

**Recommended VERSION 06.01.17**

**AN ORDINANCE TO AMEND ARTICLE 3.2.1 (RURAL ZONING), ARTICLE 3.2.2 (TRANSITIONAL RESIDENTIAL ZONING), ARTICLE 3.2.5 NEIGHBORHOOD CENTER, ARTICLE 3.2.6 (TOWN CENTER ZONING), ARTICLE 3.2.7 HIGHWAY COMMERCIAL, ARTICLE 3.2.8 CAMPUS INSTITUTIONAL, ARTICLE 3.2.9 CORPORATE BUSINESS, ARTICLE 3.2.11 TRANSITIONAL NEIGHBORHOOD DEVELOPMENT DISTRICTS, ARTICLE 3.2.12 PASSENGER VEHICLE SALES, ARTICLE 3.2.13 TRANSIT ORIENTED DEVELOPMENT – RESIDENTIAL, ARTICLE 3.2.14 TRANSIT ORIENTED DEVELOPMENT – EMPLOYMENT, ARTICLE 7 PART B (OPEN SPACE), ARTICLE 8.1.4, AND ARTICLE 12.2.1 (GENERAL DEFINITIONS) TO REVISE OPEN SPACE CRITERIA WITH IN THE TOWN ZONING ORDINANCE.**

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

**3.2.1 Rural District (R)**

3.2.1.d.2.

c. Open space which is improved, dedicated and accepted by a public agency for public use shall be counted as 1.5 times the actual acreage as an incentive to provide improved public open space. In order to obtain credit the open space should align with Town and County's future land use plans. Written proof of willingness to accept the open space by a public agency shall be presented at all stages of the approval process. Access shall at least consist of trails built to public standards meandering through the open space with public access points readily available and public access signs posted at those locations and where the trail intersects with roads shown on the Thoroughfare Plan. Other improvements, such as parks, shall be in accordance with applicable governmental standards.

3.2.1.d.

3. Open Space. Designated Open Space includes that parcel or parcels of land which shall be set aside in perpetuity and shall have no buildings or permanent structures constructed within its perimeters except as provided for in this section. There are four types of open space in the Rural District – agricultural, common, natural and recreational. Open space shall meet the provisions of this section and the provisions for open space established in Article 7, Part B.

**3.2.2 Transitional Residential District (TR)**

3.2.2.d.2.

c. Open space which is improved, dedicated and accepted by a public agency for public use shall be counted as 1.5 times the actual acreage as an incentive to provide improved public open space. In order to obtain credit the open space should align with the Town and County's future land use plans. Written proof of willingness to accept the open space by a public agency shall be presented at all stages of the approval process. Access shall at least consist of trails built to public standards meandering through the open space with public access points readily

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available and public access signs posted at those locations and where the trail intersects with roads shown on the Thoroughfare Plan. Other improvements, such as parks, shall be in accordance with applicable governmental standards.

#### **3.2.2.d.**

3. Open Space. Designated Open Space includes that parcel or parcels of land which shall be set aside in perpetuity and shall have no buildings or permanent structures constructed within its perimeters except as provided for in this section. There are five types of open space in the Transitional District - urban, agricultural, common, natural and recreational. Open space shall meet the provisions of this section and the provisions for open space established in Article 7, Part B.

#### **ARTICLE 3.2.5 Neighborhood Center (NC)**

- d) 8). Every building lot shall have frontage upon a public street or urban open space.

#### **ARTICLE 3.2.6 Town Center (TC)**

- d) 6). Every building lot shall have frontage upon a public street or urban open space.

#### **ARTICLE 3.2.7 Highway Commercial (HC)**

- d) 9) Every building lot shall have frontage upon a public street or urban open space except as follows: in specific locations 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 in the Highway Commercial District, a private drive may be substituted for the interior street which cannot be connected to the public network.

