

**AN ORDINANCE TO AMEND ARTICLE 11.4.10 (e): Amendment Process, Special Use Permit, Hearing OF THE ZONING ORDINANCE TO AMEND HEARING REQUIREMENTS FOR SPECIAL USE PERMITS; ARTICLES 9.4, 9.15, 9.17, 9.23, 9.24, 9.31, 9.32, 9.34, 9.36, 9.38, 9.41, 9.45, 9.56, 9.61: CONDITIONS FOR CERTAIN USES; ARTICLE 3.3.2-C: Appeals and Variances in MIL-O District; and ARTICLE 3.3.3-B: Appeals and Variances in LN-O District**

**Section 1.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 11.4.10 (e): Amendment Process, Special Use Permit, Hearing of the **Zoning Ordinance** is hereby amended as follows:

e) Hearing

1) A Special Use Permit hearing will be conducted as a quasi-judicial hearing before the Town Board.

2) The applicant has the burden of producing competent, material, and substantial evidence establishing that:

**i. The proposed special use will not materially endanger the public health or safety;**

**ii. The proposed special use will not substantially injure the value of adjoining property or it constitutes a public necessity;**

**iii. The proposed special use will be in harmony with the area in which it is located and in general conformity with the comprehensive plan and any applicable small area plan;**

iv. The proposed special use will comply with all of the lot, size, yard, and other standards which this ordinance applies to all uses permitted in the zoning district in which the property is located; and

v. The proposed special use will comply with all general and specific standards required by the appropriate section of this ordinance for the issuance of a special use permit for this use.

**Section 2.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.3: Conditions for Certain Uses, Agricultural Industry in the Rural and Transitional District of the **Zoning Ordinance** is hereby amended as follows:

Agricultural Industry, limited to the production of commercial poultry or small livestock in enclosed buildings, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for the production of commercial poultry or small livestock in enclosed buildings in the Rural and Transitional District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

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~~.1 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

~~.2 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

.1 .3 That no part of the proposed use will be located or operated so as to emit dust, noise, fumes, or odors in concentrations or amounts that would constitute a nuisance to persons of ordinary sensitivities on nearby properties; and

.2 .4 That there will be a separation of no less than 250 feet between structures housing the agricultural industry and any property located in a residential district or developed for residential or mixed-use purposes; and

.3 .5 That the proposed use shall be located on a lot of no less than ten acres.

**Section 3.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.4: Conditions for Certain Uses, Airports of the **Zoning Ordinance** is hereby amended as follows:

Airports are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~.1 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~.1 .2 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

.1 .3 That the proposed use will not constitute a nuisance to properties located in residential or mixed-use districts or developed for residential purposes with respect to noise, dust, fumes, light, vibration, or traffic; and

.2 .4 That the proposed use will comply with all applicable Federal Aviation Administration regulations.

**Section 4.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.15: Conditions for Certain Uses, Essential Services 3 of the **Zoning Ordinance** is hereby amended as follows:

Essential Services, Class 3, are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

1. ~~3.~~ That the proposed use will not constitute a nuisance to properties located in residential districts or developed for residential or institutional purposes with respect to noise, dust, odors, light, vibration, or traffic; and

2. ~~4.~~ That area of active use will be enclosed by a fence, not easily climbable, at least six feet in height, and the fence must be located at least 20 feet from the public street right-of-way and 100 feet from abutting property lines; and

3. ~~5.~~ That a minimum separation of 100 feet, fully vegetated, will be provided between the fenced use area and any abutting property line; existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties; and

~~4-6.~~ That the site shall be screened from the street(s) by a screen composed of a masonry wall or a solid fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; security fencing shall be placed on the interior side of the vegetation and wall/fence.

**Section 5.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.17: Conditions for Certain Uses, Hazardous or infectious material incineration, handling, or storage of the **Zoning Ordinance** is hereby amended as follows:

Hazardous or infectious materials, storage and treatment facilities are permitted in the Special Purpose (SP) District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

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~~1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

1. ~~3.~~ That the use complies with the Federal Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §6901 et seq) and the North Carolina Solid Waste Management Act, as amended, (Article 9, G.S. 130A-290 et seq) for design, siting, and monitoring, and for materials to be stored or treated; and

2. ~~4.~~ That all storage, treatment, and loading facilities handling hazardous or infectious materials will be located at least 200 feet from any exterior property line and at least 2,000 feet from any lot zoned or used for residential, institutional, or office purposes; and

3. ~~5.~~ That the use will be entirely fenced with fencing material to a height of at least 7 feet; and the site shall be screened from the street(s) by a screen composed of a masonry wall or a solid fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; security fencing shall be placed on the interior side of the vegetation and wall or fence; and

4. ~~6.~~ That vehicular access to the operation will be provided only by way of a designated thoroughfare; and

5. ~~7.~~ That all surface water and groundwater on the property shall be protected so as to minimize to the greatest extent possible the probability of contamination by hazardous materials; and

6. ~~8.~~ That the site will be served by a publicly operated sewage disposal system and all sanitary sewer and storm water management systems on the property will be protected so as to minimize to the greatest extent possible the probability of contamination by hazardous or infectious materials; and

7. ~~9.~~ That no structures or operations of any kind on the site shall be located within 200 feet of any adjacent lot.

**Section 6.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.23: Conditions for Certain Uses, Hazardous or infectious material incineration, handling, or storage of the **Zoning Ordinance** is hereby amended as follows:

TA21-11: SUP Hearing Requirements, Watershed Minor and Major Variance Definition and Findings of Facts

Off-Site LCID and C&D Landfills are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10. The Town Board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes the conditions below.

**1.** That the Site will operate in compliance with the rules according to the NCDENR for C&D and LCID landfills, as amended.

~~2. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~3. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

**2. 4.** That the comprehensive site plan addresses each of the environmental and development standards below:

a. A landfill which would be larger than 10 acres shall be accessed from a major or minor thoroughfare or from a street built to Industrial Collector Street standards that connects directly to a major or minor thoroughfare. Landfills 10 acres or less must directly connect to a major or minor thoroughfare, or to an Industrial Collector Street or Industrial Local Street where available. However, if such thoroughfares or streets are not reasonable available, the Board may nevertheless issue a special use permit upon finding that the use for which the permit is granted would not likely cause any injurious effect on the property adjacent to the access.

b. That the proposed or existing use will be in compliance with the rules and regulations as established by Traffic Impact Analysis (TIA) Article 14.

c. Neither clearing, grading, land disturbing activities nor any portion of a C&D or LCID landfill may be located within 100 feet of any exterior property line. Further, the buffer requirements for the site are required per the state permitting criteria. The requirements stated below take precedence over any and all modifications made by the state unless the state standards become more restrictive.

- 500-foot buffer from existing residential water supply wells to fill area.
- 200-foot buffer from adjacent property to fill area.
- No fill in designated wetlands or the FEMA and/or Community Special Flood Hazard Areas.

- 50-foot buffer from delineated streams.
- 50-foot buffer from road right-of-way to fill area (non state requirement)

d. Driveway access to the facility must be paved for a distance of at least 100' from the public street.

e. Vehicular and pedestrian access to the site must be controlled; the site must be closed and secured during hours when filling activities are not under way. A non-climbable fence, at

least 6' high, shall be installed around the landfill and all of its operations as a safety device. These fences must be constructed of wire mesh with openings not to exceed 2 inches by 4 inches or equivalent and must be placed on the interior side of screening/buffering devices.

f. All driveways which serve the site must be wide enough to accommodate two-way traffic for a distance of at least 100 feet from the public street so that no traffic waiting to enter the site will be backed up on any public right-of-way.

**3. 5.**—That the landfill operator will be responsible for removal of any and all debris, dirt, or other materials which fall from trucks entering or leaving the landfill from all adjoining streets on at least a weekly basis. Failure to comply constitutes a violation of this ordinance and may constitute grounds for revocation of the operating permit.

