, the Town Board may authorize greater block lengths.

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**7.200 DESIGN STANDARDS FOR LOTS**

**7.210 FRONTAGE ON STREET**

Each lot must have frontage on a street, but with the following exceptions:

- .1 Any lot for which a residential use has been legally established prior to the effective date of this ordinance in accordance with provisions of Section 8.1.1 of the Zoning Ordinance permitting establishment of use on a lot served by a private and exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement.
- .2 Any lot for which a non-residential use has been legally established prior to the effective date of this ordinance in accordance with provisions permitting establishment of use on a lot served by a private, exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be construed in the same manner as a lot abutting a street provided that it is served with a driveway built to appropriate standards located on the permanent, recorded easement.
- .3 Up to six residential lots may be served by a privately maintained easement with a minimum right-of-way designed according to the specifications of the Rural (R) and Transitional Residential (TR) Districts' Farmhouse Cluster development (Section 3.2.1(e) & Section 3.2.2(e)). Any lots created pursuant to Section 3.2.1(f) & Section 3.2.2(f), Conservation Subdivision, may also be served by a privately maintained easement with a minimum 20-foot right-of-way.
- .4 A site specific development plan may be considered for approval in the TC, NC, NR, OPS, and TND-O districts where residential and/or non-residential structures front upon a private courtyard, carriageway, or pedestrian way, where adequate access by emergency vehicles is maintained by way of a rear alley and where the off-street placement of uses does not diminish the orientation of building fronts on the public street.
- .5 A site-specific development plan may be considered for approval in the Campus Institutional and Corporate Business Districts to permit interior lot access by private drives so long as business and

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emergency access is furnished to all interior building sites, and proposed buildings at the perimeter of the campus and corporate development front upon public street(s) or are buffered in accordance with this ordinance. It is intended that subdivisions be primarily served by public streets and use of private drives is minimal. Private drives may be appropriate where property configuration or environmental constraints make their use a practical alternative. Private drives shall be constructed in accordance with Mixed Use/Retail and Industrial Street Standards as found in the Engineering Standards and Procedures Manual and sidewalks shall be provided on at least one side of the private drive. See the Campus and Corporate Business Districts.

- .6 To access a lot or lots in the Highway Commercial District, where factors beyond developer control, such as a limited access highway, an existing development, or the location of an existing intersection, prohibit completing a street connection, a private drive may be substituted for the interior street which cannot be connected to the public network.

**7.220 SIDE LINES**

Side lot lines shall, as nearly as practicable, be at right angles or radial to street lines. Where side lot lines intersect at the rear of the lot, the angle of intersection shall not be less than 60 degrees. The requirement of this paragraph shall not be applicable to lots in Conservation Subdivisions.

**7.230 LOT SIZES**

Lot dimensions and yard dimensions are controlled by the Huntersville Zoning Ordinance.

**7.240 BUILDING LINES**

Building lines shall be established on all lots in residential subdivisions and shall be determined on the basis of zoning district and classification of any abutting streets, existing or planned, in accordance with Section 8.15 of the Huntersville Zoning Ordinance.

**7.270 DRIVEWAY CONNECTIONS**

Prior to the construction of any driveway or other connection within the right-of-way of a public street, a permit must be secured from the North Carolina Department of Transportation or the Town of Huntersville, for a state or a local road respectively. However, in a residential major subdivision, access to individual lots from streets constructed as part of the subdivision shall be reviewed and approved at the time each building permit is issued and individual driveway permits will not be required on a lot by lot basis.

**7.280 LOTS SUBJECT TO FLOODING**

The Land Use and Environmental Services Agency (LUESA) will determine which lots are subject to significant flooding, which will include those lots along any significant water course, whether or not the stream is enclosed with pipes or culverts, and may also include areas where it can reasonably be expected that significant overland flow of stormwater or flooding will occur. If any part of a proposed lot is subject to flooding, subdivider shall make a determination of the crest elevation of the 1% annual chance flood level (the "100-year flood") in accordance with generally accepted engineering practice, which is to be submitted with the seal and signature of a professional engineer to the Town Engineering Department. This determination must reflect the actual conditions imposed by the completed subdivision, and must give due consideration to the effects of urbanization and obstructions.