#### **ARTICLE 3.2.8 Campus Institutional (CI)**

- d) 4) Every building lot shall have frontage upon a public street or urban open space; buildings fronting on urban open space shall provide for vehicular access from a rear alley or street.

#### **ARTICLE 3.2.9 Corporate Business (CB)**

- d) 5) Every building lot shall have frontage upon a public street or urban open space; buildings fronting on urban open space shall provide for vehicular access from a rear alley or street.

#### **ARTICLE 3.2.11 Transitional Neighborhood Development Districts (TND-U and TND-R)**

- f) 3) All lots shall share a frontage line with a street or urban open space; lots fronting an urban open space shall provide rear alley access.

#### **ARTICLE 3.2.12 Passenger Vehicle Sales District (VS)**

- 13) Every building lot shall have frontage upon a public street or urban open space except as follows: in specific locations 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 in

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the Highway Commercial District, a private drive may be substituted for the interior street which cannot be connected to the public network.

#### **ARTICLE 3.2.13 Transit Oriented Development - Residential (TOD-R)**

- f) 3) Every building lot shall share a frontage line with a street, or urban open space; lots fronting directly onto a formal open space (i.e., without intervening street) shall be provided rear alley access.

#### **ARTICLE 3.2.14 Transit Oriented Development - Employment (TOD-E)**

- d) 1) Every building lot shall share a frontage line with a street, or urban open space; lots fronting directly onto a formal open space (i.e., without intervening street) shall be provided rear alley access.

### **ARTICLE 7, PART B: OPEN SPACE**

#### **7.10 Open Space - Purpose, Intent and Definitions**

Regulations are intended to provide quality open space within a subdivision, multi-building site or commercial development. There are five types of open space: Urban, Agricultural, Common, Natural, and Recreational. Encouragement is given to apply creative design and allow flexibility to aid application of open space typologies. When determining placement of open space within a subdivision evaluation should occur when siting services and infrastructure by reducing road length, utility runs, and pavement. The creation of compact neighborhoods accessible to open space amenities aid strong community identity.

##### **.1 Open Space Typologies Defined**

- (a) Urban Open Space: planned and improved open space, accessible and usable. There are multiple variations of urban open space choose from.
- (b) Agricultural Open Space: preserve agricultural lands and rural character that would likely be lost through conventional development approaches.
- (c) Common Open Space: Any portion of a land that is not part of a private lot or tract of land such as, but not limited to, area devoted to water quality/quantity measures, entryway features including the landscape material, signage and, if applicable berm and any other open space area that is not defined by one of the four other open space types.
- (d) Natural Open Space: preserve forested lands, natural features, and rural character that would likely be lost through conventional developments approaches.
- (e) Recreational Open Space: to provide for active and passive recreation, included but not limited to, implementation of associated long range Town/County plans.

Reference Article 12: Definitions for subdivision, large lot.

- .2 All zoning districts, except Rural, require Urban Open Space to be incorporated into the design. All open space areas outside of landscape and BMP (stormwater) easements and lots that are not specified as Urban Open Space shall meet one or a combination of the remaining four open space typologies,

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Agricultural, Common, Natural and Recreational. Article 3 and Article 7.11 shall be referenced for further information.

- .3 Rural Zoning shall incorporate a combination of Agricultural, Common, Natural, or Recreational open space typologies. Article 3.2.1 and Article 7.11 shall be further referenced.
- .4 Below is a table outlining what types of open space options are available to meet zoning district standards.