**4. 6.** That use of the site for any purpose shall be limited to the hours of 7:00 a.m. until 6:00 p.m. Monday through Saturday, if the site adjoins or is across the street from property located in a residential district.

**5. 7.** That a timetable has been submitted with the application indicating the development phases and the projected life expectancy of the landfill.

**6. 8.**—That a reclamation plan is provided that shows how the site will be reclaimed upon the closing of the landfill. The reclamation plan shall state the proposed method of conservatorship and perpetual maintenance or use. It shall demonstrate that the site, when closed, will pose no threat to public safety; that the finished contours and groundcover will reestablish a compatible appearance with surrounding lands and buildings; and that the method of maintenance or use will cause no future environmental degradation.

**7. 9.** An existing LCID landfill shall not be required to be brought into compliance with the provisions of this ordinance provided:

- a. The landfill has been continuously operating since 1990 and was not within the zoning jurisdiction of the Town of Huntersville in 1991;
- b. The landfill has a valid LCID or demolition landfill permit and/or obtains any renewals of the LCID or demolition landfill permit required by the State of North Carolina and/or Mecklenburg County;
- c. The landfill has a closure plan approved by the State of North Carolina and/or Mecklenburg County; and
- d. In no event shall the landfill operate under a demolition landfill permit later than December 4, 2016 and further provided that on the earlier of the final date permitted for operation of the landfill or the date the landfill permanently ceases operation, the owner and/or operator of the landfill shall immediately commence and continuously pursue to completion closure of the landfill according to the provisions of the then current closure plan

approved by the State of North Carolina and/or Mecklenburg County. Failure to complete closure according to such approved plan shall be a violation of this ordinance enforceable by all remedies and penalties available to the Town.

e. In no event shall a landfill operate under an LCID landfill permit later than March 3, 2028 and further provided that on the earlier of the final date permitted for operation of the landfill or the date the landfill permanently ceases operation, the owner and/or operator of the landfill shall immediately commence and continuously pursue to completion closure of the landfill according to the provisions of the then current closure plan approved by the State of North Carolina and/or Mecklenburg County. Failure to complete closure according to such approved plan shall be a violation of this ordinance enforceable by all remedies and penalties available to the Town. Recycling from an LCID landfill shall be considered an LCID activity and shall not be considered an expansion for purposes of determining nonconformance.

f. A landfill operating under an LCID landfill permit as described in e) shall meet the following requirements to the extent reasonably practicable without violating County, State, or Federal regulations:

(1) In the event that, after September 5, 2017, a driveway is permitted to replace an existing permitted driveway for the facility, the new driveway shall be paved for a distance of 100 feet from the public right of way, or, if the Planning Director determines that 100 feet of pavement is not reasonable due to topographic conditions, for such lesser distance as is determined by the Planning Director;

(2) Landscaping along street frontages to the extent commercially reasonable; and

(3) The landfill operator will be responsible for removal of any and all debris, dirt, or other materials which fall from trucks entering or leaving the landfill from all adjoining streets on at least a weekly basis, or more as needed.

~~8.10.~~ Any existing C&D landfill shall be permitted to continue operation in the zone in which it is located provided the landfill has an unexpired special use permit. Any expansion beyond the property boundary of an existing C&D landfill as approved on November 11, 2005 must be located in the SP district with a special use permit in accordance with the provisions of this Section.

**Section 7.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.24: Conditions for Certain Uses, Environmentally Sensitive Uses not Expressly Permitted of the Zoning Ordinance is hereby amended as follows:

Uses not expressly named in this ordinance, but which may constitute a greater than average impact on the environment or diminish the use and enjoyment of nearby property by generation of noise, smoke, fumes, odors, glare, commercial vehicle traffic, or similar nuisances, are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

~~1-3.~~ That a comprehensive site plan addresses the development standards below:

a. Adjoining properties and streets are protected from adverse impacts of the use and buildings on the proposed site by the locations of buffers and/or screens;

b. Any areas of the site which may present a danger to residents, their children, pets, or livestock shall be fenced with non-climbable fencing material to a height sufficient to avert said danger; fencing shall be installed on the interior of any buffering or screening;

c. Vehicular access to the proposed use will be provided by way of a road sufficiently sized to accommodate the generated trips and the vehicles typically associated with the use; a use considered under the standards of this special use permit process shall not be accessed through a residential neighborhood nor from a Residential Local street.

**Section 8.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.31: Conditions for Certain Uses, Quarries of the **Zoning Ordinance** is hereby amended as follows:

Quarries are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

~~1.~~ ~~3.~~ That the quarry and all its buildings, pits, and processing equipment will be separated by a 100-foot buffer from the street and from any adjacent property that is located in a residential district or developed for residential or institutional use; and



- ~~2. 4.~~ That the quarry and all its buildings, pits, and processing equipment will be provided with an opaque screen to shield the view from the public street and from all abutting properties, regardless of use; and
- ~~3. 5.~~ That a non-climbable fence, at least 6 feet high, will be installed around the quarry and all of its operations as a safety device. These fences must be constructed of wire mesh with openings not to exceed 2 inches by 4 inches or equivalent and must be placed on the interior side of screening and/or buffering devices; and
- ~~4. 6.~~ Vehicle access to the quarry shall be provided by way of a major or minor thoroughfare, or an Industrial Street directly connecting to a thoroughfare; and
- ~~5. 7.~~ That any crushing of rock or processing of material must be done in such a way as to minimize the amount of air-borne dust created; and
- ~~6. 8.~~ That the minimum distances of quarry operations from adjacent properties shall be:
  - a. for any quarry building 100 feet
  - b. for any crushing of rock, processing of stone, gravel or other material 300 feet
  - c. for any blasting 500 feet
- ~~7. 9.~~ And that upon termination of quarrying operation, the site must be reclaimed in accordance with NC General Statutes.

**Section 9.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.32: Conditions for Certain Uses, Raceways and Drag Strips of the **Zoning Ordinance** is hereby amended as follows:

Raceways and Drag strips are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

- ~~.1~~ That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
- ~~.2~~ That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
- ~~.1~~ ~~3~~ That the use will be located on a lot of at least 50 acres; and
- ~~.2~~ ~~4~~ That vehicular access to the use will be provided only by way of a major or minor thoroughfare; and

~~.3~~ ~~5~~ That no direct beams of light from outdoor lighting fixtures, signs, or vehicles maneuvering on the site will shine into any abutting property located in a residential district; and

~~.4~~ ~~6~~ That a minimum separation of 100 feet, fully vegetated, shall be provided between the fenced use area and any abutting property line; existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties; and

~~.5~~ ~~7~~ That the site shall be screened from the street(s) by a masonry wall or a solid wood fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; if security fencing of chain link or similar material is provided, it shall be placed on the interior side of the vegetation and wall or fence; and

~~.6~~ ~~8~~ That hours of operation will be no earlier than 8:00 a.m. and no later than 11:00 p.m.

**Section 10.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.34: Conditions for Certain Uses, Sanitary Landfill of the **Zoning Ordinance** is hereby amended as follows:

Sanitary Landfills are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~.1~~ That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and

~~.2~~ That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and

~~.1~~ ~~3~~ That the comprehensive site plan addresses each of the development standards below:

(a) The use shall be located on a lot of at least 50 acres;

(b) All land filling operations and off-street parking and service areas will be separated by a 100-foot buffer from all adjacent properties and shielded by an opaque screen from the view from a public street;

(c) No structure or land filling operation will be located within 100 feet of any property line nor within 200 feet of abutting property located in a residential district or developed for residential or mixed use;

(d) Vehicle access to the proposed use shall be provided by way of a major or minor thoroughfare, or an Industrial Street directly connecting to a thoroughfare; and

.2 .4 That the plan for development and operation of the site addresses the environmental standards below:

- (a) The siting and design of the facility will comply with the "Siting and Design Requirements for Disposal Sites" of the North Carolina Solid Waste Management Rules (Title 15A NCAC Chapter 13B) in effect at the time of review of the application;
- (b) Monitoring of surface water and groundwater will be conducted in accordance with the State of North Carolina permit and monitoring documents developed pursuant to the State of North Carolina Solid Waste Management Rules;
- (c) The facility complies with the Mecklenburg County Department of Environmental Protection's policy concerning Actual and Suspected Contaminants of Mecklenburg County Surface and Groundwater; and

.3 .5 That there is a general timetable indicating the development phases and projected life expectancy of the landfill; and

.4 .6 That there is a detailed plan for the re-use of the property, after landfill operations cease, that is not in conflict with the objectives of the most detailed plan approved for the area; and

.5 .7 That the plan for close-out of the landfill includes the creation of an escrowed fund to finance close-out, with contributions to the fund escrowed annually, beginning at the time facility development begins.

**Section 11.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.36: Conditions for Certain Uses, Solid Waste Incineration of the **Zoning Ordinance** is hereby amended as follows:

Solid Waste Incineration, materials that are neither hazardous nor infectious, is permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~.1 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~.2 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

.1 .3 That the incineration unit(s) will be constructed and operated in compliance with environmental regulations, both current and future, as annotated in the United States Code of Federal Regulations, particularly 40 CFR § 63.988, which deals with environmental regulations,

as amended by the State of North Carolina and Mecklenburg County Department of Environmental Protection; and

~~.2~~ ~~4~~ That all storage, handling, incineration, and loading facilities will be located at least 200 feet from any exterior property line and at least 1,250 feet from any lot located in a residential or mixed use district or developed for residential, institutional, or mixed use; and

~~.3~~ ~~5~~ That structures, off-street parking and service areas will be separated by a 100-foot buffer from all adjacent properties and shielded by an opaque screen from the view from all public streets; and

~~.4~~ ~~6~~ That active use portions of the site will be entirely fenced with non-climbable fencing material to a height of at least six feet, which shall be installed on the interior of the buffer; and

~~.5~~ ~~7~~ That vehicular access to the operation will be provided only by way of a designated thoroughfare; and

~~.6~~ ~~8~~ That all surface water and groundwater on the property shall be protected so as to minimize to the greatest extent possible the potential for contamination; and

~~.7~~ ~~9~~ That the site will be served by a publicly operated sewage disposal system and all sanitary sewer and storm water management systems on the property will be protected so as to minimize to the greatest extent possible the potential for contamination.

**Section 12.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.38: Conditions for Certain Uses, Transfer Station for Organic and Inorganic Waste Products of the **Zoning Ordinance** is hereby amended as follows:

Transfer Stations are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town board shall issue a Special Use Permit for the subject facility in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~.1~~ That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby the property; and

~~.2~~ That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and

~~.1~~ ~~3~~ That the comprehensive site plan addresses the development standards below:

(a) The active use areas of the site shall be separated by a 100-foot buffer from all adjacent properties and shielded by an opaque screen from all public streets; and

- (b) That active use portions of the site will be entirely fenced with non-climbable fencing material to a height of at least six feet, which shall be installed on the interior of the buffer and screen; and
- (c) No active area will be located within 100 feet of any property line nor within 200 feet of abutting property located in a residential district or developed for residential, institutional, or mixed use; and
- (d) Vehicular access to the proposed use shall be provided by way of a major or minor thoroughfare, or an Industrial Street directly connecting to a thoroughfare.

**Section 13.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.41: Conditions for Certain Uses, Correctional Facilities of the Zoning Ordinance is hereby amended as follows:

Correctional Facilities are permitted in the SP District subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for a correctional institution in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

- .1 That the proposed use will comply with all standards which this ordinance applies to uses in the SP Districts; and
- ~~.2~~ ~~That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~
- ~~.3~~ ~~That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~
- .2 .4 That the principal structure and any accessory use or structure (excluding property boundary fencing) will be located at least 500 feet from any property located in a residential district or mixed-use district; and
- .3 .5 That property boundary fencing shall not employ barbed wire, razor wire, electrical fencing, or similar materials where abutting property located in a residential district or mixed-use district; and
- .4 .6 That security fencing will be provided an opaque screen on the exterior of fencing wherever it is adjacent to a street or property in a residential or mixed-use district; and
- .5 .7 That all lighting for the facility will be oriented so that direct beams of light shine away from all abutting properties and into the correctional facility property; and
- .6 .8 That the use will be located on a lot of at least 10 acres if the facility has beds for more than 100 inmates; and

~~.7.9~~ That the use will be located on a lot of at least five acres if the facility has beds for 100 or fewer inmates.

**Section 14.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.45: Conditions for Certain Uses, Hotels and Motels of the **Zoning Ordinance** is hereby amended as follows:

Hotels are permitted in the Highway Commercial and Corporate Business Districts subject to the requirements below; Motels are permitted in the Corporate Business District only, subject to the requirements below:

**.1** Any structure in which a hotel or motel is the principal or accessory use shall be separated by a distance of at least 250 feet from any residential or mixed-use zoning district, measured from the closest point of the lot occupied by the hotel or motel to the closest point of lots in residential and mixed-use zoning districts.

**.2** Any structure in which a hotel or motel is the principal or accessory use is spaced less than established in 1 above shall require a special use permit subject to the following standards as well as all other standards applicable for special use permits:

a. Any structure in which a hotel or motel is the principle or accessory use shall be separated by a distance no less than three (3) times the height of the proposed structure closest to the common lot line of the adjoining residential and mixed-use zone, but in no case less than 100 feet.

b. That all other site design requirements stated in this code are met.

~~c. That the proposed use will not endanger the public health and safety, not substantially reduce the value of nearby property.~~

~~d. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area.~~

~~c. e.~~ That vehicular access to the use will be provided only by way of a major or minor thoroughfare, or a Retail/Mixed-Use Local or Collector Street within a commercial or mixed-use project.

**.3** Any structure in which a hotel or motel is the principal or accessory use may exceed the permitted

building height of the zoning district, not to exceed six (6) stories, subject to a Special Use Permit, and the requirements of Article 9.45.2

**Section 15.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.56: Conditions for Certain Uses, Crematoriums, accessory of the **Zoning Ordinance** is hereby amended as follows:

Crematoriums are permitted in the HC district subject to a Special Use Permit, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for the use in the HC District if, but not unless the evidence presented at the Special use Permit hearing establishes:

- ~~1.~~ Are accessory to an established Funeral Home.
- ~~2.~~ That the proposed use will not endanger the public health and safety, substantially reduce the value of nearby property, nor emit noticeable odors; and
- ~~3.~~ That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
- ~~3. 4.~~ That the proposed use will be constructed and operated in compliance with all applicable environmental regulations; and
- ~~4. 5.~~ That all storage, handling, incineration, and loading facilities will be located at least 50 feet from any exterior property line; and
- ~~5. 6.~~ The number of cremations shall be below that requiring an air quality permit by Mecklenburg County per current calendar year.
- ~~6. 7.~~ That active use portions of the site will be entirely enclosed in the principal structure.

**Section 16.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.61: Conditions for Certain Uses, Par 3 and/or Golf Driving Range of the **Zoning Ordinance** is hereby amended as follows:

Par 3 and golf driving ranges are permitted in the Rural Zoning District subject to a Special Use Permit according to the procedures of Article 11.4.10.

The Town Board shall issue a Special Use Permit for the use in the Rural District if, but not unless the evidence presented at the Special Use Permit hearing establishes:

- ~~1.~~ That the proposed use will not endanger the public health and safety, substantially reduce the value of nearby property; and
- ~~1. 2.~~ Par 3 courses shall not be lit. Outdoor lighting associated with driving ranges in the Rural district shall be designed as follows:
  - a. Facility lighting may include floodlights but must be shielded and shall be oriented and directed in such a way as to not produce glare at any off-site location.
  - b. Maximum light fixture height shall be 40 feet.
  - c. Maximum lighting level is 15 foot-candles measured at grade.

d. If free standing lighting is proposed, photometric lighting plans shall be submitted at special use permit application. A maximum of .5 foot-candles at any location on any non-residential property and .1 foot-candles at any location on any residential property, as measurable from any orientation of the measuring device shall be met.

e. Lighting shall be extinguished at 11 pm.

f. Upon review of the photometric plan, the Town Board may modify the above lighting standards provided the spirit of the ordinance, reducing glare and off-site light trespass is maintained.

~~2. 3.~~ Vehicular access to the use will be provided only by way of a Boulevard or Major Thoroughfare.

~~3. 4.~~ A par 3 golf course or driving range must be located on a property at least 20 acres in size.

~~4. 5.~~ No multi-level buildings or tee boxes are permitted.

~~5. 6.~~ Hours of operation shall be no earlier than 6 am and no later than 11 pm.

~~6. 7.~~ Existing vegetation within 50 feet of the fronting thoroughfare and residential property lines shall remain undisturbed. If no vegetation exists along the property line, an opaque buffer shall be planted per Article 7.6 If there is no existing vegetation along the street, the required second row of street trees will be planted using large maturing evergreen trees to maintain an intermittent screen.

a. As each property is unique, the Town Board may modify the buffers for a golf facility based on particular topographical issues and uses of the property. For instance, additional buffer requirements may be appropriate for active commercial areas, while a reduction in buffer area may be appropriate for open natural areas.

~~7. 8.~~ At no time shall golf balls be permitted to cross on to adjacent property or onto the public street. If course or tee orientation makes it possible for balls to leave the site through standard operating use, netting, buffers, screening or other barrier shall be installed to prohibit off site encroachment. If netting is required, it shall be located behind a vegetative buffer, screening if from any property line.

~~8. 9.~~ Only accessory retail and commercial uses meant to serve patrons of the golf facility are permitted, such as snack shops and pro shops. No principle use restaurants or retail establishments meant to serve the general public are permitted.

**Section 17.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 3.3.2-C: Appeals and Variances in MIL-O District of the **Zoning Ordinance** is hereby amended as follows:



.3 A petition for variance to the standards of the Mountain Island Lake Watershed Overlay District shall comply with the procedures and standards of Section 11.3 of these regulations, with the following exceptions.

a) In addition to the notification requirements of Section 11.3, the Watershed Administrator shall also notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

b) Major and Minor Variances are differentiated by definition.

~~Minor variances shall include petitions for the reduction of any numerical standard of the low density option in the overlay district by a factor of 10% or less.~~ **a variance from the minimum statewide watershed protection rules that results in the relaxation of up to 10 percent of any vegetated setback, density, or minimum lot size requirement applicable to low density development, or the relaxation of up to five percent of any vegetated setback, density, or minimum lot size requirement applicable to high density development. For variances to a vegetated setback requirement, the percent variation shall be calculated using the foot print of built-upon area proposed to encroach within the vegetated setback divided by the total area of vegetated setback within the project.**

Major variances means **a** variance that is not a "minor variance" as that term is defined in 15A NCAC 02B .0621 of the North Carolina Administrative Code. ~~from the minimum statewide water supply watershed protection criteria that result in any one or more of the following:~~

~~Petitions for the reduction of any numerical standard of the low density option in the overlay district by a factor of more than 10%; and~~

~~Petitions for variation in the design, maintenance, or operation requirements of a wet detention pond or other approved storm water system; and~~

~~Petitions for the reduction of any management requirement that applies to a development proposal intended to qualify under the high density option.~~

c) Major and Minor Variances are differentiated as to procedures and standards.

**Per 15A NCAC 02B.0623(5) of the North Carolina Administrative Code the Watershed Review Board shall make the below findings of fact for granting minor and major variance petitions:**

**a) there are difficulties or hardships that prevent compliance with the ordinance;**

**(b) the variance is in accordance with the general purpose and intent of the local watershed protection ordinance; and**

**(c) granting the variance, the project will ensure equal or better protection of waters of the State than the requirements of Rules .0621-.0624 of 15A NCAC 02B.0623(5) of the North Carolina Administrative Code and that the stormwater controls will function in perpetuity.**

Minor variances shall comply with the procedures and standards of Section 11.3 of these regulations. An annual report of minor variances granted shall be submitted by the Watershed Administrator for each calendar year to the Division of Water Quality on or before January 1st of the following year and provide a description of each project receiving a variance and the reasons for granting the variance.

Major variances shall comply with the procedures and standards of Section 11.3 except that:

A decision by the Watershed Review Board to deny a major variance shall be final. Appeal shall be to a court of competent jurisdiction as provided in Section 11.3.

A decision by the Watershed Review Board to approve a major variance shall be advisory only. The Watershed Administrator shall within 30 days forward a record of the Board of Adjustment hearing, findings, and conclusions to the North Carolina Environmental Management Commission for final decision.

**Section 18.** Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 3.3.3-B: Appeals and Variances in LN-O District and ARTICLE 3. of the **Zoning Ordinance** is hereby amended as follows:

.3 A petition for variance to the standards of the Lake Norman Watershed Overlay District shall comply with the procedures and standards of Section 11.3 of these regulations, with the following exceptions.

TA21-11: SUP Hearing Requirements, Watershed Minor and Major Variance Definition and Findings of Facts

- a) In addition to the notification requirements of Section 11.3, the Watershed Administrator shall also notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.
- b) Major and Minor Variances are differentiated by definition.

~~Minor variances shall include petitions for the reduction of any numerical standard of the low density option in the overlay district by a factor of 10% or less.~~ **a variance from the minimum statewide watershed protection rules that results in the relaxation of up to 10 percent of any vegetated setback, density, or minimum lot size requirement applicable to low density development, or the relaxation of up to five percent of any vegetated setback, density, or minimum lot size requirement applicable to high density development. For variances to a vegetated setback requirement, the percent variation shall be calculated using the foot print of built-upon area proposed to encroach within the vegetated setback divided by the total area of vegetated setback within the project.**

Major variances means a variance that is not a "minor variance" as that term is defined in 15A NCAC 02B .0621 of the North Carolina Administrative Code. ~~from the minimum statewide water supply watershed protection criteria that result in any one or more of the following:~~

~~Petitions for the reduction of any numerical standard of the low density option in the overlay district by a factor of more than 10%; and~~

~~Petitions for variation in the design, maintenance, or operation requirements of a wet detention pond or other approved storm water system; and~~

~~Petitions for the reduction of any management requirement that applies to a development proposal intended to qualify under the high density option.~~

- c) Major and Minor Variances are differentiated as to procedures and standards.

**Per 15A NCAC 02B.0623(5) of the North Carolina Administrative Code the Watershed Review Board shall make the below findings of fact for granting minor and major variance petitions:**

**a) there are difficulties or hardships that prevent compliance with the ordinance;**

**(b) the variance is in accordance with the general purpose and intent of the local watershed protection ordinance; and**

**(c) granting the variance, the project will ensure equal or better protection of waters of the State than the requirements of Rules .0621-.0624 of 15A NCAC 02B.0623(5) of the North Carolina Administrative Code and that the stormwater controls will function in perpetuity.**

Minor variances shall comply with the procedures and standards of Section 11.3 of these regulations. An annual report of minor variances granted shall be submitted by the Watershed Administrator for each calendar year to the Division of Water Quality on or before January 1st of the following year and provide a description of each project receiving a variance and the reasons for granting the variance.

Major variances shall comply with the procedures and standards of Section 11.3 except that:

A decision by the Watershed Review Board to deny a major variance shall be final. Appeal shall be to a court of competent jurisdiction as provided in Section 11.3.

A decision by the Watershed Review Board to approve a major variance shall be advisory only. The Watershed Administrator shall within 30 days forward a record of the Board of Adjustment hearing, findings, and conclusions to the North Carolina Environmental Management Commission for final decision.

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

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

**PUBLIC HEARING DATE:** **Tentative**

**PLANNING BOARD MEETING:** **Tentative**

**TOWN BOARD DECISION:** **Tentative**