No proposed building lot that is wholly or partly subject to flooding shall be approved unless there is established on the final plat a line representing an actual contour, as determined by field survey, at an elevation one foot above the 100-year flood crest. Such line shall be known and identified on the final plat as the "Storm Water Elevation Line" (SWEL). In addition, a "Storm Water Protection Elevation" for each lot subject to flooding shall be noted on the lot plan as determined by the Huntersville Engineering Department staff based on the "Storm Water Elevation Line" (SWEL), or for lots upstream of street crossings, the low elevation of the street plus one foot, whichever is greater.

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All habitable buildings or structures shall be located outside the “Storm Water Elevation Line” or the lowest usable and functional part of the structure shall not be below the Storm Water Protection Elevation. “Usable and functional part of the structure” shall be defined as being inclusive of living areas, basements, sunken dens, basement utility rooms, crawlspaces, attached carports, and mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits and wiring, but shall not include water lines or sanitary sewer traps, piping and clean-outs; provided, openings serving the structure are above the Storm Water Protection Elevation.

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Where only a portion of a proposed lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a usable lot area of not less than 1200 square feet. The usable lot area shall be determined by deducting from the total lot area the area of all yards and setbacks required by the applicable zoning district regulations and any remaining area of the lot lying below the Storm Water Elevation Line.

During the construction of a subdivision, the developer shall maintain the streambed of each stream, creek or backwash channel contiguous to the subdivision in an unobstructed state and shall remove from the channel and bank of the stream all debris resulting from the land development process, including logs, timber, junk and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course. Installation of appropriately sized stormwater drains, culverts, bridges or erosion control devices will not be construed as obstructions in the stream. In areas of the county that are covered by the provisions of the Floodplain Regulations, the Floodplain Regulations will supersede the provisions of this ordinance regarding land within the Community and FEMA Special Flood Hazard Areas.

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**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.

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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.

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**1. EXCEPTIONS TO APPLICABILITY.**

- (a) Existing development, as defined in this section, is not subject to the requirements of the Mountain Island Lake Watershed Overlay District.
- (b) 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 sub-sections 3. or 4. of this section, whichever is applicable; however, this exemption is not applicable to multiple contiguous lots under single ownership.

- (c) Existing public utilities may expand without being subject to the restrictions of this part provided that:
  - (i) Such expansion complies with all applicable laws of the State of North Carolina and the United States of America; and
  - (ii) Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

**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 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.).***

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.)

***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.

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**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
- (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

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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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**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](#).

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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. <sup>1</sup>
CA2	12% B.U. <sup>1</sup>
CA3	12% B.U. <sup>1</sup>
CA4	24% B.U. <sup>1</sup>

- 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**

**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:

- a. 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 Mecklenburg County [Water Quality Program](#) guidelines and as approved on a plan submitted to the Mecklenburg County [Water Quality Program](#).
- b. Streambank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the Mecklenburg County [Water Quality Program](#).
- c. 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 and pervious materials.
- d. 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"](#).

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**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.

**Commented [JS64]:** Cluster development no longer an option

**Deleted:** Cluster Development is allowed within the Critical Area.¶

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. with curb and gutter streets <sup>1</sup> 36% B.U. without curb and gutter streets <sup>1</sup>
PA1 and PA2, high density option, where permitted**	70% B.U. with BMP

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<sup>1</sup> 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

**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. 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 may also be required.

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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

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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.

**Commented [JS65]:** Cluster development no longer an option

### 5. POSTING OF FINANCIAL SECURITY REQUIRED

**Deleted:** Cluster development is allowed within the Protected Area.¶

When Structural BMPs (wet detention ponds and all other BMPs) 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.

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### 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.

- (a) Existing development, as defined in Section 7.290, subsection 2., is not subject to the requirements of the Lake Norman Watershed Overlay District.
- (b) 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.
- (c) Existing public utilities may expand without being subject to the restrictions of this part provided that:
  - (i) Such expansion complies with all applicable laws of the State of North Carolina and the United States of America; and
  - (ii) Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

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### 2. DEFINITIONS.

The definitions below supplement the definitions of section 7.290, subsection 2.

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#### 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*

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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](#).

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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.<sup>1</sup>
- CA, high density option 50% B.U. with Structural BMP<sup>1</sup>

<sup>1</sup> Residential 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

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) a. 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](#).~~
  - 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](#).
  - 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 and pervious materials.
  - 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.
  - 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.