		Zoning Districts	R	TR	GR	NR, NC, TC, HC, CI, CB, SP, TND-U, TND-R, VS, TOD-R, and TOD-E.	Ordinance Reference
<b>Open Space Type</b>							
<i>Common</i>			◆	◆	◆	◆	7.10.1.c.
<i>Agricultural</i>			◆	◆			7.10.1.b.
<i>Natural</i>			◆	◆			7.10.1.d.
<i>Recreational</i>			◆	◆			7.10.1.e.
<i>Urban - Types</i>							7.11.1.f
	<i>Community Garden</i>			◆		◆	
	<i>Forecourt</i>			◆		◆	
	<i>Green</i>			◆		◆	
	<i>Greenbelt</i>			◆		◆	
	<i>Greenway</i>			◆		◆	
	<i>Park</i>			◆		◆	
	<i>Parkway</i>			◆		◆	
	<i>Pedestrian Passage</i>			◆		◆	
	<i>Plaza</i>			◆		◆	
	<i>Promenade</i>			◆		◆	
	<i>Square</i>			◆		◆	
	<i>Woonerf</i>			◆		◆	

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

##### .1 Urban Open Space:

- (a) Urban Open Space is defined as all areas not divided into private or civic building lots, streets, right-of-way, parking or easements.
- (b) Urban Open Space shall be planned and improved, accessible and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and may contain one or more of the following improvements: landscaping, walls, fences, walks, statues, fountains, ball fields, and/or playground equipment. Walls and fences shall be made of brick, stone, wrought iron, or wood and shall not exceed 3.5 ft. in height. (Exceptions: fences used in conjunction with ball fields.) Urban Open Space shall conform to one of the Urban Open Space types described in this section, or to a minor variation of same.








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- (c) In major subdivisions and multi-building developments in all zoning districts except Rural, urban open space shall be integrated into the design of the site. Such open space, whether on-site or off-site, shall be located within  $\frac{1}{4}$  mile of each building lot as measured along the rights-of-way of streets providing access between the two. In large-lot subdivisions such urban open space shall be integrated into the design of the site so that, whether located on-site or off-site, such open space is located within  $\frac{1}{2}$  mile of all building lots, as measured along the rights-of-way of street providing access between the two.
- (d) Urban Open Space features should provide focal points for the neighborhood. A central square or green, for example, may comprise a majority of the open space. There should be a hierarchy of open space within new neighborhoods to serve the needs of all residents.
- (e) No more than twenty-five (25) percent of each above ground water quality/quantity treatment system (BMP) within an urban open space area can be used. Any above ground BMPs located within an Urban Open Space must add to the overall quality of the open space, rather than detract from area devoted to BMP. To exceed the twenty-five (25) percent limitation a design maybe submitted to the Planning Board for review and approval. Such BMP design shall incorporate a combination of the following design elements; but not limited to, pathways, boardwalks, ponds with fountains, and landscape material. Underground BMPS are not limited.
- (f) Urban Open Space types includes Community Garden, Forecourt, Green, Greenbelt, Greenway, Park, Parkway, Pedestrian Passage, Plaza, Promenade, Square, and Woonerf, and that are characterized as described below or to a minor variation of same.

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








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<p><b>Forecourts</b> are open space areas which act as buffers between residential buildings and non-residential buildings or streets. Forecourts are entirely bounded by streets. It is recommended that forecourts be planted parallel to all street ROW's with one tree species. Such plantings shall be a minimum of 10 ft. on center and a maximum of 30 ft. on center.</p>	
<p><b>Greenbelts</b> run along the perimeter of a neighborhood or town and serve to buffer from surrounding non-compatible uses such as a highway corridor, industrial district, or from agricultural areas or adjacent towns.</p> <p>Greenbelts are left natural, but may include walking trails or passive recreation.</p>	 
<p>A <b>Green</b> is typically landscaped with trees at the edge and an open expanse of grass in the center that is externally surrounded directly or indirectly by buildings.</p>	 
<p><b>Greenways</b> are generally linear in nature and may bisect or border developments. They are designed to incorporate natural settings such as creeks and significant stands of trees with neighborhoods. Recreational uses shall be provided, at a minimum, trails for walking, jogging and/or bicycling. A greenway may be bound by Public Street, but not required. Greenways dedicated to Town/County as identified on the adopted greenway plan will be counted toward tree save area, if relevant. Upon completion of the publicly dedicated greenway any trees removed due to construction are not required to be replaced.</p>	 



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<p><b>Parks</b> may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum of 25% of their perimeter, and are encouraged to be enclosed by streets on all sides. Mini Parks, such as, but not limited to dog parks, playgrounds, pocket parks and splash pads can be incorporated throughout a development to meet the ordinance requirements.</p> <p>Where mini parks are not used, the minimum size shall be 1 acre and maximum size 3 acres. Maximum park size may exceed 3 acres, if through design, the park creates a central open space which services an entire neighborhood or group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake, high ground, significant stand of trees).</p>	 
<p><b>Parkways</b> are open spaces designed to incorporate natural settings such as creeks and significant stands of trees within a neighborhood. Parkway may be entirely bounded by streets or pedestrian ROW's within developed areas. Parkway differs from parks and squares in that their detailing is natural (i.e. informally planted). Parkway are used for walking, jogging or bicycling. In addition, small scale recreational features such as playground area or soccer field are appropriate in parkways.</p>	 
<p>A <b>Plaza</b> is an open area adjacent to a civic, commercial, or residential building/s. Plazas function as gathering places. Limited parking is also permitted. Plazas are always paved in brick or another type of paver or crushed stone. Plazas shall be level, stepped, or gently sloping (less than 5% grade). The following sizes are recommended but may be smaller or larger depending on the building or facility design. At no time shall a plaza's horizontal length or width be greater than 3 times the height of surrounding buildings. Plazas may be left unplanted. If planted, trees should form the geometric frame of the plaza space or for the structure the plaza services. Spacing shall be a minimum of 10 ft. on center and a maximum of 30 ft. on center. Minimum size is 2,000 sq. ft. and maximum size is 30,000 sq. ft.</p>	

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<p><b><u>Pedestrian passageway</u></b> are relatively narrow public spaces located in dense areas between buildings, allowing pedestrian access to the public front. These passageways can be successful locations for store entries, window displays café seating or public meeting space. The passageway shall incorporate fixtures such as, but not limited to fountains, benches, landscape materials, sculptures, and other decorative elements.</p>	 
<p><b><u>Promenade</u></b> is a large, linear-designed area, usually adjacent to buildings lined with trees and shrubbery, which can be used as a public walk. Typically parking surrounds a promenade.</p>	
<p><b><u>Squares</u></b> are areas for passive recreational use. Square shall be bounded by streets on a minimum of three sides or 75% of their perimeter. Minimum size: 500 sq. ft.; Maximum size: 1 acre. Squares may be entirely paved in crushed gravel, brick paver, or similar material, or partially paved with other areas of soft landscape. Squares are encouraged to be planted parallel to all street ROW's with one tree species planted a minimum of 10 ft. on center and at a maximum of 30 ft. on center. Geometrical tree planting layouts for internal plantings are encouraged. A close can function as a square.</p>	
<p>A <b><u>Woonerf</u></b> is an access way where the primary use is by pedestrian and bicycles with secondary use by vehicles. By removing curbs and any indication of a car travel line, while at the same time adding landscaping and street furniture, the public realm for pedestrians is expanded into what was the street. Parking areas shall be dispersed,</p>	

.2 Agricultural Open Space: shall include areas set aside for agricultural purposes such as livestock, growing fruits, vegetables, grains, etc. The goals of the agricultural open space are as follows:

- (a) To conserve areas of the town with productive soils for continued agricultural use by preserving large blocks of land large enough to allow for efficient operations.



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- (b) To minimize site disturbance and erosion through retention of existing vegetation and avoiding development in sensitive farmland areas.
- (c) To protect scenic views and elements of the town's rural character, and to minimize perceived density by minimizing views of new development from existing roads.
- (d) To preserve and maintain historic and archeological sites and structures that serve as significant visible reminders of the town's social and architectural history.