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**Commented [JS68]:** Cluster development no longer an option

**Deleted:** Cluster development is allowed within the Lake Norman Critical Area.

**High density option** is permitted in the Lake Norman Critical Area.

#### 4. POSTING OF FINANCIAL SECURITY REQUIRED

When Structural BMPs (wet detention ponds and all other BMPs) 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 S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS~~

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#### 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.

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- 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.

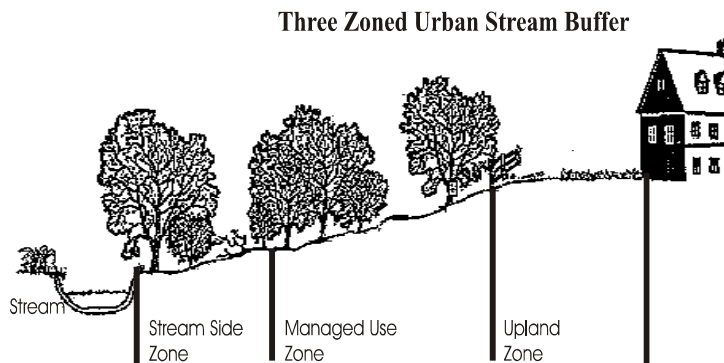
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### *Buffer.*

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.

*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:
  - Being subject to a recorded subdivision plat;
  - Being subject to a subdivision sketch plan approved by the Board of Commissioners prior to the effective date of this Section;
  - Being subject to a site specific development plan defined under Section 2.2.2 of these 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 by action of the Board of Commissioners 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.

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4. BUFFER DELINEATION.

S.W.I.M. Stream Buffers, throughout the jurisdiction of the Town of Huntersville shall be delineated by Mecklenburg County through its geographic information system (GIS) using the most current digital elevation model (DEM) of no greater than 10-foot cells. This stream buffer delineation including buffer widths shall be periodically updated as new data becomes available. The most recent delineation shall be provided for public use through Mecklenburg County's website.

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*

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	Stream Side Zone	Managed Use Zone	Upland Zone	Notes
<b>Function</b>	Protect the integrity of the ecosystems	Provide natural filter; provide distance between upland development and the stream side zone	Prevent encroachment and filter runoff	
<b>Land Disturbance/ Vegetative Requirements</b>	<b>Undisturbed (no cutting, clearing or grading).</b> If existing tree density is inadequate, reforestation is required.	<b>Limited clearing (no grading).</b> 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.	<b>Herbaceous ground cover,</b> including grass, is allowed; maintenance of existing forest or reforestation is encouraged. <b>Limited grading</b> that does not change the functionality or extent of the floodplain is permitted.	<b>Deleted:</b>
<b>Development Uses</b>	<b>Very restricted.</b> 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 <u>10</u> .	<b>Restricted.</b> Limited to those allowed in the Stream Side Zone, as well as bike paths and greenway trails up to 10 feet in width.	<b>Restricted.</b> Limited to those allowed in Stream Side and Managed Use Zones, <u>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 (BMPs) if approved in accordance with Section 7.300 1. b), as a condition of a buffer width variance or if they are located a minimum distance of 100 feet from the stream bank.</u>	(2), (3), (4)  <b>Deleted:</b> to <b>Deleted:</b> 9 <b>Deleted:</b> 0 <b>Commented [JS70]:</b> Consistent with Zoning Ordinance amendment TA19-09  <b>Deleted:</b> Land Development Standards Manual

**Notes:**

- (1) When reforestation of disturbed buffers is required, tree planting shall be as specified in the [Water Quality 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 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 BMP 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 BMPs.

9. BUFFER DELINEATION.

The following buffer delineations are required:

- Buffer boundaries including all buffer zones must be clearly delineated on all site-specific plans for Board of Commissioner approval, on all construction plans, including grading and clearing plans, erosion and sediment control plans, and site plans.
- 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.
- 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 occupancy. Properties greater than 200' in width shall be marked at a maximum of 100' intervals.
- Separate buffer zones must be permanently marked at highway stream crossings.
- 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.

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**Deleted:** Buffer boundaries including all buffer zones must be clearly marked on-site prior to any land disturbing activities. Where existing trees are to be preserved in a buffer zone, limits of grading shall maintain a minimum 20' separation from the base of each tree on the upland side of the buffer

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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, 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 Huntersville Planning Staff in compliance with the procedures of [Section 4.300](#).
  - 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-

**Commented [JS74]:** Consistent with Zoning Ordinance and 4.400 of the Subdivision Ordinance

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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 BMPs. The installation of an on-site structural BMP designed to achieve specified pollutant removal targets will allow for all proposed stream buffer impact on the specific site. The BMP must remain outside of the Stream Side Zone and Managed Use Zone. A detailed BMP 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 BMP, 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), 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 BMPs 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 BMPs 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

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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 BMPs (set detention ponds and other BMPs) 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 BMPs 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 BMPs, including the necessary financing to support the proposed maintenance practices. [Charlotte-Mecklenburg Storm Water Services](#) will inspect the structural BMPs 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.

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## 13. MAINTENANCE REQUIREMENTS FOR STRUCTURAL BMPs – CIVIL PENALTIES.

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Maintenance of all structural BMPs will be the responsibility of the property owner or his designee. Any person who fails to maintain the required BMPs 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.

**Commented [JS76]:** Consistent with Zoning Ordinance

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.

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

**8.000 REQUIRED WORK ON THE GROUND**

**8.100 STANDARDS AND SPECIFICATIONS**

1. Unless specifically noted, before any final plat of a subdivision is eligible for final approval, and before any street is accepted for maintenance by the ~~Town~~ or the State Department of Transportation, minimum improvements (including drainage and soil erosion) must have been completed by the developer and approved by the Town Engineering Department, or other designated engineer, in accordance with the standards and specifications of the Land Development Standards Manual or Article 5 of the Huntersville Zoning Ordinance, whichever applies. Minimum improvements not completed and approved must be guaranteed in accordance with the provisions of Section 8.400.3 prior to final plat approval.
2. The intent of the specifications set out in this sub-section is to prescribe minimum requirements for storm drainage and street improvements to be undertaken by the developer. Satisfactory completion of these improvements, attested by approval of the Town Engineering Department, will qualify streets in the town to be accepted for maintenance by the town and streets in the extraterritorial jurisdiction to be accepted for maintenance by the town upon annexation or, in the case of state-standard streets, to be considered for maintenance by the state.

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**8.110 STREET IMPROVEMENT RESPONSIBILITY**

In order to facilitate the provision of street rights-of-way and necessary improvements, the following sections establish responsibilities for the installation of streets and related improvements for each class of street. Any area of right-of-way which must be reserved for future acquisition may be dedicated at the option of the developer or property owner in return for the transfer of development rights, as provided for in ~~Section 7.100~~ of this ordinance. In addition, all streets built by the developer will be credited to the developer for the transfer of development rights.

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~~Freeway:~~

- New ~~or extension of existing~~, Freeway or street:
  - **Right-of-way** — Entire width reserved by developer for future acquisition, provided the certification in Section 8.115 can be made
  - **Improvements** — Installed by public
- Existing Freeway:
  - No right-of-way or improvements required of developer

**Commented [JS77]:** Correct Comprehensive Transportation Plan terminology

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~~Deleted: Expressway~~

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~~Other Major Thoroughfare:~~

- **Right-of-way** — For ~~new~~, Other Major Thoroughfare, the developer is responsible for the dedication of up to 100 feet of right-of-way (50 feet each side of the centerline). Along ~~existing~~, Other Major Thoroughfare, any development which requires specific improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.
- **Improvements** — Installed by the public in accordance with a schedule of public street improvements, except on existing streets where specific improvements are required to meet vehicular and/or traffic needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the

~~Deleted: Class II (Limited Access Arterial):¶~~

~~<#>New Class II or extension of existing Class II street:¶~~

~~<#>**Right-of-way** — Entire width reserved by developer for future acquisition, provided the certification in Section 8.115 can be made¶~~

~~<#>**Improvements** — Installed by public¶~~

~~<#>Existing Class II street:¶~~

~~<#>No right-of-way or improvements required of developer¶~~

~~Class III (Major Arterials)~~

~~Deleted: Class III streets~~

~~Deleted: Class III streets~~



developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be responsible. The developer has the option, after consultation with the Town Manager and Town Engineering Department, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new Class III streets or extensions of Class III streets must limit access points to public streets or specifically approved street type entrances.

Minor Thoroughfare

- **Right-of-way** — For new Minor Thoroughfare streets the developer is responsible for the dedication of up to 70 feet of right-of-way (35 feet each side of the centerline). Along existing Minor Thoroughfare streets any development which requires improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.

- **Improvements** — Installed by the public in accordance with a schedule of public street improvements, except where specific improvements are required to meet the vehicular and/or pedestrian access needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the Town Manager and Town Engineering Department, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new Class IV streets or extensions of Class IV streets must limit access points to public streets or specifically approved street type entrances.

Town Streets:

- **Right-of-way** --- Dedicated by the developer.
- **Improvements** --- Constructed by the developer.

All streets must be constructed to comply with the minimum standards shown in the Land Development Standards Manual or Article 5 of the Huntersville Zoning Ordinance, whichever applies, and all applicable town or state requirements. Public improvements will be made in accordance with adopted plans, programs, and budgets. It should not be expected that the occurrence of development will result in the immediate installation of public street improvements by the public sector unless those improvements are scheduled and funded in accordance with public policies and programs. In lieu of required street construction, and subject to approval by the Town Board of Commissioners, a developer may provide the Town with funds to use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development, and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the Town pursuant to this provision shall be used only for development of roads, including design, land acquisition, and construction. The Town may undertake these activities in conjunction with the Department of Transportation under an agreement between the Town and the Department of Transportation. The amount of funds the developer pays in lieu of required street construction shall be based on the trips generated from the subdivision or development. A combination of partial payment of funds and partial dedication of constructed streets may be permitted when the Town Board determines that a combination is in the best interests of the citizens of the area to be served.

**8.115 RESPONSIBILITY FOR STATE ROADS**

No dedication or reservation of right-of-way for a new street or highway within a corridor for a street or highway on a plan established and adopted pursuant to N.C.G.S. § 136-66.2 for a street or highway

**Deleted:** ¶

**Deleted:** Class III-C (Commercial Arterial)¶  
 <#>**Right-of-way** — For new Class III-C streets, the developer is responsible for the dedication of up to 100 feet of right-of-way (50 feet each side of the centerline) and reservation of the remaining required right-of-way. Along existing Class III-C streets any development which requires specific improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.¶

¶  
 <#>**Improvements** — Installed by the public in accordance with a schedule of public street improvements, except on existing streets where specific improvements are required to meet the vehicular and/or pedestrian access needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be responsible. The developer has the option, after consultation with the Town Manager and Town Engineering Department, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new Class III-C streets or extensions of Class III-C streets must limit access points to public streets or specifically approved street type entrances. ¶  
 Class IV (Minor Arterial)

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**Commented [JS78]:** Aside from construction, Huntersville can require fees in lieu of construction for the Town to construct the street improvement inside and outside of the subdivision. **However, this is only possible under 160D-804(c)(3) IF the ordinance provides for it as is proposed here.**

Given that this issue has come up recently, we need to add the fees in lieu option in the subdivision ordinance.

The computation of the fees must be based off trips generated per 160D-804(4).

that is included in the Department of Transportation's "Transportation Improvement Program" will be required by the provisions of this ordinance unless and until the Town Manager has determined and certified in writing: (1) that the dedication or reservation does not result in the deprivation of a reasonable use of the original tract and (2) that the dedication or reservation is either reasonably related to the traffic generated by the proposed subdivision or use of the land remaining in the original tract, or the impact of the dedication or reservation is mitigated by measures provided in this ordinance. For these purposes the term "original tract" will mean all contiguous land owned by the applicant. The ability of the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant is deemed to be a measure which mitigates the impact of the dedication or reservation.

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### 8.120 DRAINAGE

1. Storm drainage adequate to accommodate a 10-year storm must be provided throughout the subdivision by means of storm drainage pipe or properly graded channels or natural drainage. Where adequate storm drainage has been provided by means of approved storm drainage pipe and the necessary easements to provide access to the drainage facilities, in accordance with the standards of the Town and the Town Engineering Department, and has been dedicated and accepted or otherwise conveyed to the Town, the Town will assume the responsibility for maintenance of the drainage pipe. Where adequate storm drainage has been provided by means of properly graded channels or ditches, the maintenance thereof will remain the responsibility of the property owner and must be so noted on the final plat and on deeds for the affected lots.
2. In addition to drainage improvements as required by this section, the subdivider may provide for storm water detention to serve the entire subdivision as part of the drainage plan to be approved by Town Engineering Department. For the purposes of this subsection, the subdivision shall include the streets, sidewalks, driveways, rooftops, and other impervious surfaces proposed to be constructed upon completion of the subdivision.
3. Reserved.

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### 8.130 CURB AND GUTTER

Curb and gutter is required on all arterial and collector streets and on all Town streets with the exception of alleys, lanes, and other rural street applications. Location and type of curb and gutter is determined through the design process outlined in Article 5 of the Zoning Ordinance. Standard curb and gutter is recommended for curb and gutter installations on all street types. However, valley (mountable) curb and gutter may be used in lieu of standard curb and gutter on collector streets, and on Town streets that serve less urban purposes such as Residential Local and Collector streets. Standard curb and gutter is required where formal parking is used.

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### 8.140 SIDEWALK

Sidewalk width should be established using the Design Process found in Article 5 of the Zoning Ordinance and in accordance with the Engineering Standards and Procedures Manual (ESAPM) or thoroughfare design process. In all cases, a minimum of a five (5) foot wide sidewalk is required on both sides of new or existing collector streets, on both sides of local streets except lanes, alleys, and on the developed side of Residential Local streets with Greenway/Belt. Installation of sidewalks is the responsibility of the developer. However, to reduce impervious cover and promote LID, sidewalks on one side of Town streets may be waived by the town in the Rural Zoning District.

- Commented [E579]: See above comment regarding limitations on ability to require transportation network improvements outside of subdivision development pursuant to 160D-804(c) as interpreted by Buckland.
- UNC suggests that statutes could be interpreted so as to allow fees in lieu for Town to construct sidewalks outside of development as allowed for street construction.
- See page 14-15 <https://www.sog.unc.edu/sites/www.sog.unc.edu/files/160D%20Q%26A%20Update%20Dec%202020.pdf>
- However, 160D-804(c) is specific to "street construction."
- Deleted:

Sidewalks are required on both sides of new or existing arterial streets with installation by developer to meet the pedestrian access requirements of the development. Sidewalk construction may be waived by the Town Board when accessibility by pedestrians does not now exist and is not expected to exist in the future. Conservation Subdivisions are exempt from the requirement to construct or escrow funds for sidewalks or alternative pedestrian paths along existing arterials

**Location.** Approval of sidewalk construction plans must be obtained from the Town Engineering Department as part of the subdivision review process. Town Engineering will review and comment on the location of the required facilities at the time of plan review. Except in unusual circumstances,

sidewalks may not be located less than 5 feet, but preferably 7-10 feet, from the back of the curb or edge of pavement when no curb and gutter is required. If existing public street right-of-way is not available, the developer will be required to construct the sidewalk outside the street right-of-way on a permanent easement. While in most instances a sidewalk will be placed parallel to and offset from the curb line, developers are encouraged and expected to meander sidewalks to preserve existing trees of significance. ~~Adjustments may be made in the field to accommodate such circumstances.~~

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#### **8.150 STREET TREES**

The developer shall install street trees along all streets within a development and along the abutting side of streets forming the perimeter of the development. ~~Street trees shall be placed between the sidewalk, if present, and the back of curb or back of ditch, when no curb and gutter is required.~~ Street trees must be planted in accordance with the applicable standard found in the Engineering Standards and Procedures Manual (ESAPM) and NCDOT Guidelines. Large maturing trees should be planted 40' on center; small maturing trees should be planted 30' on center. Street tree plantings conceived to produce a clear vertical edge to a street or plaza may require denser spacing. ~~The planting plan shall adhere to Article 7 of the Huntersville Zoning Ordinance.~~ In Conservation Subdivisions where existing, mature trees are to be preserved as a condition of the conservation easement, the requirement for street tree planting shall be waived.

**Commented [ES80]:**

**Commented [JS81R80]:** Staff is looking at the sidewalk issue and impact by street trees. To be addressed outside 160D changes.

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#### **8.160 STREET LIGHTS**

Street lighting will be installed in each new subdivision pursuant to a street lighting plan which shall be submitted to the Town for approval. This shall be the responsibility of the developer. Street lights compatible in height and scale with the streetscape are strongly recommended. Further,

1. Street lights shall in all cases use fully shielded fixtures except that decorative street light fixtures shall be designed with caps so that light does not shine upward at more than a 135-degree angle measured above straight down (three-quarters of the way between straight down and straight to the top) from the pole or mounting wall.
2. Fixtures with minimal across-road and "house side" waste shall be used, especially in residential areas, taking into consideration the details of roadway geometry and width.
3. Low pressure sodium lights are strongly encouraged.
4. A street lighting plan must be approved by the Town prior to Preliminary Plan or Commercial Site Plan approval.

**Commented [JS82]:** This is consistent with the proposed zoning ordinance text.

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#### **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).

### 8.200 NO SERVICE UNLESS STREET ACCEPTED/APPROVED

No department, officer, agent, or employee of the Town will accept for maintenance, lay out, open, improve, grade, pave, or light any streets or authorize the laying of water mains, sewers, electrical service extensions or other facilities or utilities in any street within the Town unless:

1. such street has been accepted or opened as, or has otherwise received the legal status of, a public street prior to the effective date of this ordinance; or
2. for any new street, such street corresponds in its location and lines with a street shown on a preliminary subdivision plan, tentatively approved by the Town Board or Designated Administrative Agent; or
3. such street has been accepted as a public street by a vote of a majority of all the members of the Town Board or by the State of North Carolina; or
4. such street has been accepted as a public street by the State of North Carolina; or
5. such street is an approved private street built in conformance with the provisions of all applicable ordinances.

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Commented [ES83]: Town Manager wouldn't be approving a preliminary subdivision plan. I assume should be Town Board.

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### 8.300 OTHER PUBLIC FACILITIES

Reserved.

### 8.400 MODIFICATION OF REQUIREMENTS; PERFORMANCE GURANTEE,

1. In subdivisions adjoining already established streets that have been accepted for maintenance by the North Carolina Department of Transportation, the requirements of Section 8.000 will apply as hereinafter provided; those requirements that would necessitate the general removal and reconstruction of established permanent pavements will not be applicable; where the adjoining established street is a part of the North Carolina Department of Transportation's street system, the adjoining street must be improved in accordance with either the requirements of Section 8.000 and the requirements of the Town of Huntersville or the North Carolina Department of Transportation, whichever establishes the higher standard.
2. Plats for new lots fronting on already dedicated or established streets or roads that have not been accepted for maintenance by the Town Board or the North Carolina Department of Transportation or which have been accepted for maintenance by the North Carolina Department of Transportation, but have not been improved with a paved roadway, will be eligible for final approval when the requirements of Section 8.000 have been complied with as closely as may be reasonably required considering the existing condition of the road, the extent of area to be platted and the cost of required improvements in relation to the comparative benefits to accrue to the subdivider and the other owners of property on both sides of the street or road.
3. Where the improvements required by the Zoning Ordinance and Subdivision Ordinance (i.e. streets, alleys, improved open space, landscaping, drainage, etc.) have not been completed prior to the submission of the final subdivision plat for approval, the approval of the plat will be subject to the owner providing a performance guarantee in the form of a surety bond, irrevocable letter of credit, or other form of guarantee that provides equivalent security to a surety bond or letter of credit with the Town Manager or designated agent. The amount of the performance guarantee shall be in an amount determined by the Town Manager in consultation with the Town Engineer or their designee, and affected agencies such as the department of Environmental Health, sufficient to guarantee the installation of the required improvements, allowing credit for improvements completed prior to the submission of the final plat. The amount so determined shall not to exceed 125% of the reasonably estimated

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The performance guarantees are allowed for completion of Town-required improvements.

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cost of completion of the required improvements at the time the guarantee is issued. For landscaping required by this ordinance, the developer shall provide a contractor's estimate for provision and installation of such landscaping, the estimate shall be reviewed for adequacy, and a performance guarantee sufficient to guarantee the provision and installation of required landscaping shall also be filed in the manner provided above. Upon completion of the improvements and the submission of 'as built' drawings, written notice thereof must be given by the subdivider to the Town Engineering Department and the Town of Huntersville Planning Department. The Engineering Department and Huntersville Planning Department will arrange for an inspection of the improvements. If the improvements are found satisfactory, the Town Manager will be notified who will, within 30 days of the date of such notification, authorize in writing the release of the performance guarantee, subject to the warranty requirement below.

4. ~~Warranty.~~ All improvements required by this ordinance shall be warranted against defects in workmanship and materials by the subdivider for a period of not less than one (1) year, but not more than two (2) years from the date of the filing of the final plat or the date of the completion of the improvement, whichever is later. The subdivider shall file with the Town Manager a ~~warranty surety listing the Town as beneficiary in an amount of 15% of the estimated value of the warranted development-related improvements for the warranty period.~~

#### 8.500 INSPECTION

1. ~~Town Engineering Department must be notified two days in advance of the work to be started so that an authorized representative of the Town Engineer or their designee or other responsible agency may be assigned to make any and all necessary inspections of the work performed.~~
2. ~~The inspector must be allowed access to all parts of the work and must be furnished with every reasonable facility to ascertain whether or not the work as performed is in compliance with the specifications.~~
3. ~~No materials may be placed, nor any work performed except in the presence of the inspector without special permission of the appropriate agency. Such inspection, however, does not relieve the contractor from any obligation to perform all of the work strictly in accordance with the specifications.~~
4. ~~In the case of any disputes arising as to the material furnished or the manner of performing the work, the inspector will have authority to reject materials or suspend work until the question or issue can be referred to and decided by the appropriate agency. The contractor must remove any work or material condemned as unsatisfactory by the inspector and must rebuild and replace the work or material to the standard required by the specifications, all at his or her own expense.~~

#### 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, upon conviction, be guilty of a Class 1 misdemeanor, which shall be punishable by a fine not to exceed \$500.00, or imprisonment for not more than 30 days for each and every offense. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The Town of Huntersville through the Town Attorney may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. All administrative actions relating to such land, including the issuance of any grading, construction, building, or occupancy~~

**Commented [ES85]:** 160D-804.1(3)

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**Commented [ES86]:** See 160D-804.1(4), which only allows the performance guarantee for COMPLETION of improvements, not maintenance and repairs after completion.

See Adam Lovelady on the subject here:  
<https://canons.sog.unc.edu/subdivision-performance-guarantees-legislative-changes/> [Note statutory references have been replaced now by 160D references].

I used Raleigh's warranty language at 8.1.4 of their UDO. However, we could change the percentage if preferred.  
<https://user-2081353526.cld.bz/UnifiedDevelopmentOrdinance/242/>

**Deleted:** with adequate sureties in an amount determined by the Town Manager or Town Engineer or their designee to be sufficient to assure proper maintenance and repair of such improvements ...

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**Commented [JG88]:** Direct language from 160D-807(a)

**Deleted:** may enjoin such transfer or sale by action for injunction.

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.

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 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.

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- Commented [JS89]: Correct reference.
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#### 10.000 APPLICATION AND PROCESSING FEES

Fees for the submittal of preliminary and/or final subdivision plats shall be established, and from time to time revised, by the Board of Commissioners of the Town of Huntersville and shall be collected when a subdivision application is submitted. Fees shall be collected by the Town Manager, employees under his or her direction, or an Administrative Agent designated by the Board of Commissioners to administer the subdivision ordinance.

Fees for variances and appeals of administrative decisions or interpretations shall be in accordance with the fee schedule established by the Huntersville Board of Commissioners and shall be collected by the Town Manager or employees under his or her direction at the time a variance or appeal is submitted.

#### SECTION 2

That this ordinance shall become effective November 1, 1989.

Caution: 160D-701(replaced 160A-383) has been interpreted to link the requirement of adequate public facilities to land use regulation. However, per David Owns “[a]ssuming the local government has done appropriate planning and analysis to support the decision, it has the legal authority to **deny or delay development approvals that would overburden public facilities**. A local government cannot, however, use development regulations to **mandate payment of impact fees to address inadequate public facilities unless the particular fee involved has been expressly authorized by the General Assembly**. While there is latitude for good faith negotiations on public-private cost-sharing and contributions towards the **provision of public facilities with development agreements and conditional zoning, any mandatory impact fee must have legislative authorization**.”  
<https://canons.sog.unc.edu/if-we-cant-collect-a-fee-can-we-just-say-no-use-of-impact-fees-and-adequate-public-facility-regulatory-requirements/>

The same analysis likely applies to any mandatory (I note our ordinance says “may provide mitigation measures”) mitigation not in the form of a fee (i.e. construction of improvements) that exceeds our exaction authority set forth within the statutes. The exaction authority is separate and apart from adequate public facilities considerations in 160D-701.

Specifically, 160D-702 (zoning) and 160D-804 (subdivision) limit our exaction authority as interpreted by the Buckland case. Per that case, we cannot require off-site road improvements to be built by the developer based on these two specific statutory grants of authority.

Finally, whereas the Town Charter includes language at Section 8.1 regarding “mitigation,” that mitigation is tied specifically to when “development would cause the level of service to fall below the **predetermined level**.”

As I believe was previously discussed with Angie, and as was being reviewed by the HOAB, Article 14 of the Zoning Ordinance likely needs to be updated to conform to the above limitations.