Reference Article 3 and Article 7.12 - 7.14 for further information

.3 Common Open Space: shall include all other areas that are not suitable within the other open space categories. These areas can include, but are not limited to the following:

- (a) Entryway monumentation to include the landscaped area, berm (if applicable).
- (b) Water quality/quantity feature, known as Best Management Practices (BMPS): The required maintenance easement shall be included as common open space. BMPS include, but are not limited to, sandfilters, detention ponds, dry ponds, rain gardens, swales, and level spreaders.

Reference Article 3 and Article 7.12 - 7.14 for further information

.4 Natural Open Space: shall include areas where natural features, such as topography, rock outcroppings, hills and valleys are not altered. Only minimal thinning of vegetation shall be permitted to promote overall health of the natural area in accordance with the tree protection regulations of Article 7. The goals of natural open space are as follows:

- (a) To conserve areas of the town with productive soils for forestry use by preserving large blocks of land large enough to allow for efficient operations.
- (b) To encourage the maintenance and enhancement of habitat for various forms of wildlife and to create new woodlands through natural succession and reforestation where appropriate.
- (c) To minimize site disturbance and erosion through retention of existing vegetation and avoiding development in sensitive areas.
- (d) To conserve open land, including those areas containing unique and sensitive features such as natural areas and wildlife habitats, streams and creeks, wetlands and floodways.
- (e) To protect scenic views and elements of the town's rural character, and to minimize perceived density by minimizing views of new development from existing roads.

Reference Article 3 and Article 7.12 - 7.14 for further information

.5 Recreational Open Space: shall include areas where natural features may be altered to provide for recreational activities without impacting the impervious quality of the soil except as provided herein. These activities may include

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ballfields, equestrian trails, hiking trails, picnicking, primitive camping, golf courses, green spaces (manicured or not), etc. Structures related to the recreation space may count towards open space provided they do not create an impervious area over 100 sq. ft. The goals of recreation open space are as follows:

- (a) To preserve and maintain historic and archeological site and structures that serve as significant visible reminders of the town's social and architectural history.
- (b) To provide for active and passive recreational needs of town residents, including implementation of associated town long range plans.

Reference Article 3 and Article 7.12 - 7.14 for further information

#### **7.13 Open Space\_Evaluation Criteria**

- .1 In evaluating the layout of lots and open space, the following criteria will be considered by the town as indicating design appropriate to the site's natural, historic, and cultural features, and meeting the purposes of this ordinance. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and conservation areas. Reference Subdivision Ordinance 6.300. Accordingly, the Town shall evaluate proposals to determine whether the proposed subdivision plan:

{Items (a) – (j) unchanged}

(k) Landscapes common areas, cul-de-sac islands, and both sides of new streets with native species shade trees and flowering shrubs providing high wildlife conservation value listed on the approved tree and shrub list.

{Items (l) – (n) unchanged}

#### **Article 8.1 Street Frontage Requirement**

4. A site specific development plan may be considered for approval in the TC, NC, NR, R, TR, HC, CB, CI, VS, and both TND and TOD districts where residential and/or non-residential lots and/or structures front upon a private courtyard, carriageway, mid-block private alleyway with courtyard, or pedestrian way, or urban open space as defined in Article 7, part B, where adequate access by emergency vehicles is maintained by way of a street or alley and where the off-street placement of uses does not diminish the orientation of building fronts to the public street.

#### **Article 12.2.1 General Definitions**

Large-Lot Subdivision A major residential subdivision in which all residential lots are a minimum of  $\frac{3}{4}$  acre in size.

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.

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Structure. Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and similar accessory construction.

Section 2. That this ordinance shall become effective upon adoption.

PUBLIC HEARING DATE:

PLANNING BOARD MEETING:

PLANNING BOARD RECOMMENDATION:

TOWN BOARD DECISION:

TOWN BOARD MEETING: