Agenda Item: UDO Changes Related to Chapter 160D of the North Carolina General Statues

DATE: September 9, 2021
FROM: Jay Camp

Background/Issue:

- On August 24, Planning Board unanimously recommended approval of these proposed UDO changes. No modifications have been made to the text since the Public Hearing.

- Chapter 160D represents an update and reorganization of local planning and development regulations in North Carolina. The work was performed over a 5-year period and was passed in 2019 (S.B. 355).

- The new code addresses numerous topics. The reorganization consolidated planning regulations into one statute where previously counties and municipalities were governed by separate statutes. Also considered in the update are references to existing case law, standardized definitions, standardized terminology and clarification of different development types and approvals. An additional new requirement is that, as a component of maintaining zoning in a locality, the land use or comprehensive plan must be updated on a regular basis and be reasonably current. This has generally been construed to be about 10 years or so based on feedback from the School of Government.

- The changes proposed to the Matthews Unified Development Ordinance are reflective of the above-mentioned updates and are now required by state law as of July 1, 2021. We have separated the text changes into three buckets including statutory reference changes, definitions and text changes.

Proposal/Solution:
Included with this memo are the following:

- Summary of Changes
- Changes incorporated into the UDO

Recommended Motion/Action
Approve UDO Changes Related to Chapter 160D of the General Statues
Matthews Board of Commissioners adopts the checked statement below:

A) ___X__ The requested zoning action, as most currently amended, is recommended for approval, and has been found to be CONSISTENT with the Matthews Land Use Plan (or other document(s)), as follows:

CONSISTENT: The changes to the text of the UDO are consistent with the Land Use Plan as they ensure that the development code accurately reflects statutory requirements that govern zoning in Matthews.

REASONABLE: The changes are reasonable and primarily reflect mandatory changes to the code as determined by Chapter 160D of the North Carolina General Statutes.

OR

B) _____ The requested zoning action, as most currently amended, is not approved, and has been found to be INCONSISTENT with the Matthews Land Use Plan (or other document(s)), as follows:

(In each case, the Statement must explain why the Board deems the action reasonable and in the public interest (more than one sentence). Reasons given for a zoning request being “consistent” or “not consistent” are not subject to judicial review.)

Date: September 13, 2021
Text Amendments Required for 160D

Part 1: Statutory Reference Changes

Chapter 1

Page 1-2

155.102. Purpose and General Rules

A. ADOPTION AND ENACTMENT CLAUSE. The Town Board of Commissioners, under the authority granted to the Board by G.S. Article 19 160D, adopts this Title 155 as the Unified Development Ordinance for the Town of Matthews on December 9, 2013. These regulations may be cited as the Unified Development Ordinance, or UDO, of the Town. The established Enactment Date of April 1, 2014. (72 Code, § 24-1001)

Chapter 2

Page 2-8

155.209. The Town Planning Board

A. ESTABLISHMENT. The Town Planning Board is authorized and established under the authority of G.S. Chapter 160A 361 160D-301 to perform the functions and duties prescribed by the General Statutes.

Chapter 4 – Application Requirements and Review Procedures

Notification

Page 4-1&2

155.401.1 General Requirements for Zoning Map Changes and Amendments

D. NOTIFICATION REQUIRED. A notice of the required public hearing shall be published in a local newspaper having general circulation in the area by the Town once a week for two (2) successive calendar weeks, or any other alternative notice as allowed by the NC General Statutes at Article 19, Chapter 160A, G.S. 160D. When provided by local newspaper, the notice will appear for the first time no less than ten (10) days and no more than twenty five (25) days prior to the hearing date. If a public hearing is continued to a later date, no additional notice is required. [formerly part of § 153.268.A]
F. **ACTION BY THE BOARD OF COMMISSIONERS.** After receiving the recommendations and report of the Planning Board, the Board of Commissioners may adopt an ordinance approving, modifying, or rejecting the application or amendment. In accordance with GS 160A-75 G.S. 160D, a member of the Board of Commissioners who is present and not excused from participating on a final vote on a requested change in zoning district or text of this Title, and does not vote, that member’s lack of a vote will not be counted as an affirmative vote. (Am. Ord. 2141, passed 4-11-16)

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**155.401.2 Additional Standards and Criteria for Amending the Town Land Use Plan**

C. **NOTIFICATION REQUIREMENTS.** The Town Board of Commissioners shall call for a notice of public hearing on the application and the notice of public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area. or any other alternative notice as allowed by the NC General Statutes at Article 19, Chapter 160A.160D. When provided by local newspaper, the

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**155.401.4 Additional Standards and Criteria for Amending the Zoning Map**

C. **NOTIFICATION REQUIREMENTS.** In addition to the requirements for notification in § 155.401.1.D, the following forms of notice shall be provided:

1. **NOTICE BY MAIL.** The owner of the subject parcel(s) of land, and the owners of all parcels of land which abut, are across a public right-of-way, and/or are wholly or partially within one hundred feet (100’) of any point of the subject property, as shown on the most current county tax listing, shall be mailed a notice of a public hearing on the proposed zoning map amendment by first class mail. The applicant shall prepare such notices and shall deliver said notices to the Planning Office at the time of zoning application submission. If any citizen submits a written statement regarding the proposed zoning change to the Planning office and Town Clerk at least two (2) business days prior to the scheduled decision date, the Clerk shall deliver the written statement to the Board of Commissioners. (Am. Ord. 2141, passed 4-11-16)[formerly part of § 153.268.A]

2. **EXCEPTION TO NOTICE BY MAIL.** The first class mail notice required in § 155.401.4.C.1, above, shall not be required if the zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to either make the mailed notice provided for in § 155.401.4.C.1 or may, as an alternative, elect to publish notice of the hearing as required by GS 160A-364 160D-602 but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected properties, shall be notified according to the provisions of § 155.401.4.C.1. [verbatim from GS 160A-364]

3. **NOTICE BY POSTING A SIGN.** When a zoning map amendment is proposed, the Town shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, posting a sign on each individual parcel is not required, but the Town shall post sufficient notice signs to provide reasonable notice to interested persons. [verbatim from GS 160A-364]
### 155.402. Vested Rights

#### 155.402.1 Purpose

The purpose of this section is to implement the provisions of GS Chapter 160A-385.1 160D 108.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan. ('72 Code, § 24-1800) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.240]

#### 155.402.2 Definitions

**Multi-phased development:** shall mean a development containing one hundred (100) acres or more that: i) is submitted for site plan approval for construction to occur in more than one phase; and ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval, all as provided by NCGS 160A-385.1(b) 160D-1-8.

(Am. Ord. 2188, passed 11-14-16)

**Vested Right:** shall mean a right pursuant to GS 160A-385.1 160D-1-8 to undertake and complete the development and use of property under the conditions and terms of an approved site specific development plan, upon receipt of a certificate of vested right. ('72 Code, § 24-1801) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly §153.24]

#### 155.402.4 Approval of a Site Specific Development Plan

**B. APPROVAL OF SITE SPECIFIC DEVELOPMENT PLAN.** Upon approval of a site specific development plan, a statement shall be placed on the plan reading:

"A vested right under GS 160A-385.1 160D-1-8 has been established for this property as shown on this site Specific Development Plan, approved on (date). Unless terminated at an earlier date, the vested right shall remain valid until (date)."

**D. DURATION.** A vested right shall be approved for a period of two (2) years, except a vested right for a multi-phase development (100 acres or larger) shall be approved for a period of seven (7) years. It shall be effective immediately upon approval. Upon issuance of a building permit, the expiration provisions of GS 160A-418 160D-11-13 and the revocation provisions of GS 160A-418 160D shall apply, except that a building permit shall not expire or be revoked due to the running of time while an established vested right is outstanding. A multi-phased development shall be vested for the entire development to utilize the provisions of this Title in place at the time of zoning and site plan approval for the initial phase of the multi-phased development. (Am. Ord. 2188, passed 11-14-16) (’72 Code, § 24-1809) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.249]

#### 155.402.7 Repealer

In the event that GS 160A-385.1 160D-10-7 is repealed, § 155.402 shall be deemed repealed and the provisions within no longer effective. (’72 Code, § 24-1812) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly §153.252]
155.403.2 Application Process

A. **APPLICATION REQUIRED.**

1. All interpretation or variance applications shall be filed with the Planning Office. An application shall be considered filed with the Planning Office when delivered to the Planning Office and the date and time of filing shall be entered on the application by the Planning Office staff.

2. An appeal of any determination, order, requirement or decision by an administrative official must be taken within thirty (30) days after the date of decision or order which is being appealed. An appeal shall be concurrently filed with the Town Clerk, the Planning Office and any administrative official charged with enforcement of this Title, which shall serve as the notice of appeal finding as required at NCGS 160A-388(b1)(1) 160D-4-4. An application shall be considered filed when delivered to both the Town Clerk and the Planning Office and the date and time of filing shall be entered on the application by the Planning Office staff.

D. **EFFECT OF APPEAL APPLICATION.** An appeal stays all actions by the enforcement official seeking enforcement of or compliance with the order or decision being appealed unless the enforcement official certifies to the Board of Adjustment in an affidavit that a stay would cause imminent peril to life or property, or because the violation is transitory in nature, a stay would seriously interfere with the enforcement of this Title. In that case, enforcement proceedings shall not be stayed except by restraining order. If enforcement is not stayed, the appellant may request an expedited hearing, as allowed at NCGS 160A-388(b1)(6) 160D-4-4.

155.405.2 Subdivision Plat Required

After the effective date of this Title and pursuant to GS 160A-372, GS 160D-804, a Final Plat shall be prepared, approved and recorded pursuant to the provisions of this Title whenever any subdivision of land occurs.

155.504.3 Approval Prerequisite to Plat Recording

Pursuant to GS 160A-373, GS 160D-8-3, no Final Plat of a subdivision within the jurisdiction of the Town shall be recorded by the Register of Deeds of Mecklenburg County until it has been approved as provided by this Title. To obtain approval of a Final Plat the subdivider shall follow the procedures established in this Chapter.
Part 2: Definitions 155.103

New Definitions to Section 155.103

155.103. Definitions

**Administrative Decision**: Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as “ministerial” decisions or “administrative determinations.”

**Conditional Zoning**: A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

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

**Development**: This definition includes any of the following: 1. The construction, erection, alteration, or enlargement, renovation of any structure. 2. The excavation, grading, filling, clearing, or alteration of land. 3. The subdivision of land as defined in G.S. 160D-802. 4. The initiation or substantial change in the use of land or the intensity of use of land.

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

**Development Regulation**: A legislative approval made pursuant to this Code including but not limited to a unified development ordinance, zoning regulation, text amendment, conditional zoning regulation, major subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, stormwater control regulation, or any other regulation adopted pursuant to this Code that regulates land use or development.

**Down Zoning**: A zoning ordinance that affects an area of land in one of the following ways: 1. By decreasing the development density of the land to be less dense than was allowed under its previous usage. 2. By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

**Legislative Decision**: The adoption, amendment, or repeal of a regulation under this Code. Or, the decision to approval, amend, or rescind a development agreement.

**Legislative Hearing**: A hearing to solicit public comment on a proposed legislative decision, such as a rezoning or text amendment. Legislative hearings are conducted by the Town Board.
**Part 3: Text Changes**

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**155.405.11 Development Agreements**

A. Purpose. The Town may consider and enter into development agreements with developers, subject to the procedures of G.S. 160D Article 10, Development Agreements. Development agreements may be approved by the Town Board as a legislative decision and may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the Town. If a development agreement is incorporated into a conditional zoning district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer’s bankruptcy.

B. Pursuant to G.S. 160D-1001 (b), a local government must be a party to a development agreement (a water and sewer authority may enter an agreement as a party, but not independently). A development agreement shall, at a minimum, include all of the following:

1. A description of the property subject to the agreement and the names of its legal and equitable property owners.
2. The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.
3. The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.
4. A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the local government shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.
5. A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.
6. A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.
7. A description, where appropriate, of any provisions for the preservation and restoration of historic structures. The development agreement may also cover any matter not inconsistent with G.S. 160D Article 10. The developer shall record the agreement with the Mecklenburg County Register of Deeds within 14 days after the Town Board and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. Subject to the provisions of G.S. 160D-1006(e), a development agreement may be amended or terminated by mutual consent of the parties.

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**155.213 Compliance Documents**

G. PERMIT CHOICE. If any regulations within this ordinance are amended after an application is submitted and before a decision is made, the applicant may choose the version of the rule that applies; however, the Town may require the applicant to comply with the new rules if the applicant delays the application for 6 months. Permit choice is valid for eighteen months after approval of the initial application.
155.402.1 Purpose

The purpose of this section is to implement the provisions of GS Chapter 160A-385.1 160D 108.1 (29) pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan. (72 Code, § 24-1800) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.240]

155.402.2 Definitions

Multi-phased development: shall mean a development containing one hundred (100) acres or more that: i) is submitted for site plan approval for construction to occur in more than one phase; and ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval, all as provided by NCGS 160A-385.1(b)-160D-1-8 (29). (Am. Ord. 2188, passed 11-14-16)

Site Specific Development Vesting Plan: shall mean a plan of land development submitted to the Town for purposes of obtaining a certificate of vested right which plan shall include the following items: i) a boundary survey showing the total acreage, present zoning classifications, date, and north arrow; ii) the owners' names, addresses, and the tax parcel numbers of all adjoining properties; iii) all existing easements, reservations, and rights-of-way and all yards required for the zoning district requested; iv) proposed use of structures and land (for residential uses, this should include the number of units and an outline of the area where the structures will be located; for nonresidential uses, this should include the approximate square footage of all structures and an outline of the area where the structures will be located); and, v) traffic, parking, and circulation plans, showing proposed locations and arrangement of parking spaces and access points to adjacent streets. Notwithstanding the foregoing, neither a variance, a Sketch Plan, or any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development vesting plan.

155.402.3 Obtaining a Certificate of Vested Right

A. CERTIFICATE OF VESTED RIGHT CONCURRENT WITH SUBMITTAL OF A PARALLEL TRADITIONAL OR CONDITIONAL-ONLY DISTRICT ZONING APPLICATION.

3. A multi-phased development of 25 acres or greater shall be vested for seven (7) years for the entire development with the zoning regulations, subdivision regulations, and unified development ordinance in place at the time a site plan approval is granted for the initial phase of the multi-phased development. Multi-phased developments are subject to a master plan with committed elements, including a requirement to offer land or public use as a condition of its master development plan approval.

B. OBTAINING A CERTIFICATE OF VESTED RIGHT INDEPENDENT OF ZONING APPLICATION. To apply for a certificate of vested right, a property owner or his agent shall submit a site specific development vesting plan, a fee (in accordance with a fee schedule adopted by the Town Board of Commissioners) and an application for vested right on a form supplied by the Town. The application and plan shall be accepted by the Town Board of Commissioners and a hearing date shall be set. Following the hearing, the Board of Commissioners may submit the application to the Planning Board for its recommendation. The Board of Commissioners shall approve, approve with conditions, or deny the site specific development vesting plan. Conditions shall be reasonable and appropriate and relate to the relationship of the proposed use to surrounding property, proposed support facilities, such as parking areas and driveways, pedestrian and vehicular circulation systems, buffer and screening areas, the timing of development, and other matters the Board of Commissioners may deem necessary for public health or safety. (72 Code, § 24-1803) (Ord. 477, passed 2-8-88; Am. Ord.694, passed 10-7-91) [formerly § 153.243]
A. **CONSIDERATIONS FOR APPROVAL.** The burden of proof of producing evidence to support these findings and to overcome challenges to them shall rest entirely with the property owner. In evaluating a site specific development vesting plan for approval, the Board of Commissioners shall find the following:

1. The policies and objectives of the Land Use Plan, particularly in relation to the proposed site and surrounding area shall be met.
2. The potential adverse impacts on the surrounding area, especially in regard but not limited to traffic, storm drainage, land values, and compatibility of land use activities shall be minimized to the greatest extent possible.
3. The plan meets all specifications required by this Title.
4. The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed. [formerly § 153.246]

B. **APPROVAL OF SITE SPECIFIC DEVELOPMENT VESTING PLAN.** Upon approval of a site specific development vesting plan, a statement shall be placed on the plan reading:

   “A vested right under GS 160A-385.1 160D-1 § 102 (29) has been established for this property as shown on this site Specific Development Vesting Plan, approved on [date]. Unless terminated at an earlier date, the vested right shall remain valid until [date].”

   (’72 Code, § 24-1807)(Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.247]

C. **OTHER REVIEWS.** Following approval of a site specific development vesting plan, nothing in this chapter shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that those reviews and approvals are not inconsistent with the original approval. The establishment of a vested right on a property shall not preclude the Town from creating and approving one or more overlay districts which may impose additional restrictions on the property, provided that those restrictions do not affect the allowable type or intensity of use. The Town may also enforce on the property any regulations adopted during the effective time period of the vested right, which are general in nature and applicable to all property subject to the regulations of 155.402. (’72 Code, § 24-1808) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.248]

D. **DURATION.** A vested right shall be approved for a period of two (2) years, except a vested right for a multi-phase development (100 25 acres or larger) shall be approved for a period of seven (7) years. It shall be effective immediately upon approval. Upon issuance of a building permit, the expiration provisions of GS 160A-418 160D-8 shall apply, except that a building permit shall not expire or be revoked due to the running of time while an established vested right is outstanding. A multi-phased development shall be vested for the entire development to utilize the provisions of this Title in place at the time of zoning and site plan approval for the initial phase of the multi-phased development. (Am. Ord. 2188, passed 11-14-16) (’72 Code, § 24-1809) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.249]

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**155.401.1 General Requirements for Zoning Map Changes and Amendments**

A. **APPLICATION AND FEE FOR AMENDMENT REQUIRED.** An application for an amendment must be completed on the forms provided and filed with the Town Planning Office, together with the necessary fee as established by the Board of Commissioners. In accordance with G.S. 160D-601 (d) no amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town. [formerly § 153.266]

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**155.401.2 Additional Standards and Criteria for Amending the Town Land Use Plan**
D. **APPLICATION FOR AMENDING THE LAND USE PLAN.**

5. **ACTION BY THE BOARD OF COMMISSIONERS.** After receiving the recommendations of the Planning Board, the Board of Commissioners may adopt an ordinance approving, modifying, or rejecting the amendment. The Board of Commissioners may refer the matter back to the Planning Board for further consideration. If an amendment is adopted which is deemed by the Town Council to be inconsistent with adopted plans, the zoning amendment shall have the effect of also amending any future land use map in the approved plans and no additional request or application for a plan amendment shall be required.

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**155.401.6 Conditional-Only District and Parallel Traditional District Zoning Provisions**

D. **APPLICATION AND REVIEW PROCESS.** The following process applies to both the Parallel Traditional and Conditional-Only districts. For simplicity the term conditional district shall be used in this section to refer to both types of districts unless otherwise noted.

3. **REVIEW AND APPROVAL.**

   a. In considering an application for the establishment of a conditional district, the Board of Commissioners may attach reasonable and appropriate conditions to the location, nature, and extent of the proposed use request conditions that exceed the minimum regulations set forth in the Unified Development Ordinance. Any conditions should exhibit the relationship of the proposed use to surrounding property, proposed support areas, the timing of development, and other matters that the Board may find appropriate or the applicant may propose. The applicant will have a reasonable opportunity to consider and respond to any such requirements prior to final action by the Board of Commissioners. All conditions included in any conditional zoning approval require agreement of the property owner, which may be accomplished by the owner’s authorized agent. The applicant must agree to such conditions and provide the Board of Commissioners with a signed written list of conditions to acknowledge their acceptance.
155.101. Introduction

**155.101.1 Purpose of this Combined Document**

The Town of Matthews adopted long range growth plans and land development regulations several decades ago, and continues to update these plans, policies and ordinances as community needs change, as new land uses emerge, as legal precedents are set for certain land use provisions, and as state or federal laws are revised. This Unified Development Ordinance combines regulations previously established as various separate ordinances in order to better coordinate local land development regulations. Additional illustrations, charts, and cross referencing are included to assist in ease of understanding in how these provisions may be applied. Performance standards are incorporated to allow a more consistent application of community standards. It is expected that specific provisions may require modification over time, which may in turn impact other sections of the document. By combining all aspects of land development activities under a single comprehensive set of local regulations, all users of this document can locate the relevant codes for any land development activity.

**155.101.2. General Community Development**

The objective of the Unified Development Ordinance is to carry out and achieve the goals and objectives of the Town of Matthews Land Use Plan as it may be amended from time to time. The Land Use Plan provides a clear vision of the community’s expectations and aspirations, and strategies for community character and orderly development in the Town.

**155.101.3. Organization of this Document**

The Unified Development Ordinance approaches regulations from the most general to the most specific across the document and within each Chapter and within each Section. The document is organized into ten Chapters: 1) General Provisions; 2) Decision-Making, Administration and Enforcement Responsibilities; 3) Nonconformities; 4) Development Review Procedures; 5) Use Districts; 6) Land Use and Development Standards; 7) Public Improvement Standards; 8) Post Construction Regulations; 9) Floodplain Regulations; and, 10) Housing Code, and summarized as follows:

Chapter 1, General Provisions, sets forth all of the regulations affecting the entire Title, including definitions and legal foundations, and is the most general of all the Chapters of the Unified Development Ordinance.

Chapter 2, Decision-Making, Administration and Enforcement Responsibilities, establishes the roles and responsibilities for administering and enforcing the regulations in the Unified Development Ordinance.

Chapter 3, Nonconformities, addresses the issue of nonconformities in the Town and how to deal with their eventual elimination.

In Chapter 4, Application Requirements and Review Procedures, establishes the processes, procedures, and application requirements for Land Use Plan amendments to this Title, site plan review, subdivision plats, rezoning, zoning variances, appeals and interpretations.

Chapter 5, Use Districts, establishes all of the various zoning districts in the Town and the conditions for establishing uses in each district and, in some instances, for specific uses. The uses permitted in
each District may be found in this Chapter.

In Chapter 6, General Development Standards, are found all of the regulations governing the use and development of buildings and structures, signs, landscaping, parking, and outdoor illumination in the Town.

In Chapter 7, Public Improvement Standards, are found all of the regulations and specifications related to the construction of public utilities, streets, sidewalks, and other public improvements in the Town. This Chapter also includes all of the regulations pertaining to the physical design, improvement and development of land and public improvements in the Town.

Chapter 8, Post Construction Storm Water Regulations, establishes the minimum requirements and procedures to control the adverse effects of increased post construction storm water runoff and non-point source pollution associated with new development and redevelopment.

Chapter 9, Floodplain Regulations, establishes regulations intended to minimize public and private losses due to flood conditions in specific areas.

Finally, in Chapter 10, Housing Code, are found the minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation.

155.102. Purpose and General Rules

A. ADOPTION AND ENACTMENT CLAUSE. The Town Board of Commissioners, under the authority granted to the Board by G.S. 160A, Article 19 160D, adopts this Title 155 as the Unified Development Ordinance for the Town of Matthews on December 9, 2013. These regulations may be cited as the Unified Development Ordinance, or UDO, of the Town. The established Enactment Date of April 1, 2014. (72 Code, § 24-1001) (Ord. 477, passed 2-8-88) [formerly known as and/or replaces §§ 153.001, 151.01, 154.02, 149.01, 150.15, 150.31, 150.50 and 152.20, 153.002, and 153.098]

B. SEPARABILITY. If any section or specific provisions or standard of this Title or any zoning district boundary that now exists or may exist in the future is found by a court to be unconstitutional or invalid for any reasons, the decision shall not affect the validity of this Title except the part in question. The other portions of the Title not affected by the decision of the court shall remain in full force and be enforceable by any and all means authorized by law. [formerly known as § 153.097 and replaces § 149.23, § 152.03, and § 154.009]

C. PURPOSE. In an era of increasing complexity in urban life, the subdivision and development of private land can have a profound impact upon the cost and efficiency of providing public services such as police and fire protection, sanitary sewer and water service, vehicular and pedestrian circulation systems, storm water runoff control and educational and recreational facilities, and upon environmental qualities conducive to the well being of citizens. While no set of standards can assure complete and perfect public health and safety conditions in all circumstances, the adoption of carefully considered standards are intended to create a consistent and desirable quality of life environment for the community as a whole. The following regulations are adopted to apply to the subdivision, development, and/or improvement of land within the jurisdiction of the Town of Matthews.

The purposes for the Title are further defined in order to accomplish a variety of public purposes, including:
-- to advance the public health, safety and welfare while providing appropriate provisions to guide the improvement of vacant land and redevelopment of land;
-- to encourage the use of the best practices in planning and urban design
-- to promote the growth of the Town of Matthews in a manner that will not only provide a safe, healthy and beneficial environment for those living, working, or playing within the immediate vicinity and citizens of the greater community;
-- to encourage and require appropriate development standards to preserve and protect property values which in turn will secure the fiscal base for public services;
-- to ensure adequate and economical provision of necessary public services caused by and attributable to development or redevelopment of land;
-- to preserve and enhance the character and quality of our neighborhood areas which have a discernible character or are harmonious in design;
-- to protect investments in the community;
-- to prescribe the standards for the preparation of preliminary and final subdivision plats and development plans and land use changes;
D. JURISDICTION. These regulations shall govern the development and use of land and structures, the subdivision of land, the provision of public improvement, and environmental protection efforts related to the subdivision or development of land in the Town. (72 Code, § 24-1004) (Ord. 477, passed 2-8-88) [formerly known as § 153.004, 152.20, 149.24, 151.006, and 154.005]

E. INTERPRETATION AND APPLICATION OF REGULATIONS.
1. In the interpretation and application of this Title, the provisions of this Title will be construed to be the minimum requirements adopted to promote the public convenience, health, safety, comfort, and general welfare. (72 Code, § 24-1015) (Ord. 477, passed 2-8-88) [formerly known as § 153.005]

2. Where the conditions imposed by any provision of this Title upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Title or of any other law, ordinance, resolution, rule or regulations of any kind, the regulations which are more restrictive (for which impose higher standards or requirements) shall govern, except as specifically indicated in the text regarding a certain provision, such as build-to lines in the downtown area.

3. Nothing in this Title shall be deemed to be a consent, license or permit to use any property, to locate, construct, or maintain any building, structure or facility, or to carry on any business, industry, occupation or trade.

F. CONFLICTING PROVISIONS. It is not intended that this Title will in any way repeal, annul, or interfere with the existing provisions of any other law or ordinance except the zoning ordinance, the subdivision ordinance, the post construction ordinance, the minimum housing ordinance, and the floodplain ordinance which this Title replaces. In addition, it is not intended that this Title will in any way repeal, annul, or interfere with any rules, regulations, or permits which were legally adopted or issued under previous ordinances for the use or development of land or structures. Finally, it is not intended that this Title will interfere with any easements, covenants, or other agreements between parties. However, if the provisions of this Title impose greater restrictions or higher standards for the use of a building or land or size of structures than called for by other ordinances, permits, easements, or agreements, the provisions of this Title will take precedence over the others and will control the use or development. (72 Code, § 24-1016) (Ord. 477, passed 2-8-88) [formerly known as § 153.006]

G. APPLICATION OF PROVISIONS WITHIN THE UNIFIED DEVELOPMENT ORDINANCE. This Title repeats, updates, revises, adds, and removes provisions found within multiple separate land development ordinances previously in effect within the Town. In certain situations, the provisions of the UDO may not be consistent with the provisions in the ordinances which it supersedes and under which prior development plans were designed and/or approved. The provisions of the UDO shall be used for any land disturbing activity commenced after the Effective Date of this Title. Exceptions to application of these standards include:

1. Where a permit has been issued prior to the Effective Date for a development site, and construction is begun within one (1) year of the Effective Date and diligently pursued to completion, then the provisions of the ordinance in effect at the time of permit issuance may be followed.

2. Any multi-building site or multi-lot development which has at least one (1) building built or under construction, or has a valid unexpired building permit issued for at least one (1) building prior to the Effective Date.

3. Any project which has an approved site plan and/or elevation plan, overlay compliance plan, and/or landscape and lighting plan such that the development project does not require any additional Town approval, and receives a grading or building permit within six (6) months of the Effective Date.

H. ZONING MAP. The boundaries of zoning districts are established through the adoption of this Title on a map (or series of maps) entitled “Official Zoning Map, Town of Matthews, N.C. (“Zoning Maps”)” which may be produced at various scales and geographic areas of the Town. The map, which may be provided in printed or electronic format, together with all amendments which may have been adopted by the Town Board of Commissioners are considered to be just as much a part of this Title as if they were fully described in the Title. (72 Code, § 24-1005) (Ord. 477, passed 2-8-88) [formerly known as § 153.020]
1. **INTERPRETATION OF DISTRICT BOUNDARIES.** Where uncertainty exists with respect to the boundaries of the various districts shown on the zoning map, the following rules will be used to interpret the map.
   
a. In cases where a boundary line is located within a street or alley right-of-way, railroad or utility line right-of-way or easement, navigable or non-navigable stream, it will be considered to be in the center of the street or alley right-of-way, railroad or utility right-of-way or easement, or stream. If the actual location of such right-of-way, easement, or stream varies slightly from the location as shown on the map, then the actual location will control.

b. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance will control. An exact description may be found in the permanent record of the zoning action.

c. Where a district boundary is shown to coincide approximately with a property line or city limit line, the property line or city limit line will be considered to be the district boundary, unless otherwise indicated.

d. In cases where a district boundary does not coincide or approximately coincide with any street or alley, railroad, stream, or property line and no dimensions are shown, the location of the boundary will be determined by the use of the scale appearing on the map. An exact description may be found in the permanent record of the zoning action. (72 Code, § 24-1006) (Ord. 477, passed 2-8-88) [formerly known as § 153.021]

2. **LOTS DIVIDED BY ZONING DISTRICT BOUNDARIES.** In the event that a district boundary line on the zoning map divides a lot held in one (1) ownership on the date of passage of this Title, each part of the lot may only be used in conformity with the regulations established by this Title for the district in which each part is located. (72 Code, § 24-1014) (Ord. 477, passed 2-8-88) [formerly known as § 153.022]

I. **ILLUSTRATIONS.** The illustrations used in this Title are not drawn to scale and are intended only to graphically represent the requirements and concepts contained here, and are not intended, nor should they be construed, to represent every situation or circumstance which may exist in the Town of Matthews. When there is a conflict between the text of this Title and an illustration, the text shall prevail.

J. **INCORPORATION BY REFERENCE.** Any and all standards and other codes, regulations and public records incorporated by reference into this Unified Development Ordinance have been adopted in accordance with the requirements established in the General Statutes.

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### 155.103. Definitions

**A. USE OF DEFINITIONS.** In the construction of this Title, the definitions contained in this Article shall be observed and applied, except when the context clearly indicates otherwise. Definitions relating specifically to certain Chapters may also be contained within those Chapters. In addition to definitions provided here at § 155.103.C, additional definitions may also be found in Chapter 6, Tree Protection and Landscaping Regulations at § 155.606.1.C, and Outdoor Illumination at §155.609.3, in Chapter 8 Post Construction Storm Water Regulations at § 155.808, in Chapter 9 Floodplain Regulations at § 155.901.F, and in Chapter 10 Housing Code, at § 155.1002.

**B. RULES OF CONSTRUCTION.** This Title has been written so that the average citizen may use and understand its provisions. Efforts have been made to avoid the overuse of technical language where the meaning could be conveyed in another form. For the purposes of this Title, the following rules of construction and interpretation apply.

1. Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural, the singular, unless the context clearly indicates otherwise.

2. The words “must” and "shall" are mandatory and not discretionary.

3. The words "will" and “may” are discretionary and permissive.

4. The words “will” and "may" when used in the negative are mandatory and not discretionary.

5. The word "lot" shall include the words "plot", "piece", "parcel", and “tract”.
6. Unless otherwise specified, all distances shall be measured horizontally.
7. Whenever a word or term defined in this Article appears in the text of this Title, its meaning shall be construed as set forth in the definition in this Article.
8. The masculine gender shall include the feminine and neuter.
9. All measured distances shall be expressed in feet and shall be calculated to the nearest tenth (0.10) of a foot.
10. The word "person" shall include the words "association", "corporation", "estate", "governmental agency", "individual", "joint venture", "partnership", "venture", or any other legal entity.
11. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

C. DEFINITIONS. The following words and terms when used in the interpretation and administration of this Title shall have the meaning set forth here except where otherwise specifically indicated. Words and terms not defined here shall be defined as specified in the latest published edition of Merriam-Webster's Collegiate Dictionary. [formerly known as § 153.007]

**Accessory Apartment:** shall mean a separate dwelling unit that is located on the same lot as the principal dwelling unit in a single family district, for use as a complete, independent living facility, with a separate parking area, cooking facility, and entrance than the principal dwelling unit. (Ord. No. 1532, passed 1-8-07)

**Accessory Building or Structure:** shall mean a detached, subordinate structure, the use of which is clearly incidental and related to that of the principal structure or use of land, and which is located on the same lot as that of the principal structure or use.

**Accessory Use:** shall mean a subordinate use, clearly incidental and related to the principal structure, building, or use of land and located on the same lot as that of the principal structure, building, or use.

**Adjacent:** shall mean, when referring to parcels of land, that at least one (1) boundary line of one (1) lot touches a boundary line or lines of another lot or is directly across a street from another lot, such that if the street did not exist then the two (2) lots would touch.

**Administrative Decision:** Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as “ministerial” decisions or “administrative determinations.”

**Adult Care Facility:** shall mean a facility which may be operated as a part of a nursing home or as an independent facility and which provides twenty four (24) hour residential care for aged or disabled persons whose principal need is a home with the shelter or personal care their age or disability requires. Medical care in an adult care home is usually occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. These homes vary in size from family care homes of up to six (6) residents to adult care centers of seven (7) or more residents. (Ord. No. 1532, passed 1-8-07)

**Adult Day Care Center:** shall mean a facility which meets the definition and standards for an adult day care center, adult day health, or combination program as outlined by the North Carolina Department of Human Resources, and as may be amended by the NCDHR from time to time, and does not include residential living facilities. (Ord. No. 1035; passed 1-11-99)

**Adult Uses:** shall mean any adult entertainment or sexually oriented business which includes materials or activities that may be defined and considered of a sexual or provocative nature and inappropriate for viewing by children. Specific uses are defined in § 155.506.46 (Adult Uses).

**Affordable Housing:** shall mean one or more dwelling units that are affordable to households with an annual income no greater than eighty percent (80%) of the same size Mecklenburg County median income as most currently established by the United States Department of Housing and Urban Development in accordance with Section 3 of the US Housing Act of 1937, as amended, or any successor legislation.

**Age-and Mobility-Limited Senior Housing:** shall mean a building or complex of buildings with 24/7 on-site...
management designed and intended for occupancy by persons age 55 and up, as provided by exemption to the federal
Fair Housing Act. Such location will include multiple dwelling units with some common walls and/or floors (duplex,
townhouse, condominium, multi-family, or similar styles) where the units are intended for senior citizen individuals
or couples who can no longer, or choose to no longer, drive personal vehicles on a regular, daily basis. Such residents
do not require skilled nursing care, memory care, or assisted living oversight for recurring tasks as bathing,
medications, dressing, or personal financial management. Individual dwelling units typically are studios, or one- or
two-bedroom in layout, and shall include a living space, bathroom, area for sleeping, and area for food preparation.
A resident’s occupancy arrangement with the site shall include at least one meal per day in a congregate dining facility
contained within the building or complex, and some form of scheduled or emergency transportation for residents.
Examples of other services that may typically be made available include: all meals, housekeeping, linen service,
laundry, medical alert system, pharmacy, banking, organized social activities, and concierge services.

Agent (for a Property Owner): shall mean any person, partner, corporation, designated officer, or other business
entity that has been granted written authorization by a property owner to speak for and make decisions on behalf of
the property owner.

Alcohol and Alcoholic Beverage: shall mean distilled or ethyl alcohol, including spirits of whiskey, rum, brandy, gin
and all other distilled spirits and mixtures of cordials, liquor, and premixed cocktails in closed containers for beverage
use regardless of their dilution.

Alley: shall mean a public right-of-way or private easement not more than thirty feet (30’) in width primarily designed
to serve as a secondary means of access to those parcels whose principal frontage is on some other street.

Animal Grooming Facility: shall mean an establishment where domesticated animals may be bathed, brushed and
combed; hair or fur coats and nails may be clipped; flea dips or other methods of removing dirt, odors, and parasites
from skin, fur or feathers may be provided; or related animal treatments and services may be offered that will enhance
animal health, aesthetic value, or appeal.

Applicant: shall mean any person, party, partnership, corporation or other business entity that is seeking local
governmental approval of a proposed plan, permit, variance, interpretation or appeal.

Arboretum: shall mean a place where trees, shrubs, and herbaceous plants are cultivated and maintained
for scientific and educational purposes and for public display.

Arcade: shall mean a business establishment which provides an assortment of equipment
and devices such as pinball and other electronic games, often requiring insertion of coins or tokens to begin the play
sequence, for amusement purposes only, and not including bingo games, children’s mechanical rides, or devices that
sell merchandise, nor does an Amusement Arcade include any gambling devices, computers or software programs
offering games of chance not allowed by law, or defined here in this Title as an Internet Sweepstakes or Adult Gaming
Facility. (Am. Ord. 2264, passed 10-9-17)

Assisted Living: shall mean a special combination of housing, supportive services, personalized assistance, and
health care designed to respond to the individual needs of those who need help with activities of daily living. A facility
which meets any required state licensing standards, and includes a central or private kitchen, dining, recreational, and
other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential. (Ord.
No. 1532, passed 1-8-07)

Attached outside access storage closet: shall mean an unheated appendage to a principal
residential unit, intended for storage of inanimate household items, which does not have any internal
connection or opening to the main dwelling.

Balcony: shall mean an elevated platform open to the elements, suspended, cantilevered, or
projecting from an upper story and generally enclosed by a railing, or balustrade.

Banquet Hall, Ballroom, or Catering Facility: shall mean a meeting facility designed for use by varying groups of
people, which may be rented or leased to accommodate private functions such as weddings, banquets, anniversaries
and similar celebrations. Such a facility may include a partial or full kitchen for food preparation or catering, the
service and/or sale of alcoholic beverages for on-site consumption to guests of the private events only, an open floor
area which may be used for dancing and similar entertainment and/or seating for guests. A restaurant that only
occasionally leases out to private parties is not a Banquet Hall.

Bar: shall mean an establishment or part of an establishment primarily devoted to selling and/or serving alcoholic
beverages by the drink to on-site occupants and guests. A Bar may be a stand-alone use or within a restaurant, lounge, nightclub, or similar facility.

**Bed and Breakfast Establishment:** shall mean an overnight lodging business located within a structure originally designed and built as a single family residence. Overnight guest facilities are limited in number, and maximum stay by guests is restricted to seven (7) consecutive days. Meals may be provided to overnight guests only at no additional cost. Bed and Breakfast establishments are further divided into Bed and Breakfast Guest Homes and Bed and Breakfast Inns. A Bed and Breakfast Guest Home is an owner occupied single family residential structure with accommodations for up to six (6) guest sleeping rooms. A Bed and Breakfast Inn has accommodations for up to twenty three (23) persons in no more than twelve (12) guest sleeping rooms.

**Brewpub:** shall mean an establishment where beer and malt beverages are made on the premises in conjunction with a restaurant or bar and where forty percent (40%) or more of the beer produced on-site is sold on-site. Where allowed by law, brewpubs may sell beer “to go” and/or distribute to off-site accounts.

**Build To Line:** shall mean a distance from edge of street pavement, back of curb, right-of-way line, back of sidewalk, or similar to a line along which a building must be built, which may be specified in place of a minimum front setback in order to create an urban, pedestrian-oriented environment.

**Building:** shall mean a structure having a roof supported by columns or walls, for the shelter, housing, or enclosure of persons, animals, or goods.

**Building Height:** shall mean the vertical distance measured from the average elevation of the highest and lowest finished grade points of that portion of the lot covered by the building to the highest point of the roof beams adjacent to the front of the wall in the case of a flat roof, to the average height of the gables in the case of a pitched roof and to the deck line in the case of a mansard roof.

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

**Caliper:** shall mean the diameter measurement of a tree trunk taken at six inches (6”) above ground level for trees up to and including four inches (4”) in caliper. For larger trees, measurement of caliper shall be taken at twelve inches (12”) above ground level.

**Call Center:** shall mean a facility that is designed and equipped to accommodate a large volume of telephone calls occurring at the same time for a business or service operation, with workspace for a concentration of employees to answer questions, provide technical advice, take orders, verbally offer goods or services available to consumers, and similar telephone-based communications with customers or the general public.

**Canopy:** shall mean a permanent, rigid projection intended to provide weather protection, with both top and under surfaces being generally horizontal. A canopy may be a free-standing cover above an outdoor service facility, such as a fuel dispensing area, and be supported wholly from the ground, or may be attached to a building, centered over an entrance, and supported in part or whole by the building. A canopy shall provide a minimum of ten feet (10’) clear height above ground surface, plazas, or public use areas when separate from a building, and provide a clear vertical distance between eight feet (8’) and twelve feet (12’) when attached to a building.

**Charlotte Regional Transportation Planning Organization, or CRTPC:** shall mean the federally designated Metropolitan Planning Organization (MPO) for the Charlotte Urbanized Area. The Charlotte Regional Transportation Planning Organization (CRTPC) consists of voting representatives from counties and municipalities within the designated region, including the Town of Matthews. It is the CRTPC’s responsibility to coordinate transportation policy for local governmental jurisdictions within the Charlotte Urbanized Area.

**Child Day Care:** shall mean any licensed child care arrangement in which three (3) or more children less than thirteen (13) years old receive care away from their own home by persons other than their parents, grandparents, aunts, uncles,
brothers, sisters, first cousins, guardians or full-time custodians, or in the child's own home where other unrelated children are in care. *Child Day Care* does not include seasonal recreational programs operated for less than four (4) consecutive months in a year. *Child Day Care* also does not include arrangements that provide only drop-in or short-term child care for parents participating in activities that are not employment-related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care offered in health spas, bowling alleys, shopping malls, resort hotels, and churches.

**Child Day Care Facility:** shall mean any licensed child day care center care arrangement (except child day care home) which provides day care for more than five (5) children, not including the operator's own school aged children, under the age of thirteen (13) years, on a regular basis of at least once per week for more than four (4) hours but less than twenty four (24) hours per day, regardless of the time of day and regardless of whether the same or different children attend.

**Child Day Care Home:** shall mean any licensed day care program or child care arrangement in an occupied dwelling which provides day care on a regular basis of at least once a week for more than four (4) hours per day for more than two (2) children under thirteen (13) years of age, but not to exceed a maximum of eight (8) children at any one time. All children in the dwelling shall be counted except the operator's own school aged children who reside at the location of the day care home. Of the children present at any one time, no more than five (5) children shall be preschool aged.

**Church, Place of Worship:** shall mean an institution used for nonprofit purposes by a recognized and legally established group of persons as a religious body for the purposes of public worship, prayer and contemplation, religious education, fellowship, and community outreach, and may include accessory buildings on the same lot as the primary structure. The terms Church and Place of Worship may include facilities such as a synagogue, temple, mosque, and similar, when they are used on a regular basis for religious services.

**Clear-Cut:** shall mean the removal of all trees on a site or portion of a tract of land.

**Cluster Development:** shall mean a form of single-family detached residential subdivision layout available for use prior to August 13, 2012 in which a tract of land at least ten (10) acres in area, under single, corporation, firm, partnership, or association ownership, was planned and developed as an integral unit with reduced lots sizes and common open space equivalent to underlying zoning maximum density, according to an approved preliminary subdivision plan, and was recorded at the Mecklenburg County Register of Deeds prior to August 13, 2012.

**Collocation:** shall mean the mounting or installation of communications (transmitting or receiving) equipment on an structure such as an existing water tower, utility pole, communication tower or facility.

**Commercial Kitchen or Catering Kitchen:** shall mean a room or any portion of the interior of a building principally designed and used for the cooking and preparation of a prearranged amount and type of food for consumption off premises or in a designated meeting room/facility on or off premises, where those individuals being served the finished food offerings are separate from those conducting the preparation. A Commercial or Catering Kitchen may also include associated pantry and storage areas for ingredients, equipment, serving items, table décor, cleaning supplies, and similar items often used by caterers, mobile food vendors, and institutional uses. A Commercial or Catering Kitchen may exist as a part of a permanent food service establishment (i.e., restaurant, lounge), public use (i.e., school), or institution (i.e., CCRC), or may be a freestanding use with no provision for on-site customers/clients.

**Common Open Space:** shall mean any portion of a development or subdivision that is not a lot or tract intended to be developed for residential or nonresidential use, which is designed, designated, and intended for the permanent use and enjoyment of residents of the development or for the general public, not including streets or off-street parking areas.

**Communications Antenna:** shall mean any structure or device used to collect or radiate electromagnetic waves, including directional antennas - such as panels, microwave dishes, and satellite dishes and omni-directional antennas such as whips but not including satellite earth stations for private use. Where a set or group of devices work as a single unit, such as three (3) panels facing different directions for three hundred sixty degree (360°) coverage, then that group shall be considered as a single antenna.
Communications Tower: shall mean a tower greater than thirty-five feet (35') in height from ground level and which does not exceed four hundred feet (400') in height (including antenna) which is principally intended to support communication (transmission or receiving) equipment. The term communication tower shall not include amateur radio operator equipment, as licensed by the Federal Communications Commission (FCC). Design examples of communication towers are described as follows: (a) self-supporting lattice; (b) guyed; and (c) monopole. (Ord. 912, passed 1-27-97; Ord. 919, passed 4-28-97)

Communications Tower Height or Communications Antenna Height: shall mean overall height, not to exceed four hundred feet (400'), and shall include antenna, base pad, tower or other supporting structure (including a building), and other appurtenances and shall be measured from the average finished grade of the parcel directly under tower, or at finished grade of the parcel at front of other supporting structure when not a tower. (Ord. No. 912, passed 1-27-97; Ord. No. 919, passed 4-28-97)

Community Garden: shall mean a public or private facility for cultivation of vegetables, fruits, and related agricultural products which is maintained by more than one (1) person or family and in which harvested products are intended for more than one (1) person or family.

Comprehensive Transportation Plan, or CTP: shall mean the map(s) and attendant documents approved by the Matthews Board of Commissioners for locations within the Town of Matthews, or such documents and maps approved by the Charlotte Regional Transportation Planning Organizations (CRTPO) for the applicable region. Such documents may include expectations for improvements to existing or future roads, public transit, bicycle facilities, pedestrian facilities, greenways and multi use paths, and rail.

Comprehensive Transportation Plan, or Thoroughfare Plan: shall mean the map and attendant documents approved by the Town of Matthews and/or Charlotte Regional Transportation Planning Organization (CRTPO) which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck, and transit transportation.

Conditional District: shall mean a Parallel Traditional zoning district or a Conditional-Only zoning district as further outlined in this Title, or a zoning designation which existed prior to the adoption of this Title and included a site plan, written notes, or other conditions approved concurrently with the designation, but which is no longer included in the listing of zoning categories within the Town of Matthews.

Conditional Zoning: A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

Condominium: shall mean a form of real property ownership providing for individual ownership of space within a building which may be used for residential or nonresidential purposes, where the overall building or development has multiple units intended for separate ownership, together with an individual interest in the land or other parts of the building or development held in common with other owners.

Condominium Unit: shall mean enclosed space within a building which is intended to be individually owned from other portions of the building, and does not include land under or extending around the building. A declaration of the provided amenities associated with the Condominium Unit may include accessory spaces such as garages, storage space, patios, balconies, and surface parking available for exclusive or communal use by the occupants of the Condominium Unit.

Construction Site: shall mean a site where any land disturbing activity is to occur.

Continuing Care Retirement Community (CCRC): shall mean a residential community including a range of living units from independent units to assisted care units to skilled nursing care facilities along with a variety of common amenities and ancillary services. (Ord. No. 1550, passed 3-12-07)

Contiguous: shall mean, when referring to parcels of land, that at least one (1) boundary line of one (1) lot touches a boundary line or lines of another lot.

Cottage: shall mean a molded and projecting horizontal element on a building that crowns an architectural feature or wall.

Cottage Cluster Housing Development, Overall: shall mean a tract of land designed to concentrate a number of dwelling units in close proximity to each other in a specific portion of the overall site, so that the remaining land may be shared or available for use in common by residents for recreation, open space, urban farming, or the preservation of visually and
environmentally sensitive land areas. Within an overall development there may be one or more separate groups of
cottage-style or bungalow houses that relate to each other by sharing a small common land area.

**Cottage Cluster, Separate or Group:** shall mean a group of dwelling units designed around a small shared common
land area and meeting the design standards for one (1) cluster of homes within an overall cottage cluster housing
development.

**Crematorium:** shall mean an enclosed chamber or building within which human corpses are reduced to ashes by
incineration.

**Cultural Community Center:** shall mean a governmental or nonprofit operated building or real property available
to the public for the purpose of education about, or display of, cultural issues and items. The facility includes
classrooms or similar space(s) for small learning environments, and display area(s) for items relating to a specific
geographic area, art form, or other cultural topic. A cultural community center does not include a museum, art gallery,
church, or community center/active recreation facility that meets the definition of those uses.

**DBH (Diameter Breast Height):** shall mean the diameter of a tree four and one-half feet (4 ½')
above the average ground level.

**Deciduous:** shall mean plant materials that drop all of their foliage preceding their
dormant season (usually the winter).

**Demolition Disposal Site, On-Site:** shall mean a small demolition disposal site or stumphole on property being
cleared, graded, or otherwise worked, which shall be used for no longer than twenty four (24) months and shall only
contain approved materials taken from the same site. Any on-site demolition disposal site shall be the only allowed
use on or above that portion of the development site, except outdoor accessory uses not associated with structures or
paving may be placed over such on-site disposal locations.

**Demolition Disposal Site:** shall mean a demolition landfill, limited to receiving stumps, limbs, leaves, concrete,
brick, wood, uncontaminated earth, or other solid wastes meeting the standards of the state, such materials coming
either from the same site or from a separate parcel.

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

**Development:** This definition includes any of the following: 1. The construction, erection, alteration, or enlargement,
renovation of any structure. 2. The excavation, grading, filling, clearing, or alteration of land. 3. The subdivision of
land as defined in G.S. 160D-802. 4. The initiation or substantial change in the use of land or the intensity of use of
land.

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

**Development Regulation:** A legislative approval made pursuant to this Code including but not limited to a unified
development ordinance, zoning regulation, text amendment, conditional zoning regulation, major subdivision
regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation,
stormwater control regulation, or any other regulation adopted pursuant to this Code that regulates land use or
development.

**Digital Device:** shall mean a device that can generate, record, process, receive, transmit, or display information that
is represented in discrete numerical form.

**Distributed Antenna System (DAS):** shall mean a clustered installation of repeater antennas to boost cellular network
coverage in areas with weak to no signals. A DAS generally doesn’t generate a cellular signal, rather they send and
receive signals.
Donation Drop-Off Facility: shall mean a facility where donations such as common household and clothing items for nonprofit agencies or institutional uses only are collected. Large and bulky items such as large appliances and furniture that cannot be easily transported and stored within the collection facility may not be accepted. A Donation Drop-Off Facility may be sited within another building or may be located in a stand-alone structure and placed such that it does not cover any required parking spaces or block any vehicular or pedestrian movement or visibility. A Donation Drop-Off Facility is not a recycling center.

Down Zoning: A zoning ordinance that affects an area of land in one of the following ways: 1. By decreasing the development density of the land to be less dense than was allowed under its previous usage. 2. By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

Drip Line: shall mean an imaginary vertical line extending from the outermost portion of the tree canopy to the ground.

Drive-Through Service Window: shall mean an opening in the wall of a building designed and intended to be used to provide for sales and/or service to patrons who remain within their vehicles. A Drive-Through Service Window may also include a vehicular space designed beside a structure equipped with a mechanical device, often with interactive technology, in order to briefly conduct a business transaction such as paying for on-site services or goods or completing a banking transaction.

Dwelling, Attached: shall mean a one-family dwelling connected on at least one (1) side by means of a common dividing structural or load-bearing wall of at least ten (10) linear feet to one (1) or more other one-family dwellings, or the end dwelling of a series of such dwellings, each dwelling unit on its own individual lot.

Dwelling, Detached: shall mean a one-family dwelling completely surrounded by permanent open spaces.

Dwelling, Multi-Family: shall mean a building designed, constructed, or reconstructed and used for more than two (2) dwelling units, with each dwelling unit having a common structural or load-bearing wall of at least ten (10') linear feet with any other dwelling unit on the same floor or building level.

Dwelling, One-Family: shall mean a building or portion of a building designed, constructed, and used as a single dwelling unit.

Dwelling, Two-Family, or Duplex: shall mean a building designed, constructed, or reconstructed and used for two (2) dwelling units that are generally side by side and connected by a common structural or load-bearing wall of at least ten (10) linear feet.

Dwelling Unit: shall mean an enclosure of one (1) or more rooms and separate bathroom and kitchen facilities designed and constructed as a unit for permanent residential occupancy by a single housekeeping unit.

Dwelling, Zero Lot Line: shall mean a one-family dwelling that has one (1) wall located directly on a side lot line that is not a street side on a corner lot. A zero lot line dwelling may or may not be attached on one (1) side to another one-family dwelling. Where the zero lot line wall is not adjacent to any other structure, that wall shall be solid to a minimum height of
eight feet (8’) and without any windows. A zero lot line dwelling shall be provided with a five foot (5’) maintenance agreement from the adjacent property. (Ord. 947, passed 12-8-97)

**Eave:** shall mean the lower border of a roof that overhangs or projects beyond the exterior wall of a building.

**Evergreen:** shall mean plant materials that retain foliage throughout the year.

**Facade:** shall mean the entire area of a building elevation extending from the roof or parapet to the ground and from one (1) corner of the building to another which can be viewed from a single vantage point. Each building will generally have multiple Facades when no physical or visual obstruction is immediately present beside the building.

**Family:** shall mean an individual, or two (2) or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit; or a group of not more than six (6) persons, who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit.

**Farm:** shall mean any tract of land containing at least three (3) acres which is used for dairying or for the raising of agricultural products, forest products, livestock, or poultry, and which may include facilities for the sale of those products from the premises where produced but shall not include commercial poultry and swine production, cattle feeder lots and fur-bearing animal farms, commercial plant nurseries, commercial greenhouses, commercial hatcheries, or dairy facilities when used solely for the processing of dairy products.

**Farm, Urban:** shall mean any tract of land of any size devoted to the cultivation of agricultural products, including vegetables, herbs, and fruits, or to the propagation of horticultural species with nutritional value, all of which are intended for personal use or for consumption, through donation or sale, within the local region.

**Farmers’ Market:** shall mean a specified land area, which may be open-air or partially enclosed, managed by a single operator who leases or designates sales areas or stalls to individuals for the sale to the general public of fresh produce and fruits, honey, herbs, plants and flowers, nature craft items, baked goods, dairy products, meat or fish items, and similar locally produced or acquired agricultural-based items. A Farmers’ Market location may be on public or private property or within public right-of-way, and each location is designated by the Town Commissioners as a community activity.

**Fence:** shall mean an artificially constructed barrier of wood, masonry, stone, metal, wire, and/or other manufactured or durable natural materials erected to enclose, screen, or separate areas, but not including hedges, shrubbery, trees, or other natural growth.

**Firing Range, Indoor:** shall mean the use of a building for the safe discharge and use of firearms, such as but not limited to rifles, shotguns, pistols, and bows, for the practice of marksmanship, sport shooting, military or law enforcement training and certification, and competition.

**Floor Area, Gross:** shall mean the total floor area enclosed within a building, including interior balconies, exclusive of mezzanines, stairways and elevator shafts. For multi-family units, the total floor area contained within the individual unit as measured from the inside of the exterior walls of the unit exclusive of stairways.

**Freeway or Expressway:** shall mean 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 larger traffic volumes at high speeds and such a facility may be part of the interstate, federal or state primary highway system.

**Grading, Mass:** shall mean changing the grade over an entire construction site through cut and fill operations. Mass Grading is made possible by clear cutting.

**Grading, Selective:** shall mean clearing and/or grading a development site such that selected, existing vegetation is preserved.

**Group Home, or Family Care Home:** shall mean a “family care home” as defined in Chapter 168, Article 3 of the
North Carolina General Statutes, which is a home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six (6) resident persons with disabilities. A person with disabilities is an individual with a temporary or permanent physical, emotional, or mental disability, including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)b. In addition, a Group Home or Family Care Home shall also mean a residential use that provides a residential environment for up to six (6) residents who may require various services, living assistance, or supervision but does not include any facility that provides medical services requiring or comparable to on-site nursing, physician, or medical care for the residents. All Group Homes or Family Care Homes must comply with all applicable federal, state, and local licensing requirements and health regulations.

**Heliport:** shall mean an area, either at ground level or elevated on a structure, containing cleared, protected space for loading, landing, and takeoff for helicopters, and which may be required to be licensed by federal or state government.

**Home Based Business:** shall mean an occupation, service, profession, or enterprise carried on by a resident member of a family within a dwelling unit.

**Hospital:** shall mean an institution providing primary health services and medical, obstetric, or surgical care to persons, primarily inpatients, requiring evaluation and treatment for illness, disease, injury, deformity, and other temporary or abnormal physical or mental conditions, and may include as an integral part of the facility related services such as but not limited to emergency or trauma response facilities, urgent care facilities, X-ray and other internal imaging facilities, laboratories, pharmacies, outpatient treatment, medical offices, cafeteria, training rooms, and administrative offices.

**Housekeeping Unit:** shall mean a family, or a group of not more than six (6) individuals of any age, which are not related by blood, marriage, or adoption, living together within a dwelling unit and sharing common spaces inside and around the dwelling unit, which may include a kitchen, bathroom(s), hallways, exterior access doors, and on-site parking.

**Hotel:** shall mean a building or buildings containing five or more guest rooms operated for the specific purpose of creating temporary lodging of (30) days or less. Accessory facilities may include dining areas, kitchens, meeting rooms, ballrooms or other amenities. Guest rooms may have amenities such as small refrigerators or microwaves but do not provide kitchen appliances such as stoves, cooktops, ovens and dishwashers.

**Hotel, Extended Stay:** shall mean a building or buildings where more than 10% of guest rooms have kitchen appliances such as stoves, cooktops, ovens and dishwashers and are advertised, designed, and utilized for daily or weekly occupancy for periods up to or exceeding (30) days. Accessory facilities may include dining areas, kitchens, meeting rooms, ballrooms or other amenities.

**Independent Living:** shall mean dwelling units designed for use by older persons who are mentally and physically capable of taking care of themselves on a regular basis, are under single management or cooperative, and that may be located within a Continuing Care Retirement Community (CCRC). Restriction of residency by age must meet provisions of the Fair Housing Act. These units are grouped together and provided with some level of common maintenance, recreational facilities, and security. A variety of additional amenities geared for older persons may also be made available for the residents.

**Interior Planting Area:** shall mean an area on private property that lies inside of the areas designated for streetscape, perimeter, or property boundary screening plantings.

**Internet Sweepstakes Facility, or Adult Gaming Facility:** shall mean any establishment, or use within a commercial establishment, deemed legal by state law, featuring one or more electronic devices, computers, or gaming equipment stations, skill-base or otherwise, which are available for patron use and which reward patrons with cash, other monetary payments, goods or certificates for services or merchandise which are redeemable for cash, merchandise, or other monetary payment on or off premises and including online redemptions, as well as any rewards which cannot be legally obtained, consumed, or otherwise used by minors. State of North Carolina sanctioned lottery functions shall not be considered as internet sweepstakes or adult gaming facilities for the purposes of the Title. (Ord. 2264, passed10-9-17)

**Kennel, Commercial:** shall mean a building, along with any combination of other buildings, structures, and land designed and used for boarding, breeding, and care of five (5) or more domesticated animals for profit.

**Kennel, (Animal) Day Care:** shall mean a self-contained building that provides partial-day supervision for domesticated animals during typical business hours, not to exceed ten (10) consecutive hours during a twenty four (24) hour day, and does not include overnight boarding.
**Landscaping:** shall mean the preservation and/or modification of an existing landscape for an aesthetic or functional purpose, which includes live vegetation materials that are required for development.

**Landscape Establishment Guarantee:** shall mean a bond, irrevocable letter of credit, or other surety held by the Town until the satisfactory conclusion of the three (3) year landscape establishment period.

**Landscape Establishment Period:** shall mean a period of three (3) years commencing with the acceptance by the Town of an executed landscape plan.

**Large Brewery:** shall mean an establishment where beer and malt beverages are made on the premises at an annual beer production rate of over fifteen thousand (15,000) barrels.

**Legislative Decision:** The adoption, amendment, or repeal of a regulation under this Code. Or, the decision to approve, amend, or rescind a development agreement.

**Legislative Hearing:** A hearing to solicit public comment on a proposed legislative decision, such as a rezoning or text amendment. Legislative hearings are conducted by the Town Board.

**Live/Work Unit:** shall mean a building which incorporates a dwelling and an enclosed space for employment. These spaces share some common interior and/or exterior amenities, but shall have separate secured entry/exit locations. The residential and business use portions may be occupied by the same persons. (Ord. No. 1237, passed 1-14-02)

**Loading Area, Service Area, or Outdoor Storage Area:** shall mean an area with or without walls that is used for trash or garbage collection, vehicular loading and unloading, or outdoor storage.

**Loading Space:** shall mean an area of hard surfaced open land designated for short-term standing, loading, and unloading of large commercial vehicles and intended to avoid undue interference with the use of public streets and alleys.

**Lot:** shall mean a parcel of land or any combination of several lots, occupied or intended to be occupied by a principal building or a building group, together with their accessory buildings or uses, and the access, yards, and other open spaces required under this chapter.

**Lot, Corner:** shall mean a lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of less than one hundred thirty five (135°) degrees with each other.

**Lot, Through or Double Frontage:** shall mean a lot having a pair of opposite lot lines along two (2) or more approximately parallel public streets and which is not a corner lot. (Ord. No. 1524, passed 12-11-06)

**Lot of Record:** shall mean a lot, described by plat or metes and bounds, which has been recorded in the office of the County Register of Deeds, prior to November 20, 1967.

**Lot, Reverse Frontage:** shall mean a through lot or double frontage lot which has frontage on more than one (1) public or private street, but vehicular access to one (1) street, generally a major or minor thoroughfare, federal or state highway, or commercial arterial, is restricted or prohibited. Reverse frontage does not relate to any particular orientation of the structure to the street. (Ord. No. 1524, passed 12-11-06)

**Lot, Gateway:** shall mean a lot which has its front, rear and one side yard bordering on a street and is located at an entrance to a subdivision or multi-parcel development.

**Lot Width:** shall mean the distance between the side lot lines, measured along the setback line as established by this chapter, or the distance between the side lot lines measured along a setback line shown on a duly recorded plat when that line is greater than the setback established by this chapter along the turnaround portion of a cul-de-sac street so long as that setback line imposed at the time of recordation is not more than twenty feet (20’) further from the street right-of-way than the minimum setback as stated for the appropriate district in this chapter; or if no setback line is established, the distance between the lot lines measured along the street line.

**Manufactured Home:** shall mean a dwelling unit, transportable in one or more sections, which in the traveling mode is more than eight (8) body feet in width, or more than forty (40) body feet in length, or, when erected on-site, is more than three hundred twenty (320) square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems. “Manufactured home” includes any structure that meets all of the requirements of NC-GS Chapter 143-145 except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and that complies with the standards established under the National Manufactured Housing Construction and Safety Standards
Act of 1974, 42 USC Section 5401, et seq. For manufactured homes built prior to June 15, 1976, “manufactured home” is a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over thirty two feet (32’) in length and over eight feet (8’) in width. “Manufactured home” also means a double-wide manufactured home, which is two (2) or more portable manufactured housing sections that are designed for transportation on their own chassis and that connect on-site for placement on a temporary or semi-permanent foundation having a measurement of over thirty two feet (32’) in length and over eight feet (8’) in width.

**Manufactured Home Park:** shall mean a parcel of land under single ownership which has been planned and improved for the placement of manufactured homes for dwelling purposes.

**Manufactured Home Space:** shall mean a designated plot of land within a manufactured home park reserved for the placement of an individual manufactured home and any exterior additions, such as a deck or patio, and any accessory structures related solely to the use of the individual dwelling.

**Manufactured Home Subdivision:** shall mean any subdivision of land developed for the placement of manufactured homes, for dwelling purposes, on individual lots that front a public street.

**Masonry:** shall mean brick, block, stone, and similar building materials of natural or synthetic components laid on top of one another with mortar applied between individual pieces in order to create vertical surfaces, where the individual pieces are of relatively small scale in relation to the overall surface plane being constructed, and where such vertical walls may be of substantial depth and durability, or may form a veneer surface when tied to a structurally independent wall.

**Massage Service:** shall mean an establishment where any method of applying pressure on, friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body manually or with the aid of any mechanical or electrical apparatus or appliance, with or without supplementary aids such as liniments, oils, powders, creams, or similar preparations, and where such practice is conducted by a certified massage therapist, medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional licensed by the state.

**Mechanical Equipment:** shall mean outdoor machines and devices required for the delivery of public or public use utilities, or equipment such as HVAC units, fans, vents, backflow preventers, and generators, regularly and repetitively used in the operation of interior climate control, electrical, plumbing, or similar building systems. This Mechanical Equipment may be located within a building, on a rooftop, or on the ground.

**Mezzanine:** shall mean an intermediate level between the floor and ceiling of a story, covering less than one-third (1/3) of the area of the story immediately below it.

**Microbrewery:** shall mean an establishment where beer and malt beverages are made on the premises and then sold or distributed, and which produces less than fifteen thousand (15,000) barrels (a barrel is approximately thirty one [31] gallons) of beer per year. A Microbrewery sells to the public by one (1) or more of the following methods: the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and directly to the consumer.

**Mixed Use Development:** shall mean a development which includes at least two (2) of the following uses: office, institutional, civic, residential, and/or service/retail in one (1) or more buildings or a combination of single and mixed use buildings in a pedestrian-oriented environment. (Ord. No. 1652-A, passed 1-10-08)

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

**Monopole:** shall mean an antenna or pylon consisting of a single pole or rod often a straight element, including a slick stick.

**Multi-use Development:** shall mean any horizontally integrated development which includes at least two (2) of the following uses: office, institutional, civic, residential, and/or service/retail in separate but abutting buildings, and located on one (1) tract of land, or on multiple adjacent sites. Multi-use developments are pedestrian oriented, compact, and architecturally integrated.
Mural: shall mean a picture or design painted on or attached to an exterior surface of a structure. A Mural is a sign only if it is clearly related by language, logo, or pictorial depiction to the advertisement of any product or service or the identification of any business.

Native (Indigenous) Vegetation: shall mean vegetation that was growing in this geographic area before colonization by European settlers, as cited by the North Carolina State University Agricultural Extension Service.

Nightclub: shall mean a commercial establishment that may dispense alcoholic beverages for consumption on the premises and in which dancing, music, and other live or recorded entertainment and performances by comedians, magicians, or similar is permitted. A minimum of thirty percent (30%) of the revenue must be generated by food purchases. This definition includes, but is not limited to, establishments that serve beverages to persons age twenty one (21) and older, dance halls, teen clubs and similar establishments. Excluded from this definition are restaurants that meet both the requirements established by definition in this ordinance and in NCGS-18B-1000(6), retail stores, convenience stores, clubs and lodges used by nonprofit organizations, theaters and health athletic facilities.

Nonresidential Park: shall mean a tract of land or a combination of parcels planned and designed to be developed in a coordinated effort with multiple nonresidential uses, under either single or multiple ownership when initially designed, although parcels may be sold into separate ownership or condominium units upon their completion. The uses may be any nonresidential uses allowed within the underlying zoning district(s) except exclusively retail uses, typically including general or professional offices, service or personal businesses, distribution warehouses, industries and manufacturing facilities. A Nonresidential Park places special attention on common design elements, shared access, parking and circulation, common utility needs, and compatibility of tenants, and often has a unified management system.

Occupy (By a Specified Use): shall mean a property which has a specified use operating or functioning within it, or a property that is arranged, intended or designed to house or be put to use with a specified use or uses.

Outdoor Sales: shall mean the retail sale of any article, substance, or commodity such as landscape materials and motor vehicles, located outside a permanent retail establishment, where such goods are available for immediate purchase. Outdoor display and sales are operated and maintained under the same ownership and on the same parcel of land as the principal use. (Ord. No. 1524, passed 12-11-06)

Outdoor Storage: shall mean the keeping of goods, materials, or merchandise in an unroofed area, in the same location for a period of forty eight (48) hours or more, but excluding temporary construction-related materials for an ongoing on-site improvement, or inventory storage of motor vehicles intended for sale or lease. (Ord. No. 1524, passed 12-11-06)

Parapet: shall mean a protective wall at the edge of a roof, terrace, or balcony that rises above the deck line or top surface of the roof.

Park: shall mean a tract of land designated and used by the public for active and/or passive recreation or as a refuge for protection of natural flora and wildlife.

Parking Space, Motor Vehicle: shall mean an off-street space available for the parking of a vehicle. Minimum parking space dimensions may vary depending on the configuration of surrounding spaces and activities and size/type of intended vehicles.

Parking Space, Bicycle: shall mean a rack to which the frame and at least one (1) wheel of a bicycle can be secured with a user-provided U-lock or padlock and cable.

Penthouse: shall mean a structural enclosure on a rooftop of a building, intended to serve as either a dwelling or housing for service equipment. When a penthouse is a dwelling, at least some of its exterior walls will be set back from the outer edges of the supporting building to allow an outdoor private terrace. When a penthouse provides weather protection for service equipment, it may house elevator machinery, water tanks, energy production or conservation components (for solar, wind, green roof gardening, etc.), building signage mechanism, and similar building-related items, and may have vertical or sloping sides and/or roof and will be attached directly to one or more building parapets.
**Planting Area:** shall mean the landscape area reserved for the purpose of providing growth area for required plant material.

**Planting Season:** shall mean the recommended time of the year for planting, normally September through May, that is timed to avoid the summer heat.

**Planting Strip:** shall mean a strip of land, adjacent to a public right-of-way, that is reserved for landscaping purposes.

**Playground:** shall mean an improved recreational area with a variety of equipment, facilities, and/or open fields for active recreation primarily by children.

**Principal Building or Structure:** shall mean a building or structure containing the principal use of the lot.

**Principal Use:** shall mean the primary purpose or function that a lot serves or is intended to serve.

**Private Stable:** shall mean an accessory building or parcel of land where horses are kept for private use and not for remuneration, hire, or sale.

**Public Realm, Public Use Area or Realm:** shall mean all areas dedicated to the public or privately owned but designed and accessible to the public, including but not limited to public streets, sidewalks, pedestrian pathways, bicycle or multi-modal pathways, and other public right-of-ways, civic greens, squares, plazas, and parks, and which space may be reasonably assumed to be within view of persons in these areas, or within view of buildings, vehicles, or rooftops adjacent to or near such areas.

**Queue Space or Line:** shall mean a temporary waiting area for motor vehicles, generally in an orderly sequence, obtaining a service or other activity such as at a bank teller window, or near an entrance to a facility where non-driver passengers are able to either enter or exit vehicles, such as at a school.

**Recreational Use, Indoor:** shall mean pleasure, hobby, or amusement uses requiring some personal physical activity, located within a building, such as but not limited to game arcades, indoor arenas/coliseums, gymnasiums, billiard parlors, bowling alleys, dance halls, roller or ice skating, go-carting, paintball, and similar uses available to the general public.

**Recreational Use, Outdoor:** shall mean pleasure, hobby, or amusement uses requiring some personal physical activity, located principally outdoors, such as but not limited to miniature golf courses, golf courses, putting greens and driving ranges, batting cages, swimming pools, skateboarding courses, trampolines, water slides, pedestrian and equestrian trails, sports courts, ball fields, cycle or running tracks, and similar uses available to the general public.

**Recyclable Materials:** shall mean those materials such as aluminum cans, glass, plastics #1-5 and 7, empty aerosol cans, paperbacks and magazines, cardboard, and paper which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

**Recycling Collection Center:** shall mean an area containing one or more “recycling containers” operated by a unit of local government, or its designee, which is set aside and used by members of the public, including business entities, to collect recyclable materials.

**Residential Area:** shall mean that portion of a project site designated for residential uses, and more specifically, the following: residential lots, streets directly serving residential lots, and common open space areas. Residential Area displays the character of a living environment, which may include a physical resemblance to a residential neighborhood through similar building height, mass, materials, and architectural elements.

**Residential Area, Net:** shall mean a calculation of land area for only that portion of a project site designated for residential lots and common open space areas.

**Residential District, Single-Family District:** shall mean any zoning category which allows by right, and is predominately used by, single-family dwelling uses, which may include detached or attached dwellings, manufactured homes, and modular homes, whether Traditional/Parallel Traditional or Conditional-Only. These districts include: R-20, R-15, R-12, R-9, R-MH, R-VS, and CrC.

**Residential Use:** shall mean any detached, duplex, attached, or multi family dwelling, manufactured home, group home for up to six (6) individuals, boarding house, family care home, sheltered household, accessory dwelling, or dormitory when legally used as a place for one (1) or more individuals to sleep, eat, bathe, and store clothing and other daily use and personal care items.

**Restaurant:** shall mean an establishment designed, in whole or in part, for the preparation, serving, and consumption of food and/or beverages. Food and beverages are primarily made available for purchase to customers or patrons located at tables, counters, vehicles, or in a buffet line by restaurant employees, or by phone or electronic ordering methods.
Restaurant, Carry-Out: shall mean a restaurant, designed in whole or part, where food and beverage orders are prepared and wrapped in disposable containers and either handed to walk-in patrons for consumption off-premises or delivered by restaurant employees to off-site customers. When part of a restaurant that also provides on-site dining, the Carry-Out counter may be physically separated from the eat-in section.

Restaurant, Drive-In: shall mean an establishment designed, in part or whole, for the preparation, sale and consumption of food and beverages, where customers may remain within their parked motor vehicles to order, pay for, be served, and consume their food and beverage orders without leaving their vehicles. A Drive-In Restaurant may also provide indoor and/or outdoor customer seating.

Restaurant, Drive-Through: shall mean an establishment designed, in part or whole, for the preparation, sale and consumption of food and beverages, where customers may remain within their motor vehicles to order, pay for, and receive their food and beverage orders from employees within the restaurant building by traversing a drive-through lane. Upon receiving a complete food and/or beverage order, those customers remaining within motor vehicles generally leave the restaurant premises to consume it elsewhere. A Drive-Through Restaurant may also provide indoor and/or outdoor customer seating.

Restaurant, Entertainment: shall mean a restaurant incorporating both on-site dining and family-oriented recreation where neither the dining nor recreation activity is clearly secondary or accessory to the operation of the other. Recreation may include but is not limited to television or motion pictures; sound and sight systems, mechanical-, digital-, and/or electronic-operated games; animated mechanical devices and/or rides; and live entertainment.

Restaurant, Specialty: shall mean a restaurant whose primary business is the sale of a single specialty type of food or beverage that is not considered a complete meal, such as candy, coffee, or ice cream. The sale of other food, beverages, or merchandise is incidental to the sale of the specialty food or beverage. Customers may consume their orders on-site or take them off-site.

Restaurant, Sidewalk Café or Outdoor Dining: shall mean a portion of a restaurant located on a public sidewalk or private outdoor patio, which functions as an extension of the interior building, with direct doorway access to the restaurant, where patrons may sit and be served or consume their food or beverage orders. A Sidewalk Café or Outdoor Dining area may be enclosed with low fencing, landscaping, or similar materials to separate it from the adjacent outdoor or sidewalk area, and has no permanent walls, windows, ceiling, or roof.

Roof: shall mean the outside covering of the top of a building, and may include the structural framework supporting the covering. Roof shape and style may vary, including but not limited to varieties of pitched roofs (gable, hip, mansard, gambrel, etc.) and flat, domed, and shed (single sloped). A roof may extend beyond the perimeter of the exterior building walls to create overhanging rakes or eaves, or may be enclosed by exterior walls and parapets.

Roof, Green: shall mean a roof that is partially or completely covered with materials that reduce energy consumption for the building below it. This may be accomplished through the use of vegetation planted in a growing medium over a waterproof membrane, or may accommodate some environmentally sustainable technology such as but not limited to solar thermal collectors, photovoltaic panels, insulated or heat reflective materials, and storm water recovery/irrigation systems. A Green Roof may be designed to absorb rainwater, create wildlife habitat, and lower urban heat islands.

Root Protection Zone: shall mean an area measuring approximately eighteen to twenty inches (18” to 24”) deep and at a horizontal distance from the trunk of a tree in all directions equal to one foot (1’) for each inch of DBH.

Sale, Garage, Rummage, or Yard: shall mean the occasional casual sale to the public of tangible personal property that was obtained by the person(s) making the sale, through purchase or otherwise, for his or her own use. Such Sales do not involve the resale of merchandise acquired for that purpose. The location of a Garage Sale may be on vacant, residential, institutional, or commercial property and may be inside or outside. A Garage Sale is an occasional activity, intended to be of short duration.

School, Elementary and Secondary: shall mean a public or private institution which has its primary purpose to provide full time academic instruction of language, math, science, history and related areas to children, and is licensed by the state of North Carolina as a school for children ages four (4) and up, including kindergarten, elementary, middle or junior high, and high school, generally consisting of grades K through 12, where children receive approval to move from one grade level to successively higher grade levels.

School, Trade or Vocational: shall mean a post secondary level facility offering instruction in specific occupational...
focus areas.

School, University or College: shall mean a public or private educational institution offering full or part time post-secondary academic coursework which may lead to certificates of completion in technical fields and/or associate or bachelor degrees or higher.

Seating Capacity: shall mean the measurement of maximum occupancy within an assembly room or area. Seating Capacity may be determined by: i) The number of fixed seats in the largest assembly room or area; ii) By allowing ten (10) square feet of floor area per person available for the accommodation of movable seats only in that portion of the structure that could be reasonably assumed to be part of the largest assembly room or area; or iii) By allowing fifty (50) square feet of gross floor area per person of the structure as a whole.

Setback, Established: shall mean the distance between a street line and the front building line of a principal building or structure, as constructed, projected to the side lines on the lot.

Setback, Required: shall mean the minimum distance required between a street line and the front building line of a principal building or structure, projected to the side lines of the lot.

Sheltered Household: shall mean a group of individuals of any age who do not need to be related by blood, marriage, or adoption, living together in a single housekeeping unit in a structure with up to six (6) bedrooms, for the purpose of receiving/giving some specialized care, training, or support for their physical, emotional, or social health. A resident attendant individual or couple (two [2] people maximum) to provide on-site care or training, such as a nurse or houseparent, may occupy one (1) of the allowed bedrooms in the dwelling, while the remaining bedrooms must be occupied by individuals receiving such care or training. A sheltered household does not include household settings that would meet the definition of group home without regard to the number of permitted residents. (Ord. No. 1126; passed 6-12-00)

Showroom: shall mean a business establishment primarily for the display and selling of a limited type or line of products that requires an area to set up and exhibit the products, such as furniture, mattresses, cabinets, home plumbing or lighting fixtures, rugs and flooring, and similar items or products that are generally not intended to be placed or left in an outdoor environment. These business establishments are generally characterized as having a relatively low volume of customers at any one time frame compared to other retail type businesses. A Showroom may include retail and wholesale sales, but is contained in an entirely enclosed building with no outside storage of any materials, products, or parts. Any storage of material or products not displayed can occupy no more than forty percent (40%) of the gross floor area of the building and be contained within the same building as the display area.

Shrub: shall mean a woody plant normally containing multiple stems and a mature height of less than twelve feet (12’).

Sight Triangle: shall mean the triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines, or a right-of-way line and the curb or edge of pavement of a private street or driveway, each point being thirty five feet (35’) from the intersection, and the two intersecting right-of-way lines (or right-of-way line and curb cut). A sight triangle may also be created with dimensions as determined by the State Department of Transportation. (Ord. No. 1532; passed 1-8-07)

Sign: shall mean any object, device, surface, or structure, in full or part, which is sufficiently visible to persons not located on the lot where such a device is situated in order i) to attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, or ii) to communicate information to them.

Sign, Advertising: shall mean a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered: i) when located at a site other than upon the premises where the sign is displayed, such as a billboard, or ii) as a minor and incidental activity upon the premises where the sign is displayed.

Sign, Airborne: shall mean any sign, including any moored blimp, gas balloon, or other inflatable element, whether or not intended to move in the wind, which is designed to inform or attract the attention of persons not on the premises on which it is located.

Sign, Attached: shall mean a sign connected or affixed to a principal building or structure or to any architectural feature of such building or structure, or dependent on such a building or structure for its support, but not including signs affixed to a fence or accessory structure.
Sign, Awning: shall mean a sign attached to or made part of an awning.

Sign, Banner: shall mean a sign made of nonrigid material, possessing some characters or ornamentation, intended to be hung either with or without an enclosing framework, but not a flag, feather, or pennant.

Sign, Billboard: shall mean a sign that has a primary purpose of identifying or communicating, by paint, posters, panels, or lighting, a message related to an activity, service, business, event, or location other than where the sign is located, or a noncommercial message that may be unrelated to the sign location or to any real property. Such Billboard signs are generally freestanding permanent structures with their sign face area designed so that the copy or featured message can be changed frequently and the advertising space is for lease.

Sign, Bulletin Board: shall mean a sign used to announce meetings or programs to be held on the premises of a place of worship, school, auditorium, library, museum, community recreation center, or similar noncommercial place of public assembly.

Sign, Business: shall mean a sign which directs attention to a business, profession, or industry located upon the premises where the sign is displayed, to type of products sold, manufactured, or assembled, and/or to services or entertainment offered on said premises, but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises.

Sign, Canopy: shall mean a sign attached to or made part of a canopy when the sign message elements are the same or similar material and plane as the canopy and do not extend above or below the vertical face of the canopy.

Sign, Canopy Top: shall mean a sign placed on the front top edge of a canopy.

Sign, Changeable Copy: shall mean a sign that is designed so that copy on some or all of the sign area can be periodically altered, either manually in the field or through mechanical or computerized methods, including but not limited to readerboards and computerized LED or pixel-lit message boards.

Sign, Construction: shall mean a sign placed at a location where land disturbing activity is occurring, or is scheduled to occur, which identifies or announces the project or the name of the architect, engineer, contractor, financier, and/or others involved in the development of the project.

Sign, Directional: shall mean a sign, either on- or off-premise, intended to direct persons to a business, activity, event, or other location, limited only to identification of the business, activity, event or location and accompanying directional message in words or symbols.

Sign, Directory: shall mean a sign listing names and/or uses, or locations of more than one business, activity, or professional office conducted within a building, group of buildings, or shopping center. Such signs are typically located near entrances or at strategic locations within the center or complex, and contain no other identifying or advertising messages.

Sign, Feather: shall mean a form of temporary sign composed of durable lightweight fabric with a sturdy frame enclosing only a portion of the material’s edges so that it can remain upright and still be flexible in the breeze, generally shaped to be tall and narrow when affixed into the ground or other bottom support.

Sign, Flag: shall mean a piece of durable fabric with a distinctive design, whether or not containing a written message, that is used as a symbol or decorative feature.

Sign, Flashing: shall mean a sign that uses intermittent, varying intensity, or flashing light source or sources to attract attention.

Sign, Freestanding: shall mean a sign that is not attached to, suspended from, erected on, or supported by a building or other structure having a principal function other than the support of such sign, but instead is supported by some structure in or on the ground or other surface or is unsupported (airborne).

Sign, Government: shall mean any temporary or permanent sign erected and maintained for any governmental purposes.

Sign, Ground or Monument: shall mean a freestanding sign which extends from the ground or is attached directly to the ground generally for the entire length of its bottom sign face dimension or which has a support which places the bottom of the sign less than twelve inches (12”) from the ground.

Sign, Identification: shall mean a sign used to display only the name (words and/or symbols, plus address, phone, website, etc.) of the individual, family, organization or enterprise occupying the premises, or the profession of the occupant, or the name of the building on which the sign is displayed.

Sign, Incidental: shall mean a sign which is clearly incidental to other signs on-site, and is intended to provide
instruction or information to persons on-site, such as but not limited to “Exit”, “Entrance”, “Parking”, “Bicycle parking”, “Drive Through”, and menu boards. Simple identification of the on-site enterprise or organization may be displayed with the informational copy.

Sign, Moving: shall mean a sign that moves as one unit or that has individual parts designed to move by mechanical means, but not including sign faces that change or move symbols or messages by means of differing light sources.

Sign, Mural: shall mean the sign area on an exterior wall that may include some illustration or design and also a discernible message, when the message is clearly related by language, logo, or pictorial depiction to the advertisement of any contemporary product or service or the identification of a contemporary business. Identification or advertisement of products, services, businesses, or locations of a historical nature and not in operation or available today may be a Mural but is not a sign.

Sign, Pennant: shall mean any lightweight material, whether or not containing a message of any kind, suspended from a rope, wire, string, or pole, usually in a series, designed to move in the wind.

Sign, Portable: shall mean a sign designed or intended to be regularly relocated, whether or not it is attached to the ground, a structure, or a building, and may include but not be limited to a sign on wheels, an A-frame sign, a sandwich board, an airborne sign, or standing (gas price) signs.

Sign, Post: shall mean a freestanding sign with one (1) or two (2) supporting posts, wires, or rods, or similar small upright structure which extends less than five feet (5’) in vertical height, anchored in or placed on the ground or other surface so that the message copy area can be attached directly unto such post or to a generally horizontal support element which is attached to the upright post.

Sign, Projecting: shall mean a sign other than a canopy or awning sign which projects from, and is attached to, the exterior wall of any building, and forming an angle to the supporting wall.

Sign, Pylon or Pole: shall mean a freestanding sign supported by one (1) or more structures or poles that are placed on, or anchored in, the ground or other surface and otherwise separated from the ground by more than twelve inches (12”) by air, generally over five feet (5’) in height, and which is independent from any building or other structure.

Sign, Real Estate: shall mean a sign that is placed on private property to offer real property for sale, lease, rent, or development.

Sign, Residential Development Message Board: shall mean a sign used to announce meetings or programs and similar noncommercial messages specifically intended for the residents of the one specific residential subdivision, development, or complex within which it is located. (Ord. No. 2083; passed 5-11-2015)

Sign, Roof: shall mean a sign erected or maintained in whole or in part upon or over the roof of a building, or on a parapet of a building higher than the top of the roof located directly behind the sign, and where no structural penthouse extends from the interior side of the parapet to increase the roof height at that location.

Sign, Sponsorship: shall mean an advertising sign employed by civic, fraternal, religious, charitable or similar organizations which identifies a sponsor of recreational facilities or special events provided on the premises where such signs are displayed.

Sign, Suspended: shall mean a sign which is suspended or hung from the underside of a horizontal plane surface, such as an arcade, and is supported by such surface.

Sign, Temporary: shall mean a sign which is not permanently installed in the ground or affixed to any structure or building, and which is erected for a period of time.

Sign, Vehicular: shall mean a sign on a parked or stationary vehicle visible from the public right-of-way where the primary purpose of the vehicle and its placement is to advertise a product or to direct people to a business or activity located on the same or nearby property, but does not include business logos, identification or advertising on a vehicle which is primarily and regularly used for other business purposes.

Sign, Wall: shall mean any sign directly attached to, painted on, or adhered to an exterior wall of a building, with the exposed display surface of the sign in a plane parallel to the plane of the wall and which does not extend above the roofline immediately behind it or more than twelve inches (12”) from the supporting wall.
Sign, Wayfinding: shall mean a sign, frequently off-premise, specifically designed to provide directional or destination information, and provided as part of an overall community plan to improve communication to the public.

Sign, Window: shall mean a sign which is applied on, affixed to, painted or stenciled on, or displayed on or through the exterior of the building glass area, located such that the identifying/advertising message or other material which communicates information can be read from off-premises.

Sign Area: shall mean i) the smallest square, rectangle, or circle that physically and visually forms the boundary of the complete message area of a sign, such as a board, frame, painted border, or canister, or ii) the smallest square, rectangle, or circle that encloses separate elements of the message of a sign composed in whole or in part of freestanding letters, devices, or sculpted matter not mounted on a measurable surface.

Skilled Care Facility (Nursing Home): shall mean a home for three or more chronic or convalescent patients, who, on admission, are not as a rule, acutely ill, and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments or other ailments for which nursing care is indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. (Ord. No. 1532, passed 1-8-07)

Slick Stick: Shall mean a unipole constructed similar to a flagpole, but without the flag. The intent is to conceal antennas and equipment within the unipole, not to extend beyond the perimeter of the pole itself.

Small Cell Site (SCS): shall be an umbrella term for operator-controlled, low-powered radio access nodes, including those that operate in licensed spectrum and in licensed carrier-grade Wi-Fi. Small cells typically have a signal range from approximately 32 ft to 650 ft and are fully featured, short range wireless base stations used to complement service from the larger macro cell towers. Small cell sites are a good way to increase mobile phone coverage and data speeds for both voice and data. Sizes range from compact residential to a pole in public right-of-way. SCS are flexible enough to also be deployed indoors in large buildings or venues where large crowds can overwhelm traditional infrastructure.

Small Wireless Facility: shall mean a wireless facility that meets both of the following: i) each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, case of an antenna, that has exposed elements, the antenna and all of its exposed elements, if enclosed could fit within an enclosure on more than six (6) cubic feet; and ii) all other wireless equipment associated with the facility has a cumulative volume of no more than twenty eight (28) cubic feet in volume. The following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Solar Collector Installation: shall mean a device or structure which transforms solar radiant energy into other forms of energy, which may take the form of a series of photovoltaic cells or an array of panels aimed to directly collect the sun’s rays, along with necessary lines, wires, pumps, batteries, mounting brackets, framing, and other related equipment to support the placement of the solar energy receiving elements and to assist in the delivery or transformation of the received energy.

Solar Glare: shall mean the effect produced by light reflecting from a solar panel to an individual not within the confines of the solar collector installation with an intensity sufficient to cause physical discomfort, or loss in visual performance and visibility.

Spa: shall mean a personal service establishment which employs professional, licensed therapists whose services include nonsurgical body or facial treatments, such as cleansing facials, electrolysis, exfoliation, waxing, and body wraps. Steam and sauna facilities, massage and relaxation facilities, hair salons, manicure and pedicure stations and other similar personal treatment areas may also be provided.

Stealth or Concealed Structure: shall mean the support structure for a communications antenna which is primarily for another principal use or accessory to the principal use on the lot where it is located, and partially or wholly conceals the antenna or minimizes its appearance in relation to the principal use of the stealth structure. A stealth or concealed structure may also be a freestanding structure with no other use connection to the principal use on the site when it is designed to match features on the site, such as a “tree” structure within natural trees. A stealth structure shall visually blend in and fit with the overall activities and structures on the site. All appurtenances to the antenna are wholly concealed by the same structure or other structure in the immediate vicinity, except where a stealth application is not part of a building, then the equipment and wiring shall not be required to be wholly concealed.

Stealth Application: shall mean a concealed wireless facility, designed and intended to make the wireless facility
difficult to detect in the public view.

Stealth Structure, Existing: shall mean a stealth structure in place as of January 27, 1997, the initial date of adoption of regulations concerning communications towers and antennas, is considered existing. Essentially equivalent replacement of such a structure in which its height does not increase more than twenty feet (20’), and compliance to this height limit can be verified, may also be deemed to be existing.

Story: shall mean that part of a building or structure above ground level between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds one-third (1/3) of the floor area immediately below. A penthouse shall be considered a story if it exceeds one-third (1/3) of the area of the roof.

Street, Arterial: shall mean a multi-lane major roadway, designated as a Class I, II, III, III-C, or IV street, connecting freeways, expressways, or other main roads with lesser streets in the network and is designed to accommodate large volumes of traffic at moderate speeds. There are several categories of arterial streets: limited access arterial streets, which have access points only at cross streets rather than individual driveways; major arterial streets, which may also connect regions, but are not intended to provide primary access to trip generating uses; commercial arterial streets, whose function, in part, is to provide direct access to nonresidential high trip generating land uses; and minor arterial streets, which, built on a smaller scale than other types of arterial streets, usually only handle trips for short to moderate distances.

Street, Close: shall mean a segment or final block of a local street which incorporates a small public green area surrounded by a public pavement or shared private street serving as vehicular access for a limited number of adjoining lots, which offers a design alternative to a cul-de-sac end segment.

Street, Collector: shall mean a roadway which assembles traffic from local streets, and distributes it to the nearest arterial street, provides direct primary access to low/medium density land uses, and is designed to carry low to moderate traffic volumes at low to moderate speeds.

Street, Cul-de-sac: shall mean a permanently dead-ended street segment, with only one motor vehicular entry and exit point and the other end in a form that allows at minimum size private passenger vehicles to maneuver within the improved pavement area to turn one hundred eighty degrees (180°).

Street, Minor Residential Access: shall mean a street used predominantly to provide access to abutting residential properties and classified as a Class VI Local, or VI-L Local Limited.

Street, Private: shall mean, where allowed, an interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to private residences, business establishments, or parking and service areas and which is not maintained by the public.

Street, Public: shall mean a public right-of-way not less than thirty feet (30’) in width set aside for public travel and either which has been accepted for maintenance by the State of North Carolina or by the Town of Matthews, has been established as a public street prior to the adoption date of this section, or which has been dedicated for public travel by the recording of a plat of subdivision which has been approved by the Board of Commissioners.

Street, Thoroughfare: shall mean any street designated on an adopted thoroughfare plan or any street which is an extension of any street on a thoroughfare plan and which extends into the area not covered by a thoroughfare plan. The terms thoroughfare and arterial are used synonymously and indicate streets which are designated as Class I, II, III, II-C, or IV.

Street Line, Right-of-Way Line: shall mean a dividing line between a lot and a street right-of-way. In cases where the right-of-way has not been recorded through the subdivision process or otherwise recorded with specific dimensions, the right-of-way width is the area maintained by the Town or the State.

Streetscape Plan: shall mean a plan that specifies planting strips, tree species, sidewalk locations, and other design aspects along public and/or private streets within Matthews. Such plans are effective following approval by the Board of Commissioners.

Structure: shall mean anything constructed or erected, the use of which requires location on the land or attachment to something having a permanent location on the land, excluding fences, walls used as fences, garden trellises, arbors, sports backstops, and similar items when such items are less than six feet (6’) in height and twelve inches (12”) in depth.

Subdivider: shall mean any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision.
Substantial Modification to Wireless Facility: shall mean the mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria: a) Increasing the existing vertical height of the structure by the greater of i) more than ten percent (10%) or ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet. b) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance. c) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Tap Room: shall mean a room or defined interior space that is ancillary to the production of beer at a microbrewery, brewpub, or large brewery where the public can purchase and/or consume only the beer produced on-site.

Telephone Exchange: shall mean an enclosed structure containing electronic components and digital systems which are necessary to transmit and complete audio elements of telephone calls between callers and receivers.

Thoroughfare Plan: shall mean a map and any attendant documents approved by the Town of Matthews or Mecklenburg County Board of Commissioners which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck, and transit transportation. This is a general term used to describe officially adopted documents explaining intended future road improvements.

Topping: shall mean any pruning practice generally employed on the top of a tree that indiscriminately makes cuts without regard to the proximity of a side branch, and which practice is very detrimental to tree health.

Town: shall mean the Town of Matthews.

Traffic Calming Device: shall mean speed humps, speed tables, traffic circles, chicanes and other devices designed to control motor vehicular speeding and high through traffic volumes on streets.

Trailer, Hauling or Utility: shall mean a vehicle or structure designed to be transported and intended for carrying animals or goods.

Trailer, Overnight Camping: shall mean a vehicle or structure designed to be transported and intended for occasional recreational use for living and sleeping accommodations, which may include one of the following: i) Camping Trailer: shall mean a canvas, temporary, folding structure mounted on wheels and designed for travel, recreation, and vacation use; ii) Motor Home: shall mean a portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle; iii) Pick-Up Coach: shall mean a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation; and, iv) Travel Trailer: shall mean a vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreation, and vacation, having its body width not to exceed eight feet (8\textquoteleft) and its body length not to exceed thirty two feet (32\textquoteleft).

Trailer Park, Overnight Camping: shall mean a site, tract of land, or lot upon which not less than two (2) overnight camp sites for use by camping or recreation trailers or vehicles may be located, regardless of whether or not a charge
Transit Station: shall mean an identified and approved location currently or eventually to be owned or leased by a local or regional transit providing agency, on which facilities have or will be located to allow public access to regional mass transit vehicles. A Transit Station may include, but not limited to: station platforms as designated places for loading and disembarking of passengers; ticket stations (manned or automated); passenger drop-off areas and parking spaces for use by passengers prior to and following travel by transit vehicle; travel mode transfer facilities such as a change from bus to rail; and passenger comfort amenities such as benches, covered walkways, waiting rooms, and rest rooms.

Transit Stop Shelter: shall mean a free standing structure, of less than one hundred (100) square feet, located on any type of mass transit route which is designed to accommodate embarking and disembarking transit passengers. Mass transit routes include, but are not limited to, public bus, trolley, rail and light rail transportation systems.

Tree, Large Maturing: shall mean a tree whose height is greater than thirty five feet (35’’) at maturity.

Tree, North Carolina Champion: shall mean any tree that is listed in the North Carolina Big Tree List.

Tree, Protected: shall mean an individual tree having special regulatory procedures for removal on public and private property. Protected Trees include all trees on public property, North Carolina Champion Trees, and Matthews Specimen Trees as designated by the Matthews Board of Commissioners. Protected Trees can include individual trees or all trees in a stand on a construction site designated to be preserved on a required landscape plan.

Tree, Small Maturing: shall mean a tree whose height is generally less than thirty five feet (35’’) at maturity.

Tree, Specimen: shall mean any tree designated by the Town as having unique value, historical interest, or other noteworthy characteristics. A tree may be considered a Specimen Tree based on its size, age, rarity, history, or ecological significance as determined by the Town Landscape Manager and a Certified Arborist consultant.

Tree, Streetscape: shall mean any tree planted within or adjacent to a public right-of-way.

Tree Canopy: shall mean the combined crown areas of all trees on a tract of land.

Tree Canopy, Existing: shall mean the tree canopy that has existed for at least three (3) years on a site as verified by aerial photographs.

Tree Evaluation Formula: shall mean a formula for determining the value of trees and shrubs as published by the International Society of Arboriculture.

Tree Protection Area: shall mean that area or areas designated for the protection of both preserved and planted trees depicted on tree protection and landscape plans.

Tree Stand: shall mean a group of trees in close spatial proximity that can be treated as a unit for the implementation of a tree protection area.

Truck Terminal: shall mean a facility used for the receipt, transfer, short-term storage, and dispatching of goods transported by truck. Included in this use type would be express and other mail and package distribution facilities. A truck terminal facility does not include permanent or long-term accessory storage for principal land uses at other locations. (Ord. No. 1524, passed 12-11-06)

Unobstructed Open Space: shall mean land not covered by buildings or structures. Unobstructed Open Space is further defined in Chapter 8 Post Construction Regulations.

Usable Open Space: shall mean that required portion of a lot at ground level, unoccupied by principal or accessory buildings and available for all occupants of the building. This space of minimum prescribed dimensions shall not be devoted to service driveways, off-street parking, or loading berths but shall be usable for greenery, drying yards, recreation space, and other leisure activities normally carried on outdoors.

Utility Pole: shall mean a structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or provide lighting.

Vegetation Survey: shall mean an inventory and assessment of existing vegetation, particularly trees, on a site prior to any land disturbing activity, and/or any vegetation that existed on the site prior to clear cut activity that occurred within the previous three years.

Vehicle, Commercial, Mid-Range: shall mean a vehicle that is designed or used for business purposes, is generally marked with a sign or carries a commercial vehicle license plate, and that has a gross vehicle weight rating (GVWR)
of less than thirteen thousand (13,000) pounds and a cargo area/work platform (including any installed accessories such as ladder racks, cranes, compressors, hose reels, welders, etc.) that does not exceed eight feet (8') in height. Cargo area/work platforms separate from the cab shall not exceed fourteen feet (14') in fixed length. A camper shell, toolbox within the bed, and similar accessory equipment or a conversion van that is clearly intended and being used for regular personal or household use, but not for any business or commercial activity, will not qualify the vehicle as a commercial vehicle. However, ladder racks, cranes, compressors, hose reels, welders and similar equipment make the vehicle a commercial vehicle.

**Vehicle, Commercial, Large:** shall mean a vehicle that is designed or used for business purposes, is generally marked with a sign or carries a commercial vehicle license plate, and that has a gross vehicle weight rating (GVWR) of thirteen thousand (13,000) pounds or more. Large commercial vehicle also includes a vehicle with a GVWR of less than thirteen thousand (13,000) pounds if the height of any portion of the vehicle exceed eight feet (8') (including any installed accessories such as ladder racks, cranes, compressors, hose reels, welders, etc.), or the length of the cargo area/work platform exceeds fourteen feet (14’) in fixed length.

**Vehicle, Compact:** shall mean a car used for transportation by one or more individuals in their daily routines and occasional activities, marketed as an economical compact or subcompact vehicle for personal or family use, with a wheelbase generally not exceeding one hundred seven inches (107”) and overall length not exceeding one hundred ninety inches (190”).

**Vehicle, Standard or Passenger:** shall mean a car, pick-up truck, van, sport utility vehicle, and similar sized vehicle used for transportation by one or more individuals in their daily routines and occasional activities, excluding buses and trains.

**Vehicle, Recreational:** shall mean a vehicle other than a passenger or commercial vehicle for noncommercial recreational use, either self-propelled or able to be mobile on land when towed by a separate vehicle or when placed on a separate trailer, including but not limited to a motor home, travel trailer, camper shell, cab-over-camper, fifth wheel, horse trailer, or a trailer which transports a recreational vehicle such as a boat, water craft, or off-road vehicle.

**Veterinary Clinic:** shall mean a facility where small animals or pets are given medical or surgical treatment and are cared for only while they are there for the treatment.

**Veterinary Hospital:** shall mean an establishment for the diagnosis, treatment, and prevention of animal diseases and injuries which may include medical and surgical services and twenty four (24) hour surveillance of recuperating animals.

**Water Tower:** shall mean a water storage tank, a standpipe, or elevated tank situated on a support structure originally and primarily constructed for use as a reservoir or facility to store or deliver water.

**Wireless Communication Equipment Base Station:** shall mean a fixed point of communication for customer digital device on a carrier network. A specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antenna, coaxial cables, power supplies, and other associated electronics. Base station elements must be in close physical location to SCS, DAS and/or tower.

**Wireless Facility:** shall mean equipment at a fixed location that enables wireless communications between user equipment and a communications network, including i) equipment associated with wireless communications and ii) radio transceivers, antennas, wires coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term shall not include any of the following: (i) the structure or improvements on, under, within, or adjacent to which the equipment is collocated; (ii) Wireless backhaul facilities; (iii) Coaxial or fiber optic cable that is between wireless structures or utility poles or town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. This definition does not include small and micro wireless facilities.

**Wireless Infrastructure Provider:** shall mean any person or business entity with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

**Wireless Services:** shall mean any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

**Wireless Services Provider:** shall mean a person or business entity who provides wireless services.

**Wireless Support Structure:** shall mean a new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. Utility poles are not wireless support structures.

**Xeriscape:** shall mean a landscape site planted with plant materials that have a very low water requirement or are
very drought tolerant as designated by the North Carolina State University Agricultural Extension Service.

**Yard, Front, Established:** shall mean an open, unoccupied space between a street line and the front of a building or structure, as constructed, projected to the side lines of the lot.

**Yard, Front, Required:** shall mean the minimum open, unoccupied space required between a street line and the front building line of a principal building or structure, projected to the side lot lines of the lot.

**Yard, Rear, Required:** shall mean the minimum open space required between the rear lot line and the rear building line of a principal building or structure, projected to the side lot lines of the lot, and containing permitted accessory buildings, structures, or uses.

**Yard, Side, Required:** shall mean the minimum open, unoccupied space including driveways and parking areas required between the side line and the side building line, extending from the required setback to the required rear yard. If no setback is required, the side yard shall be defined as extending from the street line to the required rear yard.

(’72 Code, § 24-1100) (Ord. 477, passed 2-8-88; Am. Ord. 716, passed 2-3-92; Am. Ord. 731, passed 5-4-92; Am. Ord. 752, passed 8-3-92; Am. Ord. 869, passed 7-14-95; Am. Ord. 871, passed 9-12-94; Am. Ord. 872, passed 8-8-94; Am. Ord. 875, passed 5-9-94; Am. Ord. 885, passed 3-18-96; Am. Ord. 2025A, passed 6-9-14; Am. Ord. 2059, passed 12-8-14; Am. Ord. 2141, passed 4-11-16; Am. Ord. 2231, passed 6-12-17; Am. Ord. 2279, passed 2-12-18; Am. Ord. 2280A, passed 2-12-18; Am. Ord. 2461, passed 12-9-19)
Chapter 2. Decision-Making, Administration & Enforcement Responsibilities


The administration of this Title is vested in the following:

A. The Town Planning Director;
B. The Town Zoning Administrator;
C. The Town Public Works Director;
D. The Town Engineer;
E. The Town Floodplain Administrator;
F. The Town Storm Water Administrator;
G. The Plan Review Committee;
H. The Town Board of Adjustment;
I. The Town Planning Board;
J. The Town Board of Commissioners (Town Mayor and Commissioners, or Town Council);
K. Mecklenburg County Land Use and Environmental Services Agency (LUESA); and,
L. Mecklenburg County Code Enforcement Division

Each group or individual identified here as a Town role means the Town of Matthews has authorized a specific position to take on that particular responsibility, whether or not the position is a direct Town of Matthews employee. When an individual position is identified, either the person holding that position or an authorized designee may perform the assigned functions, unless a specific professional qualification is necessary, such as possession of a PE license.

155.202. The Town Planning Director

A. DESIGNATION. Except as specifically provided otherwise in this Title, the Town Planning Director is assigned the primary responsibility for administering and enforcing this Title. Any of these responsibilities may be assigned to others, including Town staff members within the Planning and Development Department (the Planning Office), and Mecklenburg County LUESA or Code Enforcement Division by interlocal agreement, as determined necessary.

B. DUTIES OF THE TOWN PLANNING DIRECTOR. The Town Planning Director or designees shall have the following duties and responsibilities with respect to this Title:

1. To consider and approve, approve with conditions, or disapprove:
   a. Applications for administrative amendments as provided at § 155.401.5.A.1.
   b. Landscape plans, exterior illumination plans, and zoning overlay district compliance plans.
   c. Site plans, elevation plans, material or color selections, etc., as required by this Title or through site-specific conditions for zoning approval.
d. Applications for temporary use permits

e. Applications for zoning compliance for certificates of occupancy.

f. Sign permits (temporary and permanent).

2. To consider and make recommendations to the Town Council to adopt ordinances to amend the text of this Title and the Official Zoning Map.

3. To establish application requirements and schedules for review of applications for zoning changes, text amendments to sections within this Title, development plans, master sign plans, and subdivisions, and provide oversight to review and approval procedures which involve other Town departments or outside agencies.

4. To serve as Chair of the Plan Review Committee and coordinate all reviews and communications regarding proposed and pending subdivisions.

5. To review and make recommendations to the Planning Board, Board of Adjustment and/or Board of Commissioners on all applications for development considered by those boards, and take any other actions necessary to administer the provisions of this Title.

6. To provide expertise and technical assistance to the Board of Commissioners, Planning Board, and Board of Adjustment upon request.

7. Receive and process applications for zoning permits for structures or additions for which building permits are required.

8. Receive and process applications for zoning permits not accompanied by an application for a building permit.

9. Receive and process applications for a certificate of occupancy after an on-site inspection and upon completion of a structure or when there is a change of use to ensure conformity to the provisions of this Title.

10. Conduct inspections of structures or the use of land to determine whether there is compliance with this Title, and, in cases of any violation, to notify in writing the person or person responsible, specifying the nature of the violation and ordering corrective action.

11. Maintain in current status the Official Zoning Map.

12. Verify that permanent and current records as required by this Title are maintained, including, but not limited to, zoning permits, certificates of occupancy, inspections, all official action on appeals, variances, and amendments, and registrations for items requiring placement on the land such as temporary signs or temporary storage units.

13. Provide on request to the public printed or digital copies of the Zoning Map or Maps, the compiled text of this Title, and the minutes of the Planning Board and Board of Adjustment meetings. The Board of Commissioners may establish a fee to be charged to any person desiring a copy of such text and/or map to defray the cost of publication or reproduction of such text and/or map.

14. Furnish members of the public with forms for appeals and interpretations, applications for variances to be heard by the Board of Adjustment, and receive on behalf of the Board of Adjustment all such forms, when completed and executed by the appellant or applicant, or his agent or attorney.

15. Refer any violation of this Title to the Town Attorney for prosecution or other appropriate action when deemed necessary.

155.203. The Town Zoning Administrator

A. DESIGNATION. The Town Zoning Administrator shall mean the person, agent, or his or her designee, designated by the Town Manager to administer the provision of zoning authority as provided by state statutes and Chapters 1 thru 6, inclusive, of this Title.
B. DUTIES OF THE ZONING ADMINISTRATOR. The Zoning Administrator or his designated assistant shall administer and enforce Chapters 1 thru 6, inclusive, of this Title. It shall be the duty of the Zoning Administrator to:

1. To render interpretations of all provisions of the zoning regulations in Chapters 1 thru 6, inclusive, of this Title, including interpretations of the text; interpretation of the zoning district boundaries; and determinations of whether an unspecified use falls within a use classification or use group allowed in a zoning district.

2. To provide written interpretation for all zoning variance applications prior to a hearing before the Board of Adjustment that a requested action would not be in compliance with existing zoning provisions without the granting of a zoning variance.

C. CRITERIA TO CONSIDER FOR INTERPRETATIONS. The Zoning Administrator or designated assistant shall use the following criteria, where applicable, when making a determination on how to interpret a given land use category:

1. Has the Zoning Administrator received a detailed written description of all the desired and expected activities to take place within the given use, and do these activities match, or very closely compare in their land use impacts to another land use category already defined?

2. Is there a general catch-all land use category that clearly would allow the given use in the requested zoning district?

3. Is the development intensity of the given use the same as or very similar to another land use category already stated within this Title?

4. How may newly generated traffic, noise, light, vibration, odor, or other potential impacts on surrounding parcels and the adjacent neighborhood very closely match any land use category already stated within this Title?

5. Does the given land use type have the same potential environmental impacts as another land use category already determined by the Town as inappropriate to be located within close proximity to residential and institutional land uses?

(Am. Ord. 2188, passed 11-14-16)

155.204. The Town Public Works Director and Town Engineer

A. DESIGNATION OF THE PUBLIC WORKS DIRECTOR. The Town Public Works Director shall mean the person, agent, or his or her designees, designated by the Town Board of Commissioners to, among other duties and responsibilities implement and enforce the standards and procedures in Chapter 7 of this Title.

B. DUTIES OF THE PUBLIC WORKS DIRECTOR. With regard to this Title the Public Works Director shall have responsibility for implementing and enforcing the standards and procedures in Chapter 7 of this Title.

C. TOWN ENGINEER. The Town Engineer is a specific employee within the Town Public Works Department, and as such, shall often serve as the agent or designee of the Public Works Director on many elements related to any new development or redevelopment activities.

155.205. The Floodplain Administrator

A. DESIGNATION. Through a properly executed, legally binding interlocal agreement, the Town Manager designates the Mecklenburg County Floodplain Administrator, and his or her designees, as the person(s) with the authority to administer, implement and enforce the provisions of Chapter 9, Floodplain Regulations, of this Title. [formerly known as § 151.15 and deleted from Chapter 9]

B. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR. The Floodplain Administrator is authorized to and shall perform, but not be limited to, the following duties: [formerly known as § 151.17 and deleted from Chapter 9]
1. Reviewing, approving, and issuing all Floodplain Development Permits in a timely manner to assure that the permit requirements of Chapter 9 of this Title have been satisfied.

2. Reviewing, approving and issuing all documents applicable to Letters of Map Change.

3. Advising the permittee that additional federal or state permits may be required; and if specific federal or state permits are known, requiring that copies of such permits be provided and maintained on file with the Floodplain Development Permit.


5. Assuring that within available resources, maintenance is provided within the altered or relocated portion of any altered watercourse so that the flood-carrying capacity is maintained.

6. Not issuing a Floodplain Development Permit for Encroachments within the Community Encroachment Area and/or the FEMA Floodway unless the certification and flood hazard reduction provisions of § 155.905 are met.

7. Reviewing and recording the actual elevation (in relation to mean sea level) of the Reference Level (including basement) of all new or substantially improved structures, in accordance with § 155.905.B.2.c.

8. Reviewing and recording the actual elevation (in relation to mean sea level) to which the new or substantially improved non-residential structures have been flood-proofed, in accordance with § 155.905.B.1.c.

9. Obtaining certifications from a registered professional engineer or architect in accordance with § 155.905.B.1.b when flood-proofing is utilized for a particular nonresidential structure.

10. Making the interpretation of the exact location of boundaries within the FEMA Special Flood Hazard Area or the Community Special Flood Hazard Area when, for example, there appears to be conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance. Procedures for changing flood hazard area boundaries and lines depicted on the Flood Insurance Rate Maps are identified in the National Flood Insurance Program regulations (44 CFR Parts 59-78).

11. RECORDS MAINTENANCE. Permanently maintain all records that pertain to the administration of Chapter 9 of this Title and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

12. MAKING ON-SITE INSPECTIONS OF WORK IN PROGRESS. As the work pursuant to a Floodplain Development Permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local regulations and the terms of the permit.

13. Serving notices of violation, issuing stop work orders, revoking permits and taking corrective actions.

14. Maintaining a copy of the Letter of Map Amendment issued from FEMA in the Floodplain Development Permit file when a property owner has received a Letter of Map Amendment (LOMA).

15. Determining the required information to be submitted with an application for approval of an Individual Floodplain Development Permit.

16. Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of the total cost of repairs as it relates to a substantial
improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.

17. **NEW CONSTRUCTION DETERMINATION.** Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of whether the proposed construction activities constitute new construction for purposes of Chapter 9.

18. Reviewing and approving FEMA Conditional Letters of Map Revision and FEMA Final Letters of Map Revision if Authorized by FEMA to do so.

19. **ISSUING STOP-WORK ORDERS.** Whenever a building or part at a building is being constructed, reconstructed, altered or repaired in violation of Chapter 9, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.

20. **REVOKING FLOODPLAIN DEVELOPMENT PERMITS.** The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentation made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked. Revoked permits may be resubmitted for approval using the requirements of the ordinance in effect at the time of the original submittal unless they were revoked because of the intentional submission of incorrect information by the permittee or his agent, or under other circumstances where allowing re-submittal using the requirements of the ordinance in effect at the time of the original submittal would not be equitable or consistent with public policy. However, base flood elevations that govern the elevation to which the structure is built must comply with the regulations and flood elevations in effect at the time of application for the building permit.

21. **MAKING PERIODIC INSPECTIONS.** The Floodplain Administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

22. Providing owners of structures in the floodplain with information concerning their flood risk, and (for structures with the lowest floor below the Flood Protection Elevation) inform potential buyers of substantial improvement restrictions through the recordation of a notice in the property chain of title or other similar notice.

### 155.206. The Town Storm Water Administrator

A. **DESIGNATION.** The Town Storm Water Administrator shall mean the person, agent, or his or her designees, designated by the Town Manager, which may be through a properly executed, legally binding interlocal agreement, to administer, implement and enforce the provisions of Chapter 8, Post Construction Regulations, (the “PCO”) of this Title.

B. **DUTIES OF THE STORM WATER ADMINISTRATOR.** In addition to the powers and duties that may be conferred by other provisions of the Town Code of Ordinances and other laws, the Storm Water Administrator shall have the following powers and duties pertaining to the Post Construction Regulations in Chapter 8 of this Title:

1. To review and approve or disapprove applications submitted pursuant to the PCO.
2. To make determinations and render interpretations of the PCO.
3. To establish application requirements and schedules for submittal and review of applications and appeals.
4. To enforce the PCO in accordance with its enforcement provisions.
5. To maintain records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of the PCO.
6. To provide expertise and technical assistance upon request to the Matthews Board of Commissioners and the Storm Water Advisory Committee (SWAC).
7. To designate appropriate other person(s) who shall carry out the powers and duties of the Storm Water Administrator.
8. To provide information and recommendations relative to variances and information as requested by SWAC in response to appeals.
9. To take any other action necessary to administer the provisions of the PCO.  [formerly known as § 154.021 and deleted in Chapter 8]

155.207. The Plan Review Committee

A. MEMBERSHIP. The Plan Review Committee shall consist of one or more staff members from Town departments, as appropriate, and staff members from Mecklenburg County Land Use and Environmental Services Agency. The Planning Director or the Planning Director’s designee shall serve as the Chair of the Plan Review Committee.

B. DUTIES OF THE PLAN REVIEW COMMITTEE. The Plan Review Committee shall review, consider, and make recommendations to approve, approve with conditions, or disapprove sketch plans for minor and major subdivisions, preliminary plans for major subdivisions, and, final plats for minor and major subdivisions as needed, and as further explained in Chapter 4. The Plan Review Committee Chair shall be responsible for coordinating any review sessions and collecting/distributing any communications between members and to applicants.

155.208. The Town Board of Adjustment

A. ESTABLISHMENT AND ORGANIZATION. The Town Board of Adjustment is hereby established. The Board of Adjustment will consist of five (5) full voting members who are citizens and residents of the Town and appointed by the Town Board of Commissioners. There shall also be three (3) alternate members who are Town citizens and residents appointed by the Board of Commissioners. Alternates may sit in on an official meeting of the Board in the absence of one (1) or more members of the Board at a given meeting. All appointed members serve until they are replaced by a successor. Board of Adjustment members shall be eligible for reappointment for a maximum of two (2) consecutive terms, at which point they would not be eligible for reappointment for at least one (1) year. An appointment to fill a vacancy on the Board will be for the remainder of the unexpired term.

B. RULES OF PROCEDURE. The Board of Adjustment will adopt rules and regulations for its own operation necessary to carry out the provisions of this Title. The Town Planning and Development Department will maintain copies of the adopted rules for public information.

C. DUTIES OF THE BOARD. The Board of Adjustment shall have the following duties:

1. VARIANCE OF CHAPTERS 1 THRU CHAPTER 6, INCLUSIVE.
   a. Following a determination by the Zoning Administrator that a requested action is not in compliance with the zoning provisions of Chapters 1 thru 6, inclusive, of this Title, the Board of Adjustment will hear and determine variances from the requirements which relate to the establishment or extension of structures or uses of land. The Board may not grant a variance which would allow the establishment of a use which is not otherwise permitted in the district, would result in the extension of a nonconforming use, or would change the district boundary or zoning classification of the property in question.
b. In reaching a decision on a variance request, the Board shall make findings upholding all of the following criteria.

i. Unnecessary hardship would result from the strict application of the Title. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

ii. 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.

iii. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

iv. The requested variance is consistent with the spirit, purpose, and intent of this Title, public safety is secured, and substantial justice is achieved.

2. VARIANCE OF FLOODPLAIN REGULATIONS. The Board of Adjustment shall hear and decide petitions for variances from the requirements of Chapter 9 of this Title, as further explained at § 155.904.

3. ADMINISTRATIVE APPEAL. The Board of Adjustment will hear and decide appeals on any determination, order, requirement, or decision made by the Zoning Administrator or code enforcement official. A request for appeal must be complete, and must be submitted to the Town within thirty (30) days of the date of notice of violation, order, or decision.

4. APPEAL OF FLOODPLAIN REGULATIONS. The Board of Adjustment shall hear and decide appeals from any order, decision, determination or interpretation made by the Floodplain Administrator pursuant to or regarding the regulations of Chapter 9 of this Title as further explained at § 155.904.

5. APPEAL OF MINIMUM HOUSING REGULATIONS. The Board of Adjustment shall hear and decide appeals from any order, decision, determination, or interpretation made by Mecklenburg County Code Enforcement (the Building Inspector) pursuant to or regarding the regulations of Chapter 10 of this Title as further explained at § 155.1005.

6. INTERPRETATION OF CERTAIN SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCE. The Board of Adjustment is responsible for interpreting the provisions in Chapter 1 thru Chapter 6, inclusive, of this Title relating to zoning regulations if there is a question about the meaning or application of a provision. Once the Board has made an interpretation on an issue, the Zoning Administrator will use that interpretation in the administration of this Title. The Board may also ask that the Title be amended to clarify a problem that has come to the Board's attention.

7. The Chair, or vice-chair in the absence of the Chair, may subpoena witnesses and compel the production of evidence.

D. QUASI-JUDICIAL HEARINGS. The Board of Adjustment will hold a quasi-judicial hearing on any variance, appeal, or interpretation request which comes before it. All administrative papers and other information relating to the request shall be transmitted to the Board. Notice of the time, place and subject of hearings shall be given to the persons making the request and to the owners of property that adjoins or is directly across a street or alley from the property involved in the hearing. The Board shall keep minutes of its hearings and records of the votes of each member.

E. ACTIONS OF THE BOARD OF ADJUSTMENT. The Board of Adjustment will decide on a zoning variance, appeal, or interpretation request and on any matter upon which it is required to act under this Title. The decision of the Board shall be documented in the minutes or transcript of the meeting which shall record a motion to approve, approve with conditions, or disapprove. The motion shall be supported with findings of fact and conclusions of law placed in the minutes of the
meeting. A majority vote of the members of the Board will be required to override a decision of the Zoning Administrator or a code enforcement official charged with enforcement of this Title or to decide in favor of the persons making an appeal. The concurring vote of four fifths (4/5) majority shall be required to grant a variance request.

F. FILING APPLICATIONS AND FEES. Applications and related documents for zoning variance, appeal, or interpretation requests to be considered by the Board of Adjustment must be filed with the Town Planning office as further explained at § 155.403.2, and accompanied by the necessary application fee as established by the Town Commissioners. The Town Planning office shall determine the application is complete and ready to be sent to the Board of Adjustment for review.

### 155.209. The Town Planning Board

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<tbody>
<tr>
<td><strong>A.</strong></td>
<td>ESTABLISHMENT. The Town Planning Board is authorized and established under the authority of G.S. Chapter 160A–364 160D-301 to perform the functions and duties prescribed by the General Statutes.</td>
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<td><strong>B.</strong></td>
<td>APPOINTMENT, TERMS, AND ORGANIZATION. The Town Planning Board will consist of seven (7) full voting members who are citizens and residents of the Town and appointed by the Town Board of Commissioners. There shall also be two (2) alternate members who are Town citizens and residents appointed by the Board of Commissioners. Alternates may sit in on an official meeting of the Board in the absence of one or more members of the Board at a given meeting. All appointed members serve until they are replaced by a successor. Planning Board members shall be eligible for reappointment for a maximum of two (2) consecutive terms, at which point they would not be eligible for reappointment for at least one (1) year. An appointment to fill a vacancy on the Board will be for the remainder of the unexpired term. Further, all members shall be appointed to terms of two (2) years staggered so that terms overlap.</td>
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<td><strong>C.</strong></td>
<td>COMPENSATION. All members of the Planning Board shall serve without compensation.</td>
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<td><strong>D.</strong></td>
<td>REMOVAL AND VACANCIES. Members may, after a public hearing, be removed by the Board of Commissioners for inefficiency, neglect of duty, or malfeasance in office. The Mayor shall file a written statement of reasons for the removal. Vacancies occurring other than through the expiration of term shall be filled for the unexpired term by the Board of Commissioners.</td>
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<td><strong>E.</strong></td>
<td>OFFICERS. At the first meeting following appointment of new members each year, the Planning Board shall elect its Chair and Vice-Chair from among the appointed citizen members and create and fill any other offices as it may determine. The term of office for the Chair and Vice-Chair shall be one year.</td>
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<td><strong>D.</strong></td>
<td>MEETINGS AND RULES. The Planning Board shall hold at least one regular meeting in each month which shall be open to the public. It shall adopt rules for transaction of business and shall keep records of its resolutions, transactions, findings and determinations, which records shall be a public record.</td>
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<td><strong>E.</strong></td>
<td>CONFERENCES. Members of the Planning Board may attend city planning conferences or meetings of city planning institutes or hearings on pending city planning legislation.</td>
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<tr>
<td><strong>F.</strong></td>
<td>GENERAL POWERS AND DUTIES. It shall be the primary function and duty of the Planning Board to study, review, and make recommendations regarding the physical development of the Town, including community goals and vision statements, long-range comprehensive plans, small area plans, strategic plans, zoning regulations, location of zoning district designations, subdivision regulations, energy efficiency measures, and related activities as allowed by state statute and authorized by the Board of Commissioners. In the course of completing these duties, the Planning Board may develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans, and may advise the Board of Commissioners on their rationale for recommendations. The Planning Board may recommend amendments, extensions or additions to previously adopted plans. [formerly § 33.15-33.22]</td>
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155.210. The Town Board of Commissioners (Mayor and Commissioners, or Town Council)

Without limiting any authority granted to the Mayor and Board of Commissioners by state law or by other ordinances of the Town, the Board of Commissioners have all of the powers and duties with respect to this Title conferred on it by the General Statutes. The Board of Commissioners, or Town Council, includes the Mayor and six (6) Commissioners.

155.211. Mecklenburg County Land Use and Environmental Services Agency (LUESA)

A. DESCRIPTION. Mecklenburg County Land Use and Environmental Services Agency (LUESA) is a department of Mecklenburg County responsible for administering and enforcing regulations affecting new development and protecting air and water resources in Mecklenburg County.

B. DUTIES OF MECKLENBURG COUNTY LAND USE AND ENVIRONMENTAL SERVICES AGENCY. Mecklenburg County Land Use and Environmental Services Agency shall have the responsibilities with regard to this Title conferred upon it by interlocal agreement, including:

- Receive and process applications for grading permits, building permits, sign permits, change of use permits, temporary use permits, and similar requests for land disturbing activities, including any related plan review.

- Receive and process applications for a certificate of occupancy after an on-site inspection and upon completion of a structure or when there is a change of use as provided to ensure conformity to the provisions of this Title.

- Conduct inspections of structures or the use of land to determine whether there is compliance with this Title, and, in cases of any violation, to notify in writing the person or person responsible, specifying the nature of the violation and ordering corrective action.

155.212. Mecklenburg County Code Enforcement Division

A. DESCRIPTION. Mecklenburg County Code Enforcement Division is a department of Mecklenburg County responsible through interlocal agreement for providing technical expertise on building code criteria, conducting plan review, conducting inspections, and administering and enforcing regulations affecting new development, redevelopment, maintenance and repair, and improvement of structures, buildings, and real property to obtain compliance with all applicable local, state, and federal building codes in Mecklenburg County.

B. DUTIES OF MECKLENBURG COUNTY CODE ENFORCEMENT DIVISION. Mecklenburg County Code Enforcement Division shall have the responsibilities with regard to this Title conferred upon it by interlocal agreement, including:

- Receive and process applications for a certificate of occupancy after an on-site inspection and upon completion of a structure or when there is a change of use as provided to ensure conformity to the provisions of this Title.

- Conduct inspections of structures to determine whether there is compliance with this Title, and, in cases of any violation, to notify in writing the person or person responsible, specifying the nature of the violation and ordering corrective action.

- Conduct inspections and administer minimum housing provisions as enumerated in Chapter 10 of this Title.

155.213. Compliance Documents

It shall be illegal for any person to begin the construction or reconstruction of any structure or any part of a structure, or to begin to remove trees, excavate or grade for a structure or land improvement, or any other land disturbing activity, or to make any structural repairs, alterations, or additions to any structure without
obtaining any and all appropriate compliance documents from the office or agent authorized by the Matthews Board of Commissioners to issue such permits and documents. The office or agent authorized by the Matthews Board of Commissioners will not issue such documents unless the plans, specifications, and intended use of the structure and property conform to the requirements of this Title. The application for compliance documents shall be accompanied by information sufficient to allow the office or agent to act on the request.

A. INITIAL SITE PLAN COMPLIANCE DOCUMENTS. One (1) or more site layout documents may apply to each lot or tract prior to any development activity. These initial site plan documents grant opportunity to proceed with preconstruction aspects, and may include approved conditional zoning site plans, elevation plans, landscape plans, lighting plans, and/or zoning overlay compliance plans, all of which shall be coordinated through the Matthews Planning office (whether staff approval or Board of Commissioners approval is necessary for each). These approved plans shall be adhered to and submitted when requested with subsequent data to Mecklenburg County LUESA and/or Code Enforcement in all following steps in the development review and approval process.

B. GRADING/INFRASTRUCTURE IMPROVEMENTS PERMITS. Any proposed land disturbing activity that will include any grading, removal of trees and existing vegetative ground cover, removal of existing structures, buildings, and/or impervious surfaces, or any on-site work that may impact soil erosion or will take place close to a protected tree, shall not commence until all appropriate approvals and permits are issued by Mecklenburg County LUESA. When any driveway permit or right-of-way encroachment permit is necessary, they shall be obtained from Matthews Public Works and/or North Carolina Department of Transportation, as appropriate.

C. STRUCTURAL/MECHANICAL BUILDING PERMITS. When any structure or building is proposed for a site, all applicable building permits and inspections shall be successfully obtained from Mecklenburg County Code Enforcement. Such building permits may be in addition to other required compliance documents. Approval of building permits shall be consistent with all the approved initial site plan documents necessary for the property.

D. ZONING PERMITS. A zoning permit shall be required for any new use, change of use, temporary use, or similar activity on a lot or tract of land whether or not other permits and documents listed in this section are required. Zoning permits may be necessary for activities including but not limited to: a permanent sign; start-up of a home-based business; a day care home; a temporary business; application for an ABC permit; construction of a parking lot; or placement of a small storage building.

E. CERTIFICATES OF OCCUPANCY. It shall be illegal to commence or change the use of any building or land, except for uses expressly exempted by federal, state or other local laws, unless a Certificate of Occupancy has been issued by Mecklenburg County LUESA and/or Code Enforcement stating that the use complies with the requirements of this Title.

F. TIME LIMIT ON COMPLIANCE DOCUMENTS. Any building permit or zoning permit issued pursuant to this Title will lapse and become invalid if the work for which it was issued is not started within six (6) months of the date of issue or if the work authorized by it is suspended or abandoned for one (1) year. [formerly known as § 153.306 and § 153.307]

G. PERMIT CHOICE. If any regulations within this ordinance are amended after an application is submitted and before a decision is made, the applicant may choose the version of the rule that applies; however, the Town may require the applicant to comply with the new rules if the applicant delays the application for 6 months. Permit choice is valid for eighteen months after approval of the initial application.

155.214. Enforcement and Penalties

The provisions of this Title may be enforced by any one or more of the following methods, unless an alternate procedure is specifically indicated elsewhere in this Title.
A. **Equitable Remedies and Procedure.** The Town may apply for any appropriate equitable remedy to enforce the provisions of this Title. It is not a defense to the Town's application for equitable relief that there are other remedies provided under the general law or this Title.

The provisions of this Title may be enforced by injunction. When a violation of this Title occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

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

B. **Civil Penalties and Procedure.** If, through inspection, it is determined that a person has failed to comply with the provisions of this Title, a Town or County code enforcement official may issue a warning citation to the violator, followed by citations of specific monetary fines as outlined below. These civil penalties are in addition to any other penalties imposed by a court for violation of the provisions of this Title.

1. **Length of Warning Citation.** Where violations are clearly of a temporary nature and could physically be immediately corrected, the violator shall be given a twenty-four (24) hour warning citation. A twenty-four (24) hour citation must be hand-delivered to a responsible representative for the violator, and that individual must sign that he/she has received such citation. Where the violation can be generally believed to be corrected within a short time frame, and does not involve multiple persons' coordinated actions and/or require mechanical/vehicular tasks, the violator shall be given a three (3) day warning citation. Any other violation that may reasonably be expected to be corrected within a limited time period shall be given a ten (10) day warning citation. Delivery of a three (3) day or ten (10) day warning citation may be by hand-delivery, first class US mail, certified mail, and/or by conspicuously posting a print copy of the warning citation on the subject property. Warning citations may be sent to property owners and to occupants when they are different parties.

2. **Citation Amounts.** If the violation is not corrected within the specified time period, a citation subject to a fifty dollar ($50.00) civil penalty may be issued. If the violation is not corrected within twenty-four (24) hours, a second citation subject to a civil penalty up to two hundred dollars ($200.00) for the same violation may be issued. Subsequent citations subject to a civil penalty up to five hundred dollars ($500.00) may be issued for each day the violation is not corrected. Any citation not paid within fifteen (15) days of issuance shall have a ten dollar ($10.00) delinquency charge added per citation to the amount listed on the face of the citation form.

3. **Appeal of Warning Citation.** If an individual chooses to appeal a warning citation, they must do so in writing within seventy-two (72) hours of the issuance of the warning citation to the Matthews Planning and Development Department. A written appeal will stay any monetary citations from being issued. In the case of a twenty-four (24) hour warning, the written appeal must be submitted to the Matthews Planning and Development Department within twenty-four (24) hours in order to stay any citations with fines. An initial request for appeal may be by letter; however an appeal to the Matthews Board of Adjustment must be fully completed and returned to the Matthews Planning and Development Department within ten (10) days of the warning citation. If a letter requesting appeal is submitted but the appeal to the Board of Adjustment is not
completed and submitted in the required ten (10) days time, then citations in the amounts
provided above may be issued as though no request for appeal had been initiated.

4. **CIVIL PENALTIES FOLLOWING A WRITTEN NOTICE OF VIOLATION.** When a Notice of
Violation is written by a Town or County enforcement officer, providing a thirty (30) day
period to resolve the violation, and the violation remains at the conclusion of the thirty
(30) days, then the Notice of Violation shall serve as the warning citation, and citations
with monetary fines as provided in subparagraph 2 above may be issued. Because the
written Notice of Violation includes the opportunity for appeal within the initial thirty
(30) day period, there is no provision for further appeal. (72 Code, § 24-3137.5) (Ord.
477, passed 2-8-88; Am. Ord. 591, passed 6-12-89; Ord. 1238, passed 3-11-02)
[formerly known as § 153.308]

C. **CRIMINAL PENALTIES.** Any person, firm, or corporation convicted of a violation of any provisions
of this Title shall be punished by a fine not exceeding five hundred dollars ($500.00) or
imprisonment not exceeding thirty (30) days. After notice of a violation is given, the violator will
have thirty (30) days to correct the violation. After that time, each additional day that the violation
remains will be considered a separate violation. (72 Code, § 24-1203) (Ord. 477, passed 2-8-88;
Am. Ord. 763, passed 11-2-92) [formerly known as § 153.999]

D. **CIVIL PENALTIES AND PROCEDURE FOR VIOLATIONS RELATED TO TEMPORARY USES.** Because
temporary business uses may set up and begin operations in a very short time frame and may not
adhere to the requirements as provided in § 155.506.43, the following procedures and penalties are
created for those situations.

1. **WARNING OF VIOLATIONS; AUTHORITY TO ISSUE.** The Zoning Administrator and the Code
Enforcement Officer are empowered to issue warnings of violations to any person if there
is a reasonable cause to believe that a person has violated any provision of § 155.506.43.
These warnings of violation may be delivered in person to the violator, or, if the violator
cannot be readily found, the warning of violation may be mailed to the last known
address of the violator, or mailed or hand delivered to another individual participating
with the violator in the business on the site. Warnings of violations may be issued for the
following:

   a. Conducting a temporary use without a temporary use permit. A temporary use
      permit must be obtained within five (5) calendar days of warning issue date.

   b. Conducting a temporary use on a property that is ineligible for a temporary use
      as required by § 155.506.43.B.4. Business activities must cease immediately
      upon receipt of written notice of violation and all business-related material must
      be removed from the property within three (3) calendar days of warning issue
      date. (Ord. 1237, passed 1-14-02)

   c. Failure to cease business activities and to remove all business-related material
      from the property within the forty five (45) day time limit specified in §
      155.506.43.B.2. Business activities must cease immediately upon receipt of
      written notice of violation and all business-related material must be removed
      from the property within three (3) calendar days of warning issue date. (Ord.
      1237, passed 1-14-02)

2. **CITATION.** Compliance with § 155.506.43 may be enforced in any one or more of the
following ways as prescribed by law.

   a. **CITATION AND CIVIL PENALTY.** A civil citation in the amount of one hundred dollars ($100.00)
      may be levied against any person who violates any provision of § 155.506.43 and who has been issued a warning of violation and has not met
      the specified compliance. Additional citations in the amount of two hundred dollars ($200.00) may be issued for the second day of violation and an
      additional citation in the amount of three hundred dollars ($300.00) may be issued for a third day of violation and any subsequent days the violation
      continues to exist. Each and every day during which the violation continues shall be a separate and distinct offense.
b. **VIOLATION A MISDEMEANOR.** If a violator fails to comply with the warning of violation, the Zoning Administrator or Code Enforcement Officer may have a complaint entered against the violator and have a criminal summons issued. Upon conviction, the violator shall be subject to criminal penalty up to five hundred dollars ($500.00) and/or up to thirty (30) days in jail as the courts may allow. [formerly known as § 153.191]

E. **REMEDIES FOR DISTURBANCE, DESTRUCTION, OR REMOVAL OF VEGETATION AND REQUIRED LANDSCAPING.** Any person, who violates any of the tree protection or landscaping provisions of § 155.606, or any Landscape Plan approved by the Town under prior Landscaping ordinance provisions, shall be subject to any one or combination of penalties prescribed in this § 155.214.

1. If a person fails to comply with any notice of violation, warning citation, or citation, as outlined above in § 155.214.A. through C., then the following penalties may be initiated. Any penalties shall be in addition to, and not in lieu of, compliance to all requirements and payment of any financial penalties.

2. Any act constituting a violation of § 155.606.13 Landscape Maintenance Standards resulting in the destruction, excessive pruning/topping, or removal of required vegetation up to twelve inches (12") DBH without approval from the Town shall be subject to a civil penalty of two dollars ($2.00) per square foot for area damaged or destroyed, not to exceed fifty thousand dollars ($50,000).

3. Destruction or removal of a tree greater than twelve inches (12") DBH without prior Town approval as provided at § 155.606.13.E. may be subject to a civil penalty equal to the amount of the value of the tree as listed in the most current edition of *The Guide for Plant Appraisal*, published by the International Society of Arboriculture in conjunction with the information provided by the Southern Chapter of the International Society of Arboriculture.

4. In the event that a Landscape Guarantee bond has not been posted and accepted by the Town and/or Mecklenburg County, and the developer and/or property owner has failed to plant the required trees and shrubs as depicted on the most current approved Landscape Plan, a ten (10) day warning citation as provided for in § 155.214.B. above, may be issued, indicating a fine of five hundred dollars ($500.00) per tree or shrub not installed may be issued per day of ongoing violation, due within ten (10) days of day of issuance, not to exceed twenty thousand dollars ($20,000) per day of violation. [formerly portions of § 153.075(P)]

F. **Final Plats.**

1. After the enactment date of this Title, a plat of a subdivision filed or recorded in the Mecklenburg County Register of Deeds office without approval of the Town as required by these regulations shall be null and void. No street shall be maintained by the Town, nor shall any permit be issued by an administrative agent of the Town for the construction of any building or other improvement requiring a permit, upon any land for which a plat is required to be approved, unless and until the requirements given in this Title have been fully met and the final plat has been approved.

2. Any property owner, agent of an owner, or other person, who transfers or sells land within the jurisdiction of the Town by reference to a plat showing a subdivision of land before that plat has received final Town approval and is recorded at the Register of Deeds, shall upon conviction be guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars ($500) or imprisonment not exceeding thirty (30) days, whether or not the unapproved plat is specifically mentioned in the instrument of transfer used in the process of selling or transferring that land. The Town through the Town Attorney or other official designated by the Board of Commissioners, may enjoin the transfer or sale by action for injunction. These regulations shall not affect the sale or transfer of any land, a plat of which was recorded prior to November 9, 1998. [formerly § 152.07]
Chapter 4. Application Requirements and Review Procedures

155.401. Amendments

The purpose of this Section is to provide a means for amending the Matthews Land Use Plan, the text of these regulations, and the classification of any parcel of land identified on the Official Zoning Map. The purpose is not to relieve particular hardships, nor to confer special privileges or rights to any person, but only to make adjustments necessary in light of changed conditions or changes in public policy, or likely to achieve the purposes of these regulations.

155.401.1 General Requirements for Zoning Map Changes and Amendments

A. APPLICATION AND FEE FOR AMENDMENT REQUIRED. An application for an amendment must be completed on the forms provided and filed with the Town Planning Office, together with the necessary fee as established by the Board of Commissioners. In accordance with G.S. 160D-601 (d) no amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town. [formerly § 153.266]

B. PUBLIC HEARING REQUIRED. The regulations imposed and the existing zoning classifications applied by this Title may be amended from time to time, but no such amendments shall be made until a public hearing has been held, and a recommendation has been made by the Planning Board. The public hearing may be continued to a later date in order to provide opportunity for proposed text, conditional notes, site plan details, or other unresolved issues to be presented and clarified during an open public session. [formerly part of § 153.268]

C. APPEARANCE AT PUBLIC HEARING. Any person desiring to speak either for or against an application may be present at the public hearing or arrange for a suitable agent to speak on his behalf. Or, interested parties may submit written correspondence to the Board of Commissioners at or prior to the public hearing in order for it to be presented at the public hearing and entered into the record. The Applicant, or his designated agent, is compelled to appear at the public hearing. Failure to appear at the public hearing may result in the Board of Commissioners continuing the public hearing to another date. [formerly part of § 153.268.B]

D. NOTIFICATION REQUIRED. A notice of the required public hearing shall be published in a local newspaper...
having general circulation in the area by the Town once a week for two (2) successive calendar weeks, or any other alternative notice as allowed by the NC General Statutes at Article 19, Chapter 160A, G.S. 160D. When provided by local newspaper, the notice will appear for the first time no less than ten (10) days and no more than twenty five (25) days prior to the hearing date. If a public hearing is continued to a later date, no additional notice is required. [formerly part of § 153.268.A]

E. ACTION BY THE PLANNING BOARD. The Planning Board shall sit in joint session with the Board of Commissioners for a public hearing on the proposed change. No proposal to amend this Title or to rezone property will be approved unless it is first submitted to the Planning Board for its recommendation. The Planning Board shall make a recommendation within thirty (30) days after the application has been referred to it following the close of the public hearing. If the Planning Board does not complete their review within the specified period, then it will be considered the same as a favorable recommendation. The Planning Board shall advise and comment on whether the proposed amendment is consistent with the Town’s adopted Land Use Plan, any applicable small area plans, and other development policy plans. [formerly § 153.269]

F. ACTION BY THE BOARD OF COMMISSIONERS. After receiving the recommendations and report of the Planning Board, the Board of Commissioners may adopt an ordinance approving, modifying, or rejecting the application or amendment. In accordance GS 160A-75 G.S. 160D, a member of the Board of Commissioners who is present and not excused from participating on a final vote on a requested change in zoning district or text of this Title, and does not vote, that member’s lack of a vote will not be counted as an affirmative vote. (Am. Ord. 2141, passed 4-11-16)

G. EFFECT OF DENIAL. After a public hearing, no application for a proposed zoning map change or amendment of this Title which has been denied wholly or in part by the Board of Commissioners shall be resubmitted for a period of one (1) year from the date of action on the original request. However, the Commissioners may choose to allow a re-application, if after a report from the Planning Board, they determine that there have been substantial changes in circumstances or conditions not discovered or not possible during the previous zoning action, which may relate to the request. [formerly § 153.270]

H. NO COMMITMENT PRIOR TO PUBLIC HEARING. The Mayor, members of Town Board of Commissioners, and members (including alternates) of the Planning Board shall make no commitment or agreement or enter into any understanding of any zoning issues through the application process pertaining to any property located within the Town limits until the conclusion of the public hearing on the application to amend this Title or change the zoning map. [formerly § 153.271]

I. RELIEF FOR MINOR NONCONFORMITIES REQUIRING VARIANCE ACTIONS DURING REZONING FROM AN OUTDATED ZONING CLASSIFICATION.

1. While an application or motion to change a parcel from a classification that is no longer available in these regulations to a current zoning district designation may be desirable, this action may create some conditions on a parcel that would become nonconformities. In order to reduce the necessity of resulting multiple similar zoning variance actions, certain minor nonconforming elements may be determined to be exempt from strict compliance through the following:

   a. Any existing development which meets the setback and rear yard requirements of its zoning district prior to amendment but will exceed front setback and/or rear yard minimums in the proposed new zoning district, up to twenty feet (20’), will be considered to be in conformance to the new zoning district provisions.

   b. Any existing development which meets the side yard requirements of its zoning district prior to amendment but will exceed one or more side yard minimums in the proposed new zoning district, up to ten feet (10’), will be considered to be in conformance to the new zoning district provisions.

   c. Any existing development which meets the minimum parking requirements of its zoning district prior to amendment but will be deficient in required parking by up to ten percent (10%) for parcels up to two (2) acres in size, or will be deficient by up to fifteen percent (15%) for parcels greater than two (2) acres, will be considered to be in conformance to the new zoning district provisions.

   d. Any existing development which did not have to meet any minimum landscape regulations prior to amendment but will be deficient in some required landscaping in the proposed new zoning district will be exempt from installation of new landscaping to meet current standards.

   e. Any existing development which meets the landscaping requirement imposed on it at the
time of the last successful zoning action on the site but would not be in compliance in the proposed new zoning district, will be considered to be in conformance to the new zoning district provisions.

f. Any existing development which meets the signage provisions imposed on it at the time of the last successful zoning action on the site but would not be in compliance in the proposed new zoning district, will be considered to be in conformance with the new zoning district provisions if both: any single sign on the site is no more than twenty percent (20%) greater in sign area than what would be allowed in the proposed zoning district; and the total signs on the site are not in aggregate more than fifteen percent (15%) greater in sign area and number than would be allowed under the proposed zoning district.

2. Any site which has existing development and utilizes one or more of the exemptions listed in § 155.401.1.I.1, above, may continue in active use and may change from one land use to another under the exemptions listed above. When changes are made to the improvements on the parcel, the following apply:

a. If structural changes are considered for any structure, then the provisions of § 155.304, Nonconforming Structures, shall apply. In cases where the application of these standards creates a significant hardship, a zoning variance may be requested.

b. If any additions or changes are considered for on-site parking, or are required as a result of a change in use, then the current parking standards must be fully met. Parking lot landscaping requirements must also be met for any new or revised parking lots. In cases where the application of these standards creates a significant hardship, a zoning variance may be requested. Restriping or repaving of existing pavement without removal of the existing hard surface shall not be considered revision. Removal or disturbance of the existing parking hard surface pavement (including gravel) shall require compliance to current standards in that portion of the parking lot which is being impacted. When there is a clear limit to the disturbance, only that disturbed portion is subject to compliance with current standards.

c. If any changes are made to a sign on the site that has been exempted under § 155.401.1.I.1.f, then the replacement sign must meet current standards but the overall exemption may still apply for the remainder of the site.

d. When a developed parcel has utilized one or more of the exemptions at § 155.401.1.I.1 and later is considered for significant or total redevelopment, then all standards in place at the time of redevelopment will be required. For purposes of this paragraph, significant redevelopment means any land disturbing activity whose cost exceeds fifty percent (50%) of the County tax market value of the property. [formerly § 153.272]

155.401.2 Additional Standards and Criteria for Amending the Town Land Use Plan

A. THE ROLE OF THE LAND USE PLAN IN ADMINISTRATION OF THE UNIFIED DEVELOPMENT ORDINANCE. The Matthews Land Use Plan shall serve as the basic policy guide for the administration of this Title. The Land Use Plan is a statement of goals and policies to guide new development, redevelopment and infrastructure investment decisions in the Town. It therefore, is the intent of the Town to administer this Title in accordance with the Land Use Plan. The goals and policies of the Land Use Plan may be amended from time to time to meet changing community preferences, needs and requirements. Such amendments may at times be necessary to accommodate proposed development or redevelopment of property that may be inconsistent with the Land Use Plan. This Section establishes the procedures for amending the Land Use Plan.

B. INITIATION OF AMENDMENTS. An amendment to the Land Use Plan may be initiated only by the Planning Board, the Board of Commissioners, or the Owner of property proposing development of such property under this Title that may be inconsistent with the Land Use Plan.

C. NOTIFICATION REQUIREMENTS. The Town Board of Commissioners shall call for a notice of public hearing on the application and the notice of public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area, or any other alternative notice as allowed by the NC General Statutes at Article 19, Chapter 160A, 160D. When provided by local newspaper, the
notice shall be published the first time not less than ten (10) days and no more than twenty five (25) days before the date fixed for the public hearing.

D. APPLICATION FOR AMENDING THE LAND USE PLAN.

1. FILING AN APPLICATION. Where an amendment to the Land Use Plan is proposed by someone other than the Planning Board or Board of Commissioners, an application requesting the amendment shall be filed with the Planning Director. The application shall be accompanied by a written statement from the applicant stating the basis for the request.

2. STAFF REVIEW. Upon receiving an application requesting an amendment, or upon an instruction from the Board of Commissioners, or Planning Board, that it will consider a proposed amendment, the Planning Director shall review the proposed amendment to evaluate its effect on the integrity of the Land Use Plan and this Title. The Planning Director may require review by appropriate Town departments and other government agencies in which case the applicant will pay any review fees that may be required. Prior to the scheduled public hearing, the Planning Director shall deliver a written report incorporating or summarizing the comments of the Planning Director, other Town departments, and other government agencies.

3. ACTION BY THE PLANNING BOARD.
   a. The Planning Board shall sit in joint session with the Board of Commissioners for a public hearing on the proposed amendment.
   b. In considering the amendment, the Planning Board shall review the proposed amendment, the standards set forth in § 155.401.2.D.4 below, the report of the Planning Director, and any oral and written comments received before or at the public hearing or otherwise submitted. Based on this information, the Planning Board shall submit, within a reasonable time and recommendation to the Board of Commissioners on whether or not the proposed amendment should be adopted.

4. STANDARDS FOR REVIEWING PROPOSED LAND USE PLAN AMENDMENTS. In deciding whether to recommend adoption of a proposed amendment to the Land Use Plan, the Planning Board shall consider whether the amendment is necessary based on one or more of the following factors:
   a. There has been a change in projections or assumptions (such as demographic trends or the availability of public facilities) from those on which the Land Use Plan is based;
   b. The data used as the basis for formulating the Land Use Plan are in error or out of date;
   c. New issues or needs have presented themselves to the Town that are not adequately addressed in the Land Use Plan; or
   d. The amendment will not adversely affect the character of the area in which the proposed development is to be located.

5. ACTION BY THE BOARD OF COMMISSIONERS. After receiving the recommendations of the Planning Board, the Board of Commissioners may adopt an ordinance approving, modifying, or rejecting the amendment. The Board of Commissioners may refer the matter back to the Planning Board for further consideration. If an amendment is adopted which is deemed by the Town Council to be inconsistent with adopted plans, the zoning amendment shall have the effect of also amending any future land use map in the approved plans and no additional request or application for a plan amendment shall be required.

E. SMALL AREA PLANS AS APPENDICES. A small area plan, neighborhood plan, or a similar plan which explains and illustrates desired development concepts for a sub region of the Town may be adopted as an Appendix to the Land Use Plan. Such area plan shall follow the same review and approval process as an amendment to the Land Use Plan, as outlined in § 155.401.2.D above. The provisions within an Appendix shall be considered as outlining adopted policies and preferred development patterns for that portion of the Town the same as the main body of the Land Use Plan.

F. TYPOGRAPHICAL OR DRAFTING ERRORS. Notwithstanding any other provisions set forth above, amendments to correct typographical or drafting errors in the Land Use Plan may be adopted by the Board of Commissioners at a regular meeting without the posting or personal delivery of prior notice and without a public hearing.

155.401.3 Additional Standards and Criteria for Amending the Regulations of this Title

In addition to the requirements set forth in § 155.401.1 applications to amend the regulations of this Title shall
comply with the following:

A. **INITIATION OF AMENDMENTS.** Amendments to the text of this Title may be initiated by the Board of Commissioners, by the Planning Board, the Planning Director, by any person having proprietary interest in property in the Town, or by any interested citizen of the Town.

B. **APPLICATION FOR AMENDING THE REGULATIONS OF THE UNIFIED DEVELOPMENT ORDINANCE.** Where an amendment to text of this Title is proposed by someone other than the Planning Director, Planning Board or Board of Commissioners, an application requesting the amendment shall be filed with the Planning Director. The application shall be in a form determined by the Planning Director and shall include the section(s) of this Title to be amended and the proposed text. An application to amend the text initiated by someone other than the Board of Commissioners or Planning Board shall only be accepted after a pre-application meeting with Planning Office staff has been held.

C. **NOTIFICATION REQUIREMENTS.** The Town Board of Commissioners shall call for a notice of public hearing on the application and the notice of public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area, or any other alternative notice as allowed by the NC General Statutes at Article 19, Chapter 160A. When provided by local newspaper, the notice shall be published the first time not less than ten (10) days and no more than twenty five (25) days before the date fixed for the public hearing.

D. **PROCEDURE FOR AMENDING THE REGULATIONS OF THE UNIFIED DEVELOPMENT ORDINANCE.**

1. **STAFF REVIEW.** Upon receiving an application requesting an amendment, or upon an instruction from the Board of Commissioners, or Planning Board, that it will consider a proposed amendment, the Planning Director shall review the proposed amendment to evaluate its effect on the integrity of this Title. The Planning Director may deliver copies of the proposed amendment to appropriate departments and government agencies for review and comment. Prior to the scheduled public hearing, the Planning Director shall deliver a written report incorporating or summarizing the comments of the Planning Director, other Town departments, and other agencies.

2. **ACTION BY THE PLANNING BOARD.**
   a. The Planning Board shall sit in joint session with the Board of Commissioners for a public hearing on the proposed amendment.
   b. In considering the amendment, the Planning Board shall review the proposed amendment, the report of the Planning Director, and any oral and written comments received before or at the public hearing or otherwise made part of the record. Based on this information, the Planning Board shall submit, within thirty (30) days of date of referral, a recommendation to the Board of Commissioners on whether or not the proposed amendment should be adopted. The Planning Board shall advise and comment on whether the proposed text amendment is consistent with the Town’s adopted Land Use Plan, any applicable small area plans, and other development policy plans.

3. **ACTION BY THE BOARD OF COMMISSIONERS.** After receiving the recommendation from the Planning Board, the Board of Commissioners may adopt an ordinance approving, modifying, or rejecting the amendment.

E. **ALTERNATE PROCEDURE ON MOTIONS.** When a proposed text change is initiated by motion from the Board of Commissioners, the Planning Board may review and make recommendation regarding the suggested change prior to the public hearing. The Planning Board shall sit in joint session with the Board of Commissioners for the public hearing, and at the close of the hearing the Board of Commissioners may act on the request or may refer the proposed text amendment back to the Planning Board for further consideration and recommendation. The Planning Board shall submit a recommendation to the Board of Commissioners within thirty (30) days of date of referral, if the motion is sent to them after close of public hearing. The Board of Commissioners may adopt an ordinance approving, modifying, or rejecting the amendment.

### 155.401.4 Additional Standards and Criteria for Amending the Zoning Map

In addition to the requirements set forth in § 155.401.1 applications to amend the zoning map shall comply with the following:

A. **INITIATION OF AMENDMENTS.** Amendments to the zoning map for a Traditional district classification may
be proposed by any person. A Parallel Traditional or Conditional-Only district classification will be considered only if the application is made by the owner of the property or his/her authorized agent. [formerly part of § 153.201(A)]

B. APPLICATION FOR AMENDING THE ZONING MAP. Every application for an amendment to the zoning map shall be filed with the Planning Director. An application to amend the zoning map or to make revisions to a previously-approved conditional zoning district shall only be accepted after a pre-application meeting with Planning office staff has been held with the property owner(s) and/or agents.

C. NOTIFICATION REQUIREMENTS. In addition to the requirements for notification in § 155.401.1.D, the following forms of notice shall be provided:

1. **NOTICE BY MAIL.** The owner of the subject parcel(s) of land, and the owners of all parcels of land which abut, are across a public right-of-way, and/or are wholly or partially within one hundred feet (100’) of any point of the subject property, as shown on the most current county tax listing, shall be mailed a notice of a public hearing on the proposed zoning map amendment by first class mail. The applicant shall prepare such notices and shall deliver said notices to the Planning Office at the time of zoning application submission. If any citizen submits a written statement regarding the proposed zoning change to the Planning office and Town Clerk at least two (2) business days prior to the scheduled decision date, the Clerk shall deliver the written statement to the Board of Commissioners. (Am. Ord. 2141, passed 4-11-16)

2. **EXCEPTION TO NOTICE BY MAIL.** The first class mail notice required in § 155.401.4.C.1, above, shall not be required if the zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to either make the mailed notice provided for in § 155.401.4.C.1 or may, as an alternative, elect to publish notice of the hearing as required by GS 160A-364 160D-602 but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected properties, shall be notified according to the provisions of § 155.401.4.C.1. [verbatim from GS 160A-364]

3. **NOTICE BY POSTING A SIGN.** When a zoning map amendment is proposed, the Town shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, posting a sign on each individual parcel is not required, but the Town shall post sufficient notice signs to provide reasonable notice to interested persons. [verbatim from GS 160A-364]

D. PROCESS FOR AMENDING THE ZONING MAP.

1. **STAFF REVIEW.** Upon receiving an application requesting a zoning map amendment, or upon an instruction from the Board of Commissioners, or Planning Board, that it will consider a proposed amendment, the Planning Director shall review the proposed amendment to evaluate its effect on the integrity of the Land Use Plan and this Title. The Planning Director may deliver copies of the proposed zoning map amendment to appropriate departments and government agencies for review and comment. Prior to the scheduled public hearing, the Planning Director shall deliver a written report incorporating or summarizing the comments of the Planning Director, other Town departments, and other agencies.

2. **ACTION BY THE PLANNING BOARD.**
   a. The Planning Board shall sit in joint session with the Board of Commissioners for a public hearing on the proposed zoning map amendment.
   
   b. In considering the amendment, the Planning Board shall review the proposed amendment, the report of the Planning Director, and any oral and written comments received before or at the public hearing or otherwise submitted. Based on this information, the Planning Board shall submit, within thirty (30) days of date of referral, a recommendation to the Board of Commissioners on whether or not the proposed zoning map amendment should be granted.

3. **ACTION BY THE BOARD OF COMMISSIONERS.** After receiving the recommendation of the Planning
Board, the Board of Commissioners may adopt an ordinance approving, modifying, or rejecting the amendment. [formerly § 153.265.B]

4. ADDITIONAL CRITERIA FOR ZONING MAP AMENDMENTS.

a. When considering an application to amend the zoning map to any Traditional classification, the Planning Board or Board of Commissioners will not evaluate the application based on any specific proposal for the use or development of the property. The applicant will refrain from using any graphic materials or descriptions of the proposed development except for those which would apply to any use permitted by the requested classification. [formerly § 153.265.C]

b. Following formal acceptance of an application by the Board of Commissioners, the applicant may propose further adjustment to the application which results in a more restrictive zoning district, or applicant may amend the proposed conditions in a conditional zoning district that do not alter the requested underlying proposed district designation. (72 Code, § 24-1303) (Ord. No. 477, passed 2-8-88; Ord. No. 1524, passed 12-11-06; (Am. Ord. 2141, passed 4-11-16) [formerly § 153.267]

E. WITHDRAWAL OF APPLICATIONS. Applications for amending the zoning map or amending conditions of a previously approved conditional zoning district may be withdrawn by the applicant at any time up to and including fifteen (15) days prior to the initially-scheduled hearing date. It is generally not the intent of the Board of Commissioners to permit withdrawal of applications within fifteen (15) days prior to the hearing date. However, after that time, requests to withdraw an application must be filed with the Planning Office. On the day of the hearing the Commissioners will decide if the withdrawal will be allowed. The Board of Commissioners may approve a request for withdrawal if it finds that there are substantial circumstances which warrant favorable consideration and that the withdrawal will not be detrimental to the interests of citizens affected by the application. Application fees are non-refundable. [formerly § 153.267]

155.401.5 Administrative Amendment Approval, and Site Plan and/or Elevation Plan Review and Approval

Changes to approved plans and conditions of development in Parallel Traditional Districts and Conditional-Only Districts will be treated the same as changes to the zoning map and will be processed as an amendment as provided in §§ 155.401.1 and 155.401.4. However, some minor changes or additional details in response to previously approved zoning conditions in these conditional districts may be approved through one of the procedures listed here. Site plan and/or elevation plan review and approval may also be a requirement for certain identified uses allowed in some zoning districts as a use “under prescribed conditions” in the Tables of Allowed Uses at § 155.505.

A. ADMINISTRATIVE AMENDMENT. Minor changes in the detail of the approved plan which will not alter the basic relationship of the proposed development to adjacent property, will not alter the uses permitted or increase the density or intensity of development, or will not decrease the off-street parking ratio or reduce the yards provided at the boundary of the site may be approved as an Administrative Amendment.

1. STAFF REVIEW AND APPROVAL. Upon receiving an application for an Administrative Amendment, the Planning Director shall review the specific proposed changes to previously approved zoning conditions to verify the level of revision requested. When the proposed changes are limited to no more than two (2) note or drawing changes as allowed through the Administrative Amendment process, the Planning Director may approve the changes. The Planning Director may determine the request be reviewed by the Planning Board for action.

2. PLANNING BOARD ACTION. The Planning Board shall review any request for Administrative Amendment submitted to the Board from the Planning Director. The Planning Director shall provide the Planning Board with an explanation of the requested revisions to previously approved zoning conditions, and a recommendation of action. The Planning Board may approve a request for an Administrative Amendment, or may refer the request for change to the Board of Commissioners for decision.

3. BOARD OF COMMISSIONERS ACTION. When the Planning Board refers a request for Administrative Amendment, the Board of Commissioners shall determine whether the impact of the proposed changes, while meeting the standard of minor changes as provide here, would be sufficient to provide an opportunity for public input prior to action. The Board of Commissioners may schedule a public input session or require the applicant to hold a community meeting. Notice of the public input session or community meeting shall be sent by the applicant by first class mail to all persons
required to be notified for a change of zoning map at § 155.401.4.C.1. When the applicant holds a community meeting separate from a regular Board of Commissioners meeting, then the applicant shall provide a written report to the Commissioners on discussion during and results from the community meeting. The Board of Commissioners may approve, modify and approve, or deny the Administrative Amendment.

B. BOARD OF COMMISSIONERS SITE PLAN AND/OR ELEVATION PLAN APPROVAL. Approved zoning map changes involving conditional districts may include standards for greater details to be provided at a later time. The Board of Commissioners may review and act on graphics and site plans provided to them separate from and subsequent to a zoning application which provide details on the specific design of sites and/or buildings. A request for Site Plan and/or Elevation Plan approval shall not require notification or public hearing when they are in response to a condition of a previously approved zoning action on a site. In addition, certain uses that are allowed under prescribed conditions may require site plan and/or elevation plan review and approval by the Board of Commissioners.

1. STAFF REVIEW. Upon receiving an application for Site Plan or Elevation Plan Approval, the Planning Director shall review the documents to verify they meet all zoning conditions for the site. The Planning Director may deliver copies of the drawings to appropriate departments and government agencies for review and comment. The Planning Director shall determine when sufficient information has been provided to verify all conditions have been met, and shall deliver a written report incorporating or summarizing comments from Planning staff, other Town departments, and other agencies, as appropriate, with the drawings to the Board of Commissioners.

2. BOARD OF COMMISSIONERS ACTION. The Board of Commissioners shall approve the Site Plan and/or Elevation Plan as presented or may request further revisions or details from the applicant. The Board of Commissioners may not take final action until they have sufficient details on the documents to fully illustrate the intended design, materials, and related information.

C. SITE PLAN AND/OR ELEVATION PLAN APPROVAL FOR CERTAIN USES UNDER PRESCRIBED CONDITIONS. Some uses are identified as allowed “under prescribed conditions” in some zoning districts. Where the specific standards to be met for these uses include a site plan and/or elevation plan review and approval by the Board of Commissioners, then the site plan and/or elevation plan review shall follow the same process as given in § 155.401.5.B. immediately above. [formerly § 153.201(E)]

155.401.6 Conditional-Only District and Parallel Traditional District Zoning Provisions

A. PURPOSE. This Title identifies multiple residential, nonresidential, and mixed use zoning districts that may be assigned to parcels within the Town’s jurisdiction. There are certain uses or site design layouts which because of their nature or scale have particular impacts on both the immediate area and the community as a whole. Development of these uses and situations may benefit the community, but their unique aspects and needs cannot be predetermined within the confines of general district regulations. In addition, circumstances often arise when a general district designation would not be appropriate for a certain property, but a specific use or group of uses permitted under the district would be consistent with the objectives of this Title. To accommodate these specific situations, Parallel Traditional and Conditional-Only districts (conditional districts) may be employed.

B. PARALLEL TRADITIONAL DISTRICTS. The Parallel Traditional district process is established to address those situations when a particular use may be acceptable but the Traditional classification which would allow that use would not be acceptable. It allows the Board of Commissioners to approve a proposal for a specific use or group of uses with reasonable conditions to assure the compatibility of the use(s) with surrounding properties. Any use permitted under this process must also conform to the development regulations for the corresponding Traditional zoning district. This is a voluntary procedure which is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals which may not be undertaken for some time, unless a condition is included to have all development go through a subsequent site plan and/or elevation plan review and approval by the Board of Commissioners.

1. Potential uses which may be considered for a Parallel Traditional district are restricted to those uses permitted in the corresponding Traditional zoning district. Uses permitted in Parallel Traditional districts are subject to all applicable development standards and requirements for that use listed in the corresponding Traditional zoning district.

2. The application for a Parallel Traditional district must contain information and/or site plans which will indicate all of the principal and accessory uses which are proposed to be developed on the
site. Subsequent to the approval of a Parallel Traditional district, only those principal and accessory uses indicated on the approved plan may be constructed on the site. Any modifications to an approved plan or any changes in the permitted principal or accessory uses must comply with the provisions of § 155.401. [formerly § 153.202]

C. CONDITIONAL-ONLY DISTRICTS. The Conditional-Only district process allows certain uses to be established in accordance with specific development standards for each use. The categories listed at § 155.501.3.B may be utilized only through the Conditional-Only district process. The standards for these districts are provided in Chapter 5.

D. APPLICATION AND REVIEW PROCESS. The following process applies to both the Parallel Traditional and Conditional-Only districts. For simplicity the term conditional district shall be used in this section to refer to both types of districts unless otherwise noted.

1. APPLICATION. Applications to establish a conditional district shall be processed in accordance with the provisions of § 155.401.1, § 155.401.4, and § 155.401.5 as appropriate, as well as this section. A conditional district classification shall be considered only if the application is made by the owner of the property or his/her authorized agent. All applications must include a schematic plan drawn to scale and supporting text which will become part of the ordinance amendment. The applicant should include at least the items listed below:
   a. A boundary survey showing the total acreage, present zoning classifications, date, and north arrow.
   b. The owners’ names, addresses, and the tax parcel numbers of all adjoining properties.
   c. All existing easements, reservations, and rights-of-way, and all yards required for the zoning district(s) requested.
   d. Proposed use of land and structures. A site plan drawing, to scale, shall be submitted showing the outline of each building, related parking and vehicular circulation, pedestrian facilities, storage, service and loading facilities, vehicular queuing plans where appropriate for the use, storm water improvements, recreational facilities, required landscape screening and buffers, and all other planned improvements to the site. When this level of detail design has not yet been prepared, the applicant may choose to submit a generalized site plan document showing overall proposed land use by location, vehicular and non-vehicular circulation patterns, preserved natural or historic features, and required landscape screening and buffers. This generalized site plan must include a written condition that all development on the site will go through a subsequent site plan and/or elevation plan review and approval by the Board of Commissioners. In addition, general information on the intended density and intensity of development at build-out must be included on the site plan. For residential uses this should include the number of units and an outline of the area where the structures will be located. For nonresidential uses this should include the approximate square footage of all structures and an outline of the area where such structures will be located. For applications for Early Designation to an applicable Condition-Only district, a lesser level of detail is necessary. A site map showing land area in the requested zoning action is minimally required, along with additional written and/or graphic conditions matching the adopted small area plan or general development plan for the geographic area, and conditions indicating any proposed refinement of design standards of the proposed Conditional-Only district.
   e. Traffic, parking, and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets, all sidewalks, bicycle facilities, and multi-modal pathways for non-motorized transportation. For Early Designation applications, general motor vehicle and pedestrian/bicycle circulation plans, in written and/or graphic format, shall be submitted, sufficient to show compliance with any small area plan or general development plan for the geographic area.

2. ADDITIONAL REQUIREMENTS. When dealing with the conditional district process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore the Planning Director, Planning Board and/or the Board of Commissioners may request additional information as they deem necessary. This information may include but is not limited to the items listed below.
a. Proposed screening, including walls, fences, or planting areas as well as treatment of any existing natural features.

b. Delineation of areas within the regulatory floodplain as shown on official Flood Hazard Boundary Maps for Mecklenburg County.

c. Existing and proposed topography at four foot (4’) contour intervals or less.

d. Generalized information on the number, height, size, or location of structures.

e. Proposed number and location of signs.

f. Approximate completion time of the project and proposed phasing, if any.

3. Review and Approval.

a. In considering an application for the establishment of a conditional district, the Board of Commissioners may attach reasonable and appropriate conditions to the location, nature, and extent of the proposed use request conditions that exceed the minimum regulations set forth in the Unified Development Ordinance. Any conditions should exhibit the relationship of the proposed use to surrounding property, proposed support areas, the timing of development, and other matters that the Board may find appropriate or the applicant may propose. The applicant will have a reasonable opportunity to consider and respond to any such requirements prior to final action by the Board of Commissioners. All conditions included in any conditional zoning approval require agreement of the property owner, which may be accomplished by the owner’s authorized agent. The applicant must agree to such conditions and provide the Board of Commissioners with a signed written list of conditions to acknowledge their acceptance.

b. In evaluating an application for the establishment of a conditional district, it is appropriate for the Commissioners to consider the following.

i. The policies and objectives of the Matthews Land Use Plan and any relevant small area plan, particularly in relation to the proposed site and surrounding area.

ii. The potential adverse impacts on the surrounding area, especially in regard but not limited to traffic, storm drainage, land values, and compatibility of land use activities.

c. In the review and approval of a Parallel Traditional district, emphasis will be given to an evaluation of the characteristics of the specific use(s) proposed in relationship to surrounding properties.

4. Effect of Approval. If an application is approved, the conditional district established and all conditions attached to the approval are binding on the property. All subsequent development and use of the property must be in accordance with the approved plan and conditions. The intent of this type of zoning is to provide an alternative procedure for specific development proposals. It is intended that all property be zoned only in accordance with firm plans to develop. Therefore, three years from approval, the Planning Board will examine the progress made to develop in accordance with approved plans to determine if active efforts are proceeding. If it is determined by the Planning Board that active efforts to comply with the approved plan are not proceeding, a report will be forwarded to the Board of Commissioners which may recommend that action be initiated to remove the conditional district in accordance with the amendment procedures outlined in § 155.401.1 and § 155.401.4.

5. Zoning Map Designation. Following Board of Commissioners approval of a conditional district, the property in question will be identified on the zoning map by the appropriate Parallel Traditional or Conditional-Only district designation. [formerly § 153.201]

155.401.7 Use of Flexible Design Standards

A. Opportunity to Apply. Certain conditional zoning districts are intended to allow flexibility in overall design through the use of Flexible Design Provisions. Because it is not always possible to anticipate variations or improvements in the development types or to accommodate changes with broad, all-encompassing regulations which could create good quality of life opportunities, these provisions allow the Board of Commissioners to consider and evaluate new and flexible design concepts in a specially designated and controlled setting.
1. The R-VS SRN, C-MF, MUD, TS, and ENT Conditional-Only districts provide such a setting. Therefore, the opportunity for flexible design standards may be included as an integral part of proposals for these districts.

2. The Cottage Cluster Housing alternative in the residential districts provide such a setting. Therefore, the opportunity for flexible design standards may be included as an integral part of proposals for Cottage Cluster Housing within any of the single-family zoning districts when requested through a Parallel Traditional district process.

3. Various permitted uses within the CrC district may apply flexible design standards.

B. **PURPOSE.** It is the objective of these flexible design standards to encourage development proposals that exhibit such special qualities or concepts that they may deviate from standard ordinance requirements. These regulations are established in order that a flexible design proposal will be evaluated on its own merits. It is recognized that some proposals or concepts will be more successful than others, and the approval of a specific proposal in one situation does not mean that a similar proposal would be acceptable in other circumstances. These provisions are purely optional and are a voluntary means by which land may be developed outside of the standard ordinance requirements. These provisions are designed to evaluate only those flexible design concepts that propose to meet a community need that would not otherwise be met. Finally, it should be emphasized that these provisions should not be confused with or take the place of the normal zoning and subdivision variance procedures established either in § 155.403 or § 155.712.

C. **CERTAIN ZONING DEVELOPMENT STANDARDS MAY BE MODIFIED.** The quantitative dimensions and locational zoning standards listed here which would normally apply to development may be modified through the flexible design process.

1. Lot area.
2. Lot width.
3. Public street frontage.
4. Setbacks and yards.
5. Building separation.
6. Height of fences and walls.
7. Block length.
8. Maximum build-to line only when a lot has multiple street frontages (public or private street frontages).
9. Location of off-street parking (distance from site and/or on-site or off-site provisions; partially within a sight triangle; partially within perimeter planting or required screening; distance of parking area and access drives from lot lines in the ENT District).
10. Specific standards set within the Conditional Only zoning districts for “Building and Structure Design Principles” (within subsection G of each district’s section at 155.503) when they would result in new development concepts, innovative design, unique circumstances, or public/private ventures.
11. Minimum tree canopy as called for at 155.606.7 for the ENT district only. (Am. Ord. 2269, passed 11-13-17)

D. **CERTAIN INFRASTRUCTURE STANDARDS MAY BE MODIFIED.** The infrastructure standards of Chapter 7 which would normally apply to development may be modified either through the subdivision variance process or flexible design process, each as identified below.

1. Street right-of-way.
   a. Street right-of-way must be at least thirty feet (30’) for a private street or alley in accordance with the Land Development Standards Manual or other adopted street cross sections.
   b. Street right-of-way must be at least forty four feet (44’) for a two-way public street in accordance with the Land Development Standards Manual or other adopted street cross sections.
   c. The Board of Commissioners may modify the above minimum standards as they deem necessary or justifiable through the subdivision variance procedure as established at § 155.712.
2. Street type – public or private.
   a. Where a public street is used, it must be constructed in accordance with the Land Development Standards Manual or other adopted street cross sections.
   b. Where a private street is used, it must be constructed in accordance with the Land Development Standards Manual or other adopted street cross sections. Private streets generally will not be allowed although private alleys may be used. Private streets must be identified on any record maps as “private street not eligible for State or Town maintenance”.
   c. The Board of Commissioners may modify the above requirements as they deem necessary or justifiable through the subdivision variance procedure as established at § 155.712.

3. Sidewalks, pedestrian pathways, and multi-use trails (all non-motorized use paths). Where required or used, sidewalks and other pedestrian bike facilities shall conform to the minimum width and construction standards of Chapter 7, and to the standards as may be adopted separately for any type of non-motorized use pathways. They may, however, deviate from the usual placement within the road right-of-way, and may meander on both public and privately-owned land with appropriate easements. The Board of Commissioners may consider deviations regarding location and construction standards for non-motorized vehicular use pathways through the flexible design procedures of this § 155.401.7.

4. Curbs and gutters. Where required or used, curbs and gutters must conform to the Land Development Standards Manual or other adopted street cross sections, or provide sufficient documentation to illustrate alternative construction design that will provide necessary storm water control and adequate traffic and parking safety. The Board of Commissioners may consider deviations regarding location and construction standards for non-motorized vehicular use pathways through the flexible design procedures of this § 155.401.7.

E. LIMITATIONS ON PROJECT SIZE. Due to the special nature of these provisions, it may be desirable to limit the size of the area proposed for flexible design standards. This will ensure the appropriateness of the land use relationships with adjoining property, and/or within the development site itself, while providing needed flexibility essential to the success of these provisions.

1. In any R-VS district, the cumulative project area which may incorporate flexible design provisions shall not exceed ten (10) acres.
2. In any MUD district, the cumulative project area which may incorporate flexible design provisions shall not exceed thirty (30) acres.
3. In any residential district employing the Cottage Cluster Housing option, the total project area, when incorporating flexible design provisions, shall not exceed ten (10) acres.

F. APPLICATION PROCESS.

1. In applying for approval of a flexible design standards project, the applicant shall include a letter to the Planning Director with a statement of intent outlining the purposes and objectives of the proposed development; the particular development standards being modified; the special design features or amenities being incorporated into the plan which makes the proposed development significant and worthy of approval; identification of the individual separate locations where flexible design provisions are proposed to be used, and the cumulative total acreage; and any other applicable information that the applicant may feel is appropriate. The applicant must submit a site development plan drawn to scale showing the information listed below.
   a. Proposed lot configurations.
   b. Proposed vehicular and non-vehicular circulation systems, off-street parking arrangements, on-street parking locations, pedestrian and bicycle facilities and pathways.
   c. Open space system, specifying what improvements, amenities, or facilities will be located within the open space, and phasing of implementation, if phasing is proposed.
   d. Proposed screening, including fences, walls, or planting areas.
   e. Proposed treatment of any significant natural features.

2. The Board of Commissioners, the Planning Board, or the Planning Director or designee may require additional information that may be necessary for an adequate review of the proposed development. This information may include individual building concepts, intended use and design
of green or environmentally sustainable elements, proposed recreational amenities, and similar information.

G. REVIEW AND APPROVAL. Any application for flexible design will be considered at the same time as the related conditional district application or through a separate site plan and/or elevation plan review, as appropriate. In evaluating an application for flexible design, the Planning Board and Board of Commissioners will consider whether the development plan meets the following objectives.

1. Accomplishes objectives as specified in the written statement of intent.
2. Exhibits special, atypical design features or environmentally sustainable elements and creates a thoughtful, imaginative use of land.
3. Provides for reasonable and appropriate land use relationships, both within the development itself and with surrounding areas adjacent to the development, specifically improving neighborhood access to employment or services opportunities.
4. Exhibits design criteria that will protect and preserve substantial natural or historic features of the site prior to any land disturbing activity.
5. Provides the community with a beneficial, alternative design concept which is potentially applicable in other community situations. (Am. Ord. 2059, passed 12-8-14) [formerly § 153.207]

155.402. Vested Rights

155.402.1 Purpose
The purpose of this section is to implement the provisions of GS Chapter 160A-385.1 160D 108.1 (29) pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan. (’72 Code, § 24-1800) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.240]

155.402.2 Definitions
For the purpose of this § 155.402, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Approval Authority: shall mean the Town Board of Commissioners is authorized to grant the specific zoning approval that constitutes a site specific development plan.

Multi-phased development: shall mean a development containing one hundred (100) acres or more that: i) is submitted for site plan approval for construction to occur in more than one phase; and ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval, all as provided by NCGS 160A -385.160D-1-8 (29). (Am. Ord. 2188, passed 11 14-16)

Property Owner: shall mean any owner of a legal or equitable interest in real property, including the devisees, heirs, successors, assigns, and personal representative of that owner. The property owner may allow a person holding a valid option to purchase to act as his agent for purposes of submitting a proposed site specific development plan.

Site Specific Development Vesting Plan: shall mean a plan of land development submitted to the Town for purposes of obtaining a certificate of vested right which plan shall include the following items: i) a boundary survey showing the total acreage, present zoning classifications, date, and north arrow; ii) the owners’ names, addresses, and the tax parcel numbers of all adjoining properties; iii) all existing easements, reservations, and rights-of-way and all yards required for the zoning district requested; iv) proposed use of structures and land (for residential uses, this should include the number of units and an outline of the area where the structures will be located; for nonresidential uses, this should include the approximate square footage of all structures and an outline of the area where the structures will be located); and, v) traffic, parking, and circulation plans, showing proposed locations and arrangement of parking spaces and access points to adjacent streets. Notwithstanding the foregoing, neither a variance, a Sketch Plan, or any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development vesting plan.

Vested Right: shall mean a right pursuant to GS 160A-385.1 160D-1-8 to undertake and complete the development and use of property under the conditions and terms of an approved site specific development plan, upon receipt of a certificate of vested right. (’72 Code, § 24-1801) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly §153.241]
155.402.3 Obtaining a Certificate of Vested Right

A. CERTIFICATE OF VESTED RIGHT CONCURRENT WITH SUBMITTAL OF A PARALLEL TRADITIONAL OR CONDITIONAL-ONLY DISTRICT ZONING APPLICATION.

1. If the property owner so chooses, an application for vested right and fee (in accordance with a fee schedule adopted by the Town Board of Commissioners) may be submitted concurrent with a zoning application for a conditional district rezoning. Upon the successful completion of a conditional district zoning request, which includes a public hearing, Planning Board review, and Town Board of Commissioners final approval, then a certificate of vested right shall be issued. (72 Code, § 24-1802) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.242]

2. A multi-phased development request for vested right (over one hundred acres) shall be submitted concurrent with a zoning application for a conditional district rezoning. This request will require additional time for staff review, and will not be scheduled for public hearing on the zoning request until the Planning office has verified all necessary information, including what is listed in 155.402.3.C. below and any data unique to the proposed development location, has been satisfactorily submitted. The zoning public hearing will be scheduled no earlier than three (3) months following initial submission. If the proposed development location has been previously zoned to a conditional district through an early designation process, then the request for vested right will be processed as though it is a change of zoning conditions for that zoning district and therefore will follow the same review and approval steps as a zoning action. (Am. Ord. 2188, passed 11-14-16)

3. A multi-phased development of 25 acres or greater shall be vested for seven (7) years for the entire development with the zoning regulations, subdivision regulations, and unified development ordinance in place at the time a site plan approval is granted for the initial phase of the multi-phased development. Multi-phased developments are subject to a master plan with committed elements, including a requirement to offer land or public use as a condition of its master development plan approval.

B. OBTAINING A CERTIFICATE OF VESTED RIGHT INDEPENDENT OF ZONING APPLICATION. To apply for a certificate of vested right, a property owner or his agent shall submit a site specific development vesting plan, a fee (in accordance with a fee schedule adopted by the Town Board of Commissioners) and an application for vested right on a form supplied by the Town. The application and plan shall be accepted by the Town Board of Commissioners and a hearing date shall be set. Following the hearing, the Board of Commissioners may submit the application to the Planning Board for its recommendation. The Board of Commissioners shall approve, approve with conditions, or deny the site specific development vesting plan. Conditions shall be reasonable and appropriate and relate to the relationship of the proposed use to surrounding property, proposed support facilities, such as parking areas and driveways, pedestrian and vehicular circulation systems, buffer and screening areas, the timing of development, and other matters the Board of Commissioners may deem necessary for public health or safety. (72 Code, § 24-1803) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.243]

C. CERTIFICATE OF VESTED RIGHT APPLICATION REQUIREMENTS. The Town Board of Commissioners may request additional information as they deem necessary in order to evaluate a proposed use and its relationship to the surrounding area. This information may include but is not limited to the items listed below.

A. Proposed screening, including walls, fences, or planting areas, as well as treatment of any existing natural features;

B. Delineation of areas within the regulatory floodplain as shown on the official Flood Hazard Boundary Maps;

C. Existing and proposed topography at two foot (2’) contour intervals or less;

D. Generalized information on the number, height, size, or location of structures;

E. Location and size of storm water quality ponds or facilities;

F. Driveway access and off-street parking areas;

G. Proposed number, size, and location of signs; and,

H. Proposed phasing, if any, and approximate completion time of the project. (72 Code, § 24-
D. **PUBLIC HEARING.** A public hearing date shall be set by the Town Board of Commissioners at the next regularly scheduled meeting which includes zoning matters, subject to sufficient time for advertisement. Notice shall be published in a newspaper having general circulation in the Town area once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty five (25) days prior to the date established for the public hearing. In addition, a notice of the public hearing shall be sent by first class mail to the owners of all parcels of land which are wholly or partially within one hundred feet (100’) of any point of the subject property, when calculated to exclude any public right-of-way one hundred feet (100’) wide or less, as shown on the most current county tax listing. The applicant shall prepare such notices to all property owners required to receive mailed notification, and shall deliver said notices to the Planning Office at the time of application submittal for a Certificate of Vested Right. [formerly § 153.244]

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**155.402.4 Approval of a Site Specific Development Vesting Plan**

A. **CONSIDERATIONS FOR APPROVAL.** The burden of proof of producing evidence to support these findings and to overcome challenges to them shall rest entirely with the property owner. In evaluating a site specific development vesting plan for approval, the Board of Commissioners shall find the following:

1. The policies and objectives of the Land Use Plan, particularly in relation to the proposed site and surrounding area shall be met.
2. The potential adverse impacts on the surrounding area, especially in regard but not limited to traffic, storm drainage, land values, and compatibility of land use activities shall be minimized to the greatest extent possible.
3. The plan meets all specifications required by this Title.
4. The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed. [formerly § 153.246]

B. **APPROVAL OF SITE SPECIFIC DEVELOPMENT VESTING PLAN.** Upon approval of a site specific development vesting plan, a statement shall be placed on the plan reading:

   “A vested right under GS 160A-385.1 160D-1-8 102 (29) has been established for this property as shown on this site Specific Development Vesting Plan, approved on (date). Unless terminated at an earlier date, the vested right shall remain valid until (date).”

   (’72 Code, § 24-1807)(Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.247]

C. **OTHER REVIEWS.** Following approval of a site specific development vesting plan, nothing in this chapter shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that those reviews and approvals are not inconsistent with the original approval. The establishment of a vested right on a property shall not preclude the Town from creating and approving one or more overlay districts which may impose additional restrictions on the property, provided that those restrictions do not affect the allowable type or intensity of use. The Town may also enforce on the property any regulations adopted during the effective time period of the vested right, which are general in nature and applicable to all property subject to the regulations of 155.402. (’72 Code, § 24-1808)(Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.248]

D. **DURATION.** A vested right shall be approved for a period of two (2) years, except a vested right for a multi-phase development (100 25 acres or larger) shall be approved for a period of seven (7) years. It shall be effective immediately upon approval. Upon issuance of a building permit, the expiration provisions of GS 160A-418 160D-11-13 and the revocation provisions of GS 160A-418 160D shall apply, except that a building permit shall not expire or be revoked due to the running of time while an established vested right is outstanding. A multi-phased development shall be vested for the entire development to utilize the provisions of this Title in place at the time of zoning and site plan approval for the initial phase of the multi-phased development. (Am. Ord. 2188, passed 11-14-16) (’72 Code, § 24-1809)(Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.249]

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**155.402.5 Termination of a Zoning Vested Right**

A zoning right that has been vested as provided in this § 155.402 shall terminate:

A. At the end of the applicable vesting period with respect to buildings or uses for which no valid building
permit applications have been filed;

B. With the written consent of the affected property owner;

C. Upon findings by the Town Board of Commissioners, by ordinance after notice and public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;

D. Upon payment to the affected property owner of compensation for all costs, expenses, and other losses incurred by the property owner, including fees paid in consideration of financing and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval of vested right, and interest at the legal rate until paid;

E. Upon findings by the Town Board of Commissioners, by ordinance after notice and a hearing, that the property owner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or

F. Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the Board of Commissioners may modify the affected provisions, upon a finding, by ordinance after notice and a hearing, that the change in state or federal law has a fundamental effect on the plan. (‘72 Code, § 24-1810) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.250]

155.402.6 Voluntary Annexation

A petition for voluntary annexation for contiguous or satellite boundaries shall contain a signed statement declaring whether or not any vested right with respect to the properties subject to the petition has been established. A statement declaring that no vested right has been established, or the failure to sign a statement declaring an established vested right, shall be binding on the property owner and any undeclared vested right shall be terminated. (‘72 Code, § 24-1811) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.251]

155.402.7 Repealer

In the event that GS 160A-385.1 160D-10-7 is repealed, § 155.402 shall be deemed repealed and the provisions within no longer effective. (‘72 Code, § 24-1812) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly §153.252]

155.403. Process for Deciding Interpretations, Appeals, and Variances

In fulfilling the duties listed at § 155.208, the Town Board of Adjustment shall receive and act on applications presented for their review and action.

155.403.1 Interpretation and Variance Limitations

No request for interpretation or variance to zoning provisions of Chapters 1 through 6 inclusive, or to the Floodplain and Flood Damage Protection Standards of Chapter 9, shall be granted that would have the effect of allowing a use not permitted in the district in which the property in question is located.

155.403.2 Application Process

A. APPLICATION REQUIRED.

1. All interpretation or variance applications shall be filed with the Planning Office. An application shall be considered filed with the Planning Office when delivered to the Planning Office and the date and time of filing shall be entered on the application by the Planning Office staff.

2. An appeal of any determination, order, requirement or decision by an administrative official must be taken within thirty (30) days after the date of decision or order which is being appealed. An appeal shall be concurrently filed with the Town Clerk, the Planning Office and any administrative official charged with enforcement of this Title, which shall serve as the notice of appeal finding as required at NCGS 160A-388(b1)(c) 160D-4-4. An application shall be considered filed when delivered to both the Town Clerk and the Planning Office and the date and time of filing shall be entered on the application by the Planning Office staff.

B. DETERMINATION OF COMPLETE APPLICATIONS. An application for interpretation, appeal, or variance will not be deemed properly filed unless it is complete. The Planning Office shall determine the completeness of an application. Upon determination that the application is complete, the Board of Adjustment shall
schedule a hearing in accordance with the application schedule on file in the Planning Office.

C. **NOTICE TO OFFICIAL.** When an appeal is filed, the Planning Office shall transmit to the Board of Adjustment and to any administrative official charged with enforcement of a pertinent section of this Title all documents constituting the record relating to the action which is being appealed. An administrative or enforcement official may include, but is not limited to, the Town Planning Director or designee, the Town Code Enforcement Officer, the Town Zoning Administrator, the Town Public Works Director or designee, the Town Engineer, the Town Storm Water Administrator, the Town Floodplain Administrator, and an employee of the Mecklenburg County Land Use and Environmental Services Agency or Mecklenburg County Code Enforcement Division when applying Town adopted regulations.

D. **EFFECT OF APPEAL APPLICATION.** An appeal stays all actions by the enforcement official seeking enforcement of or compliance with the order or decision being appealed unless the enforcement official certifies to the Board of Adjustment in an affidavit that a stay would cause imminent peril to life or property, or because the violation is transitory in nature, a stay would seriously interfere with the enforcement of this Title. In that case, enforcement proceedings shall not be stayed except by restraining order. If enforcement is not stayed, the appellant may request an expedited hearing, as allowed at NCGS 160A-388(b1)(6).

### 155.403.3 Findings of Fact for Zoning Variances

In granting any zoning variance to provisions within Chapters 1 through 6, the Board of Adjustment shall make findings listed at § 155.208.C.1.b.i through iv that an unnecessary hardship would result from the strict application of this Title, that the hardship is peculiar to the subject property, that the hardship is not self-created, and that the variance is consistent with the spirit of this Title and public safety is secured. To reach these findings, the Board of Adjustment shall consider the following standards:

A. That special or unique circumstances or conditions exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;

B. That the special conditions or circumstances do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Planning Director, or designee, before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later;

C. That the unique hardship situations cited by the applicant are not hardships resulting from personal or household members’ circumstances which would no longer be applicable to the location if the applicant or household was no longer present at the property;

D. That the strict enforcement of this Title would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Title;

E. That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Title denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief;

F. That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties; and

G. That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance.

### 155.403.4 Conditions of Approval for Zoning Variances

In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practical with surrounding properties.

### 155.403.5 Burden of Proof

A. **ZONING VARIANCES.** The burden of presenting evidence sufficient to allow the Board of Adjustment to make its findings as set forth in § 155.403.3, as well as the burden of persuasion on those issues remains with the applicant seeking the variance.

B. **APPEALS.** When an appeal is taken to the Board of Adjustment in accordance with § 155.403.2, the enforcement official shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision which is being appealed. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
155.403.6 Action by Board of Adjustment

A. VARIANCE APPROVAL. Before a variance action is determined to be granted, the Board of Adjustment shall vote affirmatively by a four-fifths majority on the request and on the required findings of fact in § 155.208.C.1. A statement on each of the seven standards in § 155.403.3, or any other contested facts and their application to the case under review, may be included to give a specific reason in support of the motion.

B. VARIANCE DENIAL. A motion to deny a variance may be made on the basis that any one or more of the standards and therefore required findings of fact are not satisfied or that the application is incomplete. The motion shall include a statement of the specific reasons or findings of fact that support such motion. The motion is adopted as the Board’s decision if supported by more than one-fifth of the Board’s membership (excluding vacant seats). [Expands upon § 153.289]

C. APPEAL. The Board of Adjustment may reverse or affirm in whole or in part, or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it. To this end, the Board shall have all the powers of the officer from whom the appeal is taken. A motion to reverse, affirm, or modify the order, requirement, decision, or determination which is being appealed shall include a statement of the specific reasons or findings of fact that support the motion. If a motion to reverse or modify is not made or fails to receive a majority vote necessary for adoption, then a motion to uphold the decision appealed from shall be in order.

D. INTERPRETATION. The Board of Adjustment shall interpret the meaning or application of text within this Title, zoning maps, district boundary lines and similar questions by a concurring vote of a majority.

E. WRITTEN DECISION. Each quasi-judicial decision by the Board of Adjustment shall be in writing and signed by the chair or other duly authorized member of the Board. The decision shall become effective when the signed decision is filed with the clerk to the board. A copy of the signed decision shall be given to the applicant, property owner, and any person who requested in writing to receive a copy by personal delivery, electronic mail, or first-class mail. The person delivering this notice shall certify that proper notice has been made. [Expands upon § 153.289]

155.403.7 Other Appeal or Variance Actions

A. VARIANCE FROM SUBDIVISION REGULATIONS. The procedures, standards, and requirements as given in § 155.712 shall be followed for any request for variance from Chapter 7 Public Improvement Standards.

B. APPEAL OR VARIANCE FROM POST CONSTRUCTION ORDINANCE REGULATIONS. The procedures given in § 155.802.E. for actions taken by the Storm Water Advisory Committee (SWAC) shall be followed for any request for variance or appeal to enforcement of and regulations in Chapter 8 Post Construction Storm Water Regulations.

C. APPEAL OR VARIANCE FROM FLOODPLAIN REGULATIONS. The Board of Adjustment shall follow the procedures, standards, and requirements as given in § 155.904 for any request for variance or appeal from Chapter 9 Floodplain Regulations.

D. APPEAL FROM MINIMUM HOUSING REGULATIONS. The Board of Adjustment shall follow the procedures given in § 155.1005.D. for any appeals of enforcement decisions or actions taken to implement Chapter 10 Housing Code.

155.403.8 Effect of Board’s Decision

A. After the Board of Adjustment approves an interpretation or a variance, the applicant shall be required to follow the applicable procedures of this Chapter 4 for the approval of a building permit or Certificate of Occupancy in order to proceed with the use and development of the subject property. Where a variance is granted, unless otherwise specified by the Board, the variance shall automatically expire if a building permit is required and is not obtained within six (6) months from the date of the meeting at which the Board of Adjustment rendered its decision. In addition, if six (6) months has expired, the Zoning Administrator shall have the authority to authorize the permit to be issued if the Zoning Administrator determines that, based upon the Board’s decision the circumstances for granting of the variance have not changed and would allow the issuance of the permit.

B. After the Board of Adjustment reverses or modifies an order, requirement, decision, or determination of the Zoning Administrator, the appellant shall be required to follow the applicable procedures of this Chapter 4 for the approval of a building permit or Certificate of Occupancy in order to proceed with the use and
development of the subject property.

C. After the Board of Adjustment issues an interpretation on how a specific provision of this Title is to be understood and applied, then that interpretation will be used on future situations with matching criteria. Future amendments to clarify or further revise written provisions or zoning maps shall follow the procedures outlined in this Chapter 4.

D. Decisions on interpretations, appeals, and variances by the Board of Adjustment may be appealed when such appeal is to superior court in the nature of certiorari as provided by law. A petition for review shall be filed with the clerk of superior court by the later of thirty (30) days after the decision is effective or thirty (30) days after a written copy is given to the applicant or property owner.

155.405. Subdivisions

155.405.1 General Requirements

A. PURPOSE. The provisions of these regulations are designed and enacted for the following purposes: to promote the orderly development of the Town and its environs; to promote the coordination of streets within subdivisions with existing or planned streets or with public facilities; to secure adequate rights-of-way or easements for street or utility purposes; to secure adequate spaces for recreation, open space, and school sites; to provide for the distribution of population and traffic in a manner which will avoid congestion and overcrowding; to protect and enhance environmental quality; and to create conditions essential to health, safety, convenience and the general welfare. [formerly § 152.01]

B. JURISDICTION. The provisions of these regulations apply to all subdivision activities for which approval under these regulations is required in the Town of Matthews. [formerly § 152.02]

C. APPLICABILITY. A subdivision shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but, the following shall not be considered a subdivision nor be subject to the requirements of the regulations of this § 155.405:

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of these regulations;

2. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;

3. The public acquisition by purchase of strips of land for the widening or opening of streets; and

4. The division of a tract in single ownership whose entire area is not greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of these regulations and the underlying zoning district. [formerly the definition of "subdivision" from § 152.10]

D. COMPLIANCE WITH OFFICIAL PLANS. When a proposed subdivision embraces any part of a proposed thoroughfare, school, park, or recreation site, or other public facility which has been designated in the officially adopted plan of the Town or CRTPO, that planned facility shall be platted and designated by the subdivider in the location shown on the plan in accordance with § 155.405.4.L, § 155.405.4.M, § 155.405.4.N, and § 155.405.4.O. (Am. Ord. 2231, passed 6-12-17) [formerly § 152.04]

155.405.2 Subdivision Plat Required

After the effective date of this Title and pursuant to GS 160A-372, GS 160D-804, a Final Plat shall be prepared, approved and recorded pursuant to the provisions of this Title whenever any subdivision of land occurs. [formerly § 152.20]

155.405.3 Approval Prerequisite to Plat Recording

Pursuant to GS 160A-3460A-373, 160D-8-3, no Final Plat of a subdivision within the jurisdiction of the Town shall be recorded by the Register of Deeds of Mecklenburg County until it has been approved as provided by this Title. To obtain approval of a Final Plat the subdivider shall follow the procedures established in this Chapter.

155.405.4 General Subdivision Design Criteria
The following statements provide general requirements and policies to be used in the design, review, and approval of any subdivision under the jurisdiction of these regulations. As stated at § 155.701.C, these provisions also apply to any proposed rezoning, expansion of an existing development (40% or more increase in building square footage or outdoor use area), any new development, or any redevelopment of land where they logically can apply (i.e., not § 155.405.4.Q since subdivision names would not apply to a development site not involving a formal subdivision final plat). (Am. Ord 2059, passed 12-8-14)

A. **CONSISTENCY WITH ADOPTED PUBLIC PLANS AND POLICIES.** All subdivisions of land approved under these regulations shall be consistent with the most recently adopted plans and policies for the area in which they are located and conform to the dimensional requirements of the underlying zoning. 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.

B. **CONFORMITY.** All proposed subdivisions shall be planned so as to facilitate the most advantageous development of the entire neighboring area. In areas where nearby development has occurred, new subdivisions should be planned to protect and enhance the stability, environment, health and character of the neighboring area.

C. **EXTENSION OF EXISTING STREETS.** The proposed street system shall extend streets on their proper projections at the same or greater width than the minimum required by these regulations. Emphasis will be placed on the adopted Comprehensive Transportation Plan or thoroughfare plan and any adopted small area plans in the determination of street extensions and connections. (Am. Ord. 2231, passed 6-12-17)

D. **ACCESS TO ADJOINING UNSUBDIVIDED PROPERTY.** The proposed street system shall be designed to provide for desirable access to and not to impose undue hardship upon unsubdivided property adjoining the subdivision and to provide interconnection to similar adjacent uses when such connection would facilitate traffic movement in the area. Reserve strips adjoining street rights-of-way for the purpose of preventing access to adjacent property are not permitted.

E. **RELATIONSHIP TO TOPOGRAPHY.** In sloping terrain, streets should parallel the contours of the land insofar as practicable, to avoid steep grades and the undue concentration of storm water surface runoff.

F. **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. Streetscape trees shall be incorporated along all new public or private streets, and should utilize existing trees to the greatest extent possible. Streetscape trees shall follow the Town’s adopted plans along existing roads. Interior landscaping within newly platted lots should be designed to incorporate and preserve existing trees. (Ord. No. 1618, passed 4-14-08)

G. **ACCESS TO PARKS, SCHOOLS, GREENWAYS, ETC.** Streets shall be designed or walkways dedicated to assure convenient access to parks, greenways, playgrounds, schools and other places of public assembly. Dedicated walkways or easements shall not be less than fifteen feet (15’) in width and may be required to be large enough and structurally capable of providing vehicular access for maintenance vehicles.

H. **NEIGHBORHOOD CONNECTIVITY.** Subdivisions shall be designed to connect to adjacent neighborhoods by street to the greatest extent practicable for improved access for emergency services without encouraging a significant increase in volume of traffic or speed of motor vehicles. Subdivisions shall also be designed to incorporate bicycle and pedestrian facilities in such a manner as to allow for access within and between neighborhoods.

I. **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 the future grade separation of street and railroad crossings.

J. **HALF STREETS.** Whenever an existing half street is adjacent to a tract of land to be subdivided the other half of the street shall be platted within such tract. New half streets are prohibited.

K. **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 by the Town or the North Carolina Department of Transportation (NCDOT) to provide a street parallel to the highway or to utilize reverse frontage on an interior street for the lots to be developed adjacent to the highway. Where reverse frontage is established, deed restrictions or other means shall be provided to prevent private driveways from having direct access to the highway or street.

L. **PUBLIC PARK, GREENWAY, RECREATION, AND OPEN SPACE SITES.** The subdivider of each subdivision which includes residential lots shall dedicate a portion of such land or pay a fee in lieu of land dedication, in accordance with Chapter 7, for public park, greenway, recreation, and open space sites to serve the recreational needs of the residents of the subdivision.
M. **PUBLIC SCHOOL SITES.** When a tract of land that appears in an adopted plan or policy document as a future public school site falls within an area proposed to be subdivided, the Planning Director shall notify the Charlotte-Mecklenburg Board of Education of the proposed subdivision and its effect on the future public site. The Board of Education must decide within thirty (30) days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision shall be processed in the normal fashion. If the Board of Education does wish to reserve the site, then the subdivision shall not be approved without such reservation. The Board of Education shall have eighteen (18) months from the date of Preliminary Plan approval to acquire the site by purchase, receipt of a dedication or by initiating condemnation proceedings. The Board of Education may also choose to release the site from reservation at any time prior to the end of the eighteen (18) month period. If at the end of the eighteen (18) month period none of the actions listed above have commenced, the subdivider may consider the land free of any reservation.

N. **PUBLIC FACILITIES.** When a tract of land that appears in an 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, or other public use, falls within the area proposed to be subdivided, the Town staff shall notify the appropriate agency of the proposed subdivision and its effect on the future public site. The appropriate agency must decide within thirty (30) days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision shall proceed in the normal fashion. If the agency does wish to reserve the site, then the subdivision shall not be approved without such reservation. The appropriate agency shall have eighteen (18) months from the date of Preliminary Plan approval to acquire the site by purchase, receipt of a dedication or by initiating condemnation proceedings. The appropriate agency may also choose to release the site from reservation at any time prior to the end of the eighteen (18) month period. If, at the end of the eighteen (18) month period, none of the actions listed above have commenced, the subdivider may consider the land free of any reservation.

O. **THOROUGHFARE RIGHTS-OF-WAY.** Whenever a tract of land to be subdivided includes any part of any arterial street shown on the adopted Comprehensive Transportation Plan, the right-of-way for the arterial street shall be platted and dedicated or reserved in accordance with Chapter 7. (Am. Ord. 2231, passed 6-12-17)

P. **STREET NAMES.** All proposed street names must be reviewed by Matthews Planning Department, Public Works, Police Department, and Fire & EMS Department before being submitted to Mecklenburg County for final approval. A proper street name shall include one (1) to three (3) words as the main name and a street type suffix. A proper street name may include a directional prefix, and/or “extension” following the street type suffix. Proposed street names shall adhere to the following guidelines: do not duplicate nor too closely approximate phonetically the name of any street within the Town or county; do not use business names; do not include punctuation; do not use possibly offensive names; and do not include directional suffixes. Where proposed streets are extensions of existing streets, or align with an existing street, the existing names should be used, except where a new name can reasonably be used to facilitate the proper street address numbering or to avoid further street name duplication. Words shall not be used as the first word of a street name if used in two other locations within the county. The only exception allowed is use of a generic label naming a topographic feature or a color, which can be part of multiple street names. (Am. Ord 2176, passed 9-12-16)

Q. **SUBDIVISION NAMES.** Proposed subdivision names shall not duplicate nor too closely approximate phonetically the name of any subdivision within the Town, unless applicant presents compelling reasons to support proposed name. Compelling reasons include known and documented historical reference names specific to the history of the Town of Matthews. Subdivision names should minimize the use of words used two (2) or more times as part of names of streets (except streets internal to the subdivision), residential subdivisions, commercial subdivisions or apartment complexes within the county except where the new subdivision is an extension of or adjacent to an existing subdivision with the same name. Applicants may present requests to deviate from this ordinance prior to the completion of any new subdivision. Approval of requested names shall be reviewed on an individual basis and solely at the discretion of the Board of Commissioners. (Am. Ord. 2091, passed 6-8-15)

R. **EASEMENTS.** Easements for public and private utilities and drainage shall be provided on all lots when requested by an appropriate utility agency or as determined to be necessary by the Town Public Works Director. Easements shall be established to the width and in the locations required by the County Land Use and Environmental Services Agency, the Town Public Works Director and the Charlotte-Mecklenburg Utility Department as appropriate, but in no case shall be less than a minimum of ten feet (10’) in width and shall be centered on rear and side lot lines. A utility easement not less than five feet (5’) in width shall be provided along the front lot line. More than one easement may be required on a lot to accommodate the various utilities and drainage facilities.
S. **PROPOSED WATER AND SEWERAGE SYSTEM.** The preliminary subdivision plan shall be accompanied by satisfactory evidence as to the proposed method of providing potable water and a system of sanitary sewage collection and disposal.

1. Where these systems are to be a part of the Charlotte-Mecklenburg public water and sanitary sewerage system, the acceptability of the proposed system should be attested by the approval of the preliminary subdivision plan by the utility department or a letter from the utility department stating the availability of water and/or sewer service and that the subdivision shall be allowed to connect to the system upon completion and dedication of the systems in the development.

2. When 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 meet the Charlotte-Mecklenburg Utility Department Standards and shall be reviewed and approved by the agency or agencies with jurisdiction over the approval. Evidence must be provided by the developer prior to the Preliminary Plan approval of the required soil and site evaluation. Prior to the approval of the Final Plat evidence must be provided that both the sewer and water system designs meet Charlotte-Mecklenburg Utility Department Standards and 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 State Department of Environment and Natural Resources shall 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 Environment and Natural Resources.

T. **STORM WATER.** When a tract of land to be subdivided is required to comply with the Matthews Post Construction Ordinance, Chapter 8 of this Title, and/or the storm water management standards at § 155.704, then all requirements and procedures of these provisions shall be followed. (Ord. 1585, passed 8-13-07)

U. **RESTRICTIONS ON THE SUBDIVISION OF LAND SUBJECT TO FLOODING.** Lots that are subject to flooding shall not be established in subdivisions except as provided in Chapter 9. [formerly § 152.21]

V. **BURIED UTILITIES.** Except for overland drainage and detention, meters, and control boxes/equipment, all public and private utilities in the subdivision shall be buried.

W. **CENTRALIZED BOX UNITS (CBUs) FOR USPS MAIL DELIVERY.** Where the US Postal Service determines there is a need to utilize one or more Centralized Box Units (CBUs) in place of individual curb-side mailboxes, then the following dimensional and design criteria shall be followed:

1. Any CBU placement shall meet the requirements of the US Postal Service for unobstructed pavement and individual CBU unit(s), and shall be situated to meet ADA requirements. CBUs shall be placed where there is a logical, safe and direct walking path between the CBU location and the homes, offices, or other establishments being provided with mail delivery service.

2. Any CBU structure shall not extend over the required minimum width of the public sidewalk, over the street curb and gutter, or over any bike facility.

3. Any CBU shall not open directly toward travel lanes (bicycle or motor vehicle) within the street without adequate space for the carrier and users to open individual unit boxes to insert or retrieve mail.

4. A CBU shall be accessible from the adjacent sidewalk when one is provided.

5. A CBU shall be set back from the edge of pavement or back of curb at least five feet (5’) when no sidewalk or pedestrian path is either immediately adjacent or connected by a minimum 5’ wide solid surface path.

6. A CBU shall not be placed any closer to an intersection of two Class V, VI, or VI-L streets than forty feet (40’).

7. A minimum of two (2) on- or off-street parking spaces shall be provided within eighty feet (80’) of any CBU which is located on a Class IV or higher street. These parking spaces shall be placed such that the carrier or individual visiting the CBU does not need to cross a Class IV or higher street after exiting the vehicle. (Am. Ord. 2141, passed 4-11-16)

155.405.5 **Major and Minor Subdivision Classifications**
For the purposes of this § 155.405, two (2) classes of subdivisions are established, minor subdivisions and major subdivisions, and are described as follows:

A. MINOR SUBDIVISIONS. Minor subdivisions require only approval of a Sketch Plan and a Final Plat in accordance with the requirements of §§ 155.405.6 and 155.405.8, respectively, of this Chapter 4. A minor subdivision has all of the following characteristics: [formerly § 152.22]

1. The subdivision has no more than nine (9) lots;
2. There is no installation of a private wastewater treatment plant or a private water supply system for more than one lot or building site;
3. There are no new proposed public or private streets, roads, or alley rights-of-way to serve the lots being created, or improvements to an existing street;
4. There is no new installation of drainage improvements through one or more lots to serve one or more other lots; and,
5. There are no new extensions of any needed rights-of-way or easements for the water and sewer system operated by the Charlotte-Mecklenburg Utility Department.

B. MAJOR SUBDIVISIONS. Major subdivisions require the approval of a Sketch Plan, Preliminary Plan and a Final Plat as required by §§ 155.405.6, 155.405.7, and 155.405.8, respectively, of this Chapter. A major subdivision is one that fails to satisfy the requirements for a minor subdivision.

155.405.6 Sketch Plan Requirements and Procedures

A. SKETCH PLAN REQUIRED. As a prerequisite for application for Preliminary Plan or Final Plat, and in order to discuss the general purpose of the subdivision or development in the context of the Town’s established community development policies and practices, and to ensure that required data is properly prepared and presented before expending the time and money in preparation and review of a Preliminary Plan (for Major Subdivisions) and a Final Plat (for Minor Subdivisions), any person desiring to subdivide land subject to this § 155.405 before filing a Preliminary Plan or Final Plat shall file a Sketch Plan of the subdivision with the Planning Office.

B. REQUIRED INFORMATION FOR SKETCH PLAN. When submitted, the Sketch Plan shall be on a topographical survey and shall show in simple sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. It shall include the information identified in § 155.405.9.

C. SKETCH PLAN REVIEW PROCESS.

1. A Sketch Plan of the proposed subdivision prepared in accordance with the specifications and requirements set forth in § 155.405.6.B and § 155.405.9 shall be submitted to the Planning Office. Digital and/or print copies are to be submitted to the Planning Office and Mecklenburg County Land Use and Environmental Services Agency Department along with any applicable fees as may be required by each agency.

2. Within thirty (30) days for a Minor Subdivision, or forty five (45) days for a Major Subdivision, from the date of receipt of the Sketch Plan by the Planning Office the Plan Review Committee shall review, comment and approve the Sketch Plan only if all requirements of this Title are met. The proposed subdivision name shall be sent to Mecklenburg County Land Use and Environmental Services Agency and local emergency agencies for comments. All proposed street names shall be reviewed by Matthews Planning, Public Works, Police, and Fire & EMS Departments before being submitted to Mecklenburg County for final approval. If necessary, the subdivider shall submit additional information and/or a revised Sketch Plan, as required, to the Planning Office. Within thirty (30) days from the date of receipt of the revised Sketch Plan or such additional information by the Planning Office the Plan Review Committee shall review the revised Sketch Plan or such additional information and, if all issues have been satisfactorily resolved, the Plan Review Committee shall approve the Sketch Plan with or without conditions. (Am. Ord. 2264, passed 10-9-17

3. EXPIRATION. Sketch Plan approval shall be effective for no more than one (1) year from the date of approval by the Plan Review Committee to submission of Preliminary Plan for a Major Subdivision or Final Plat for a Minor Subdivision. The time frame for expiration does not change with successive owners.

D. SKETCH PLAN IS NOT A COMMITMENT TO APPROVE. Approval of the Sketch Plan by the Plan Review Committee shall in no way be construed as constituting an official act of approval for recording the subdivision plat and does not vest the owner or developer with any developmental rights. [formerly §
152.23]

155.405.7 Preliminary Plan Requirements and Procedures

A. PRELIMINARY PLAN REQUIRED. Prior to filing an application for approval of the Final Plat for Major Subdivisions, a Preliminary Plan must be prepared and submitted as outlined here.

B. PRELIMINARY PLAN REVIEW PROCESS.

1. PLAN REVIEW COMMITTEE ACTION. A Preliminary Plan of the proposed subdivision prepared in accordance with the specifications set forth in § 155.405.9 shall be submitted to the Town Planning Office and Mecklenburg County Land Use and Environmental Services Agency. Digital and/or print copies are to be submitted to the Planning Office and Mecklenburg County Land Use and Environmental Services Agency along with any applicable fees as may be required by each agency.

2. The Plan Review Committee shall have sixty (60) days from the date of receipt of the Preliminary Plan by the Planning Office in which to review, comment and approve the Preliminary Plan if all requirements of this Title are met. All proposed street names and the proposed subdivision name shall be sent to local emergency agencies for comments and to Mecklenburg County Land Use and Environmental Services Agency for approval. If necessary, the applicant shall submit a revised Preliminary Plan to the Planning Office and to the County Land Use and Environmental Services Agency. The Plan Review Committee shall review the revised Preliminary Plan and, if all issues have been resolved, the Preliminary Plan will then be signed by County Land Use and Environmental Services Agency as meeting all required standards.

3. BOARD OF COMMISSIONERS ACTION. The Preliminary Plan shall be transmitted to the Board of Commissioners within thirty (30) days following the Plan Review Committee’s determination that all required standards have been met. The Board of Commissioners shall approve or approve with conditions the Preliminary Plan. If the Preliminary Plan is conditionally approved, the minutes of the Board of Commissioners meeting shall state the measures necessary for the Final Plat to be approved.

4. EXPIRATION. Such Preliminary Plan approval shall be effective for no more than one (1) year from the date of approval unless, upon written request by the Applicant, the Board of Commissioners grants an extension of time for not more than one (1) additional year. The time frame for expiration does not change with successive owners.

C. 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. The release of the grading permit may be authorized by the Mecklenburg County Land Use and Environmental Services Agency prior to the approval of the Preliminary Plan if the Plan Review Committee has signed it as meeting all required standards and the matter(s) staying the approval of the Preliminary Plan are not related to nor will have any effect on the need for grading on the site. Once the Preliminary Plan is approved, further approvals under this provision are not required for grading permits for individual sites within the subdivision.

155.405.8 Final Plat Requirements and Procedures

A. FINAL PLAT REQUIRED. Prior to recording a Final Plat, a Final Plat must be prepared and submitted to the Town Planning Office for review and approval by the Planning Director or designee.

B. REQUIRED INFORMATION FOR FINAL PLAT. The Final Plat shall include the information identified in § 155.405.9.

C. FINAL PLAT REVIEW PROCESS.

1. PREREQUISITES FOR FINAL PLAT SUBMITTAL. No Final Plat will be accepted for review unless the subdivider shall have:
   a. Obtained approval of the Sketch Plan for Minor Subdivisions, or the Preliminary Plan by the Board of Commissioners for Major Subdivisions in accordance with this Title; and,
   b. Completed the installation of required improvements in accordance with the approved Preliminary Plan and the requirements of this Title, including all required improvements to any existing street shown on the Preliminary Plan, and which improvements have been reviewed and inspected and approved by the Town Engineer and Mecklenburg County Land Use and Environmental Services Agency; or,
c. Filed any required financial guarantees in a form acceptable to the Town and in an amount determined by the Mecklenburg County Land Use and Environmental Services Agency and/or Town Public Works Director as appropriate, with said guarantees sufficient to assure the completion of the required subdivision improvements and any required improvements to any existing street shown on the Preliminary Plan. These financial guarantees include but are not limited to: transportation infrastructure, storm water improvements, landscaping, open space, street lighting, and recreational lands.

The Final Plat may include all or only a portion of the subdivision as proposed and approved in the Preliminary Plan provided that all required improvements to any existing street shown on the Preliminary Plan have been completed or a guarantee in an amount and in such form as approved by the Town for such improvements prior to such Final Plat approval.

2. PLAN REVIEW COMMITTEE ACTION. Within one (1) year of approval of the Sketch Plan (for Minor Subdivisions) the subdivider shall submit the Final Plat. For Major Subdivisions, a Final Plat may be submitted for the full development or for a portion of the subdivision as proposed and approved on the Preliminary Plan, provided that all required improvements to any existing street shown on the Preliminary Plan are provided for prior to any Final Plat approval. The Final Plat shall be prepared in accordance with the specifications of § 155.405.9.

3. MECKLENBURG COUNTY LAND USE AND ENVIRONMENTAL SERVICES AGENCY ACTION. The official plat(s) for recording, together with required copies and "as built" drawings and electronic copies as required, shall be presented to the Mecklenburg County Land Use and Environmental Services Agency, who shall sign the Final Plat(s) within thirty (30) days after submission as being in compliance with this Title.

4. EFFECT OF APPROVAL. The approval of a Final Plat shall not be deemed to constitute or cause the acceptance by the Town of the dedication of any street or other ground, public utility line or other public facility shown on the plat. However, the Town may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines or other public purposes within the corporate limits. Acceptance or dedication of lands or facilities shall not place on the Town any duty to open, operate, repair or maintain any street, utility line or other land or facility, and the Town shall in no event be held to answer in any civil action or proceeding for failure to open, operate, repair or maintain any street. The Town has no obligation to open any street even after acceptance of dedication.

5. TOWN ACTION. Upon Mecklenburg County Land Use and Environmental Services Agency determination that all requirements for Final Plat approval have been met, the Town Public Works Director/Town Engineer shall determine any required financial guarantees for streets, storm water improvements or landscaping and receive such guarantees from the subdivider. The Town Planning Director shall determine and receive any fees due for open space. When all financial requirements to the Town have been completed, the Planning Director or designee shall sign the Final Plat as approved by the Town, and shall certify the Final Plat as meeting requirements for recordation.

6. RECORDING THE FINAL PLAT. The subdivider shall file the approved Final Plat with the Register of Deeds for Mecklenburg County for recording within thirty (30) days after the date of approval; otherwise, the approval shall be null and void. The subdivider shall provide copies of the recorded plat to the Town in such number and form as determined by the Planning Director within five (5) business days following recording of the Final Plat.

155.405.9  Contents of the Sketch Plan, Preliminary Plan and Final Plat

A. REQUIRED INFORMATION. Any person proposing to subdivide any parcel of land in the Town shall file with the Planning Director and Mecklenburg County Land Use and Environmental Services Agency a Sketch Plan, Preliminary Plan and a Final Plat as required and described in this § 155.405 in a quantity and form as required by the Planning Director. The Sketch Plan, Preliminary Plan and a Final Plat shall include the following information:
**General Information:**

<table>
<thead>
<tr>
<th>Title Block containing the following information:</th>
<th>Sketch Plan</th>
<th>Preliminary Plat</th>
<th>Final Plat</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Name of proposed subdivision [formerly § 152.25.H]</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>▪ Owner’s name [formerly § 152.25.H]</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>▪ Location (including Town, county, state) [former 152.26.A.4]</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>▪ Date or dates the survey was conducted and the plat prepared</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>▪ A scale of drawing expressed in feet per inch listed in words and graphics and which scale shall not be smaller than one hundred feet (100’) to the inch [formerly § 152.25.I]</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>▪ Name, address, registration number, and seal of the Registered Land Surveyor [formerly § 152.25.H]</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>▪ The name of the subdivider</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>A vicinity map showing the location and relationship between the proposed subdivision and surrounding area [formerly § 152.25.L]</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>Corporate limits, county lines if on the proposed subdivision</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>The names, addresses, and telephone numbers of all owners, mortgagees, registered land surveyors, land planners, architects, landscape architects, and professional engineers responsible for the subdivision [formerly § 152.25.H]</td>
<td>■</td>
<td>■</td>
<td>■</td>
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<tr>
<td>The registration numbers and seals of the professional engineers</td>
<td>■</td>
<td>■</td>
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<tr>
<td>Date of preparation of the drawing [formerly § 152.25.I]</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>North arrow and orientation [formerly § 152.25.I]</td>
<td>■</td>
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<td>■</td>
</tr>
<tr>
<td>The boundaries of the tract or portion to be subdivided, distinctly and accurately represented with all dimensions shown [formerly § 152.25.A]</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands [formerly § 152.26.A.1]</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>The names of owners of adjoining property</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>The names of any adjoining subdivisions of record or proposed and under review</td>
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<tr>
<td>Traffic impact analysis</td>
<td>■</td>
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<tr>
<td>Site calculations, including:</td>
<td>■</td>
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<tr>
<td>▪ Total acreage of the tract to be subdivided</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>▪ Acreage in parks, recreation and open space areas, and non-residential areas</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
<tr>
<td>▪ Total number of parcels created</td>
<td>■</td>
<td>■</td>
<td>■</td>
</tr>
</tbody>
</table>
**EXISTING CONDITIONS:**

- The zoning classification of the tract to be subdivided and on each adjoining property
- Existing property lines on the tract to be subdivided and within one hundred fifty feet (150’) on all adjoining property
- Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and within one hundred fifty feet (150’) on all adjoining property [formerly § 152.25.A]
- The location of any archeological features
- Wooded areas, marshes, swamps, rock outcroppings, ponds, lakes, streams or streambeds, wetlands, and any other natural features affecting the site
- Original contours at intervals not greater than two feet (2’) for the entire area to be subdivided and extending into adjoining property for a distance of three hundred feet (300’) at all points where street rights-of-way connect to the adjoining property. These contours shall be referenced to mean sea level datum when a benchmark is located within two thousand feet (2,000’) of the proposed subdivision [formerly § 152.25.C]
- The exact location of the flood hazard, floodway, and floodway fringe from the Flood Insurance Map or surveys of the property in question [formerly § 152.25.E]
- Tree survey and vegetation survey
- The location, sizes, inverts, dimension and material type of all existing sanitary sewer, water main and storm sewer utilities within the proposed subdivision and immediately adjacent to the proposed subdivision [formerly § 152.25.B]
- SWIM buffers, as required

**PROPOSED CONDITIONS:**

- Building lines (setbacks) for each lot [formerly § 152.25.E]
- Proposed lot lines, with approximate dimensions [formerly § 152.25.E]
- The lots numbered consecutively throughout the proposed subdivision

*The following information and data concerning proposed streets:*
profiles based upon mean sea level datum for sanitary sewers and storm sewers and approved by the Town Public Works Director. The location, type, and design of proposed existing or proposed new streetscape tree. Trees to clearly indicate the proposed placement of any storm water feature does not conflict with any practices, and rain gardens. The location of drainage channels, and in all other portions of the subdivision where extensive grading is planned. Where a proposed street within the subdivision abuts a tract of land that adjoins the subdivision and where that street may be expected to extend into the section of the existing street shall be shown. Where a proposed street within the subdivision abuts a tract of land, the profile shall be extended to include three hundred feet (300') of the tract of land that adjoins the subdivision and where that street may be expected to extend into the adjoining tract of land, the profile shall be extended to include three hundred feet (300') of the adjoining tract [formerly § 152.25.K]. Proposed Grading Plan showing proposed contours for the full-width of all street rights-of-way, along drainage channels, and in all other portions of the subdivision where extensive grading is planned. These requirements shall not apply where the size of the subdivision and the topography make such information unnecessary. [formerly § 152.25.D]

The location and dimension of all of the following, if proposed:

- Utility and other easements
- Riding trails
- Natural buffers
- Pedestrian or bicycle paths
- Parks and recreation areas with specific type indicated [formerly § 152.25.E]
- Areas to be dedicated to or reserved for public use [formerly § 152.25.E]
- Areas to be used for purposes other than residential with the zoning classification of each stated
- The future ownership of recreation and open space lands in the proposed subdivision

The location of all proposed storm water retention and water quality facilities, best management practices, and rain gardens

The location of all proposed storm drains and retention facilities, best management practices, rain gardens, swales and appurtenances with grades, invert sizes indicated, together with a map of the drainage area(s) above or below the proposed storm drains, and a copy of the data used in determining the sizes of drainage pipes and structures. These drawings shall be coordinated with the Streetscape Trees to clearly indicate the proposed placement of any storm water feature does not conflict with any existing or proposed new streetscape tree. [formerly § 152.25.G]

The location, type, and design of proposed traffic calming devices, which shall be coordinated with and approved by the Town Public Works Director [formerly § 152.25.F]

Street lighting plan, as outlined in § 155.609

The proposed method of water supply and sewer disposal. Where public water or public sewer is not available for extension to each lot in the subdivision, a written statement from the Mecklenburg County Department of Environmental Health shall be submitted with the Preliminary Plan indicating that each lot has adequate land area and soil conditions to accommodate the proposed methods of water supply and sewage disposal. [formerly § 152.25.M]

Profiles based upon mean sea level datum for sanitary sewers and storm sewers

PROPOSED CONDITIONS (Continued):

- Type of street dedication; all streets shall be designated either public or private

Existing and platted streets on and within one hundred fifty feet (150’) of adjoining properties and in the proposed subdivision

Rights-of-way, location, and dimensions, in accordance with § 155.701 [formerly § 152.25.E]

Pavement widths [formerly § 152.25.E]

Approximate grades

Design engineering for all corners and curves

Typical street cross-sections showing width and construction [formerly § 152.25.J]

Existing and proposed street names [formerly § 152.25.H]
The accurate location of monuments which must be established at or near the corners of all blocks including coordinates computed from the North Carolina Plane Rectangular Coordinate System, provided a control monument is within two thousand five hundred feet (2,500’) of the subdivision. These monuments shall be concrete posts not less than thirty inches (30”) long, four inches (4”) at the top and six inches (6”) at the bottom with a copper pin in the top to mark the location of the designated point. The monuments shall be placed flush with the level of the ground. The corners of all lots and parcels shall be marked with iron posts driven flush with the ground. Iron posts shall be placed where lot boundaries intersect railroad and State Department of Transportation rights-of-way. [formerly § 152.26.A.5]

**PROPOSED CONDITIONS (Continued):**

Sufficient surveying data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, boundary lines of reserved or dedicated areas, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center line of curved property lines that are not the boundary line of curved streets required or of record in Mecklenburg County. All dimensions shall be measured to the nearest one-tenth foot and all angles to the nearest minute. 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 total shall not differ from the theoretical sum by more than 90 seconds, whichever is smaller [formerly § 152.26.A.3]

A copy of the proposed conditions, covenants and restrictions or similar deed restrictions (such restrictions are mandatory when private recreation areas or open space are established in the proposed subdivision).

Where land disturbing activity is one acre or more in size, a copy of the erosion control plan submitted to the appropriate office of the North Carolina Department of the Environment and Natural Resources, which complies with GS 113A, Article 4, Sedimentation and Pollution Control Act of 1973. Evidence of approval shall be provided prior to submittal of the Final Plat for approval

Topographic maps with contour intervals no greater than two feet (2’) at a scale no less than one inch (1”) equals fifty feet (50’) (Am. Ord 2141, passed 4-11-16)

404 Wetlands areas as determined by the US Army Corps of Engineers

A timetable for estimated phasing, if intended, and completion of grading, infrastructure improvements, and landscaping and exterior lighting within public rights-of-way and land to be dedicated to the public in the area covered by the Preliminary Plan [formerly § 152.25.O]

When any portion of the property included in a plat must adhere to the requirements of Chapter 8, Post Construction Ordinance and/or § 155.704, then the specific notations or management plan as called for in that regulation must be included on the Final Plat drawing, and a copy of the operation and maintenance agreement and BMP Maintenance Plan stamped by Mecklenburg County Register of Deeds Office with deed book and page numbers must be provided with the plat. (Ord. 1585, passed 8-13-07) [formerly § 152.26.A.6]

Construction traffic bond submitted

Construction traffic routing plan

Subdivision improvement guarantee, in accordance with § 155.405.10  
[formerly § 152.26.A.8, relocated to § 155.405.10]

Tree maintenance and /or replacement guarantee, in accordance with § 155.405.10 and § 155.606.13.H  
[formerly § 152.26.A.10, relocated to § 155.405.10; Am. Ord. 2231, passed 6—12-17]

Recreation Land fees-in-lieu when new single-family units are created

Any other information considered by either the subdivider or the Planning Director or designee to be pertinent to the review of the Final Plat. [formerly § 152.26.A.7]
B. REQUIRED CERTIFICATIONS FOR FINAL PLAT. In addition to the information and data required in § 155.405.9.A, the Final Plat shall include the following certifications:

1. **OWNERSHIP AND DEDICATION CERTIFICATE.**

   I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon, and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I (we) dedicate all sewer lines and all water lines to the Charlotte-Mecklenburg Utility Department, if applicable.

   
   Date                                     Owner(s)

2. **CERTIFICATE OF SURVEYORS RESPONSIBILITIES AND ACCURACY.**

   I, ______________________________, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book ______, Page _____, and/or other description); that the boundaries not surveyed are clearly indicated as drawn from information found in Book ______, Page _____; that the ratio of precision as calculated is 1:_____; that this plat was prepared in accordance with NCGS § 47-30 as amended

   Witness my original signature, registration number and seal this ______ day of___________, 20____.

   
   Surveyors Signature     Registration Number

   (Am. Ord. 2141, passed 4-11-16)

3. **TOWN APPROVAL CERTIFICATE.**

   I hereby certify that this subdivision plat has been found to comply with the subdivision requirements of the Town of Matthews Unified Development Ordinance and is approved for recording in the office of the Register of Deeds for Mecklenburg County. Streets, utilities, and other public improvements have been installed in an acceptable manner and according to Town specifications as shown on this plat, or a financial guarantee has been posted to ensure installation and completion of such improvements. The Town accepts the dedication of streets, easements, public parks, and open space as indicated, but the Town assumes no responsibility to open or maintain any streets, easements, rights-of-way, or other lands shown for public purposes until in the opinion of the Board of Commissioners of the Town of Matthews it is in the public interest to do so. Said approval expires if not recorded on or before ________________ (date) and must be resubmitted for approval by the Town.

   
   Date          Planning Director or designee, Town of Matthews
4. **BMP MAINTENANCE CERTIFICATE.**  
The property in this subdivision plat contains water quality features that must be maintained according to the Operations and Maintenance Agreement and Plan recorded in Deed Book ______ and Page ______.

5. **ENGINEERING REQUIREMENTS CERTIFICATE.**  
The streets, storm drainage and other required improvements have been installed in an acceptable manner and in accordance with Town specifications and standards or a guarantee in an acceptable amount and form has been received.

   
   _______________  Mecklenburg County LUESA

   _______________

6. **REVIEW OFFICER’S CERTIFICATE.**

   State of North Carolina )
   County of Mecklenburg  )

   I, ______________________, Review Officer of Mecklenburg County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

   
   _______________  Review Officer

7. **SEWAGE DISPOSAL SYSTEMS CERTIFICATE.** *(This Certificate is required when the proposed sewage disposal system is not to be provided by the Charlotte Mecklenburg Utility Department)*

   I hereby certify that the sewage disposal system installed, or proposed for installation, in __________________ subdivision fully meets plans and specifications approved by the North Carolina Department of Environment and Natural Resources.

   
   _______________  Professional Engineer

8. **DIVISION OF HIGHWAYS DISTRICT ENGINEER CERTIFICATE**

   I hereby certify that the right-of-way dedication along the existing state-maintained roadway(s) shown on this plat is approved and accepted as public right-of-way by the North Carolina Department of Transportation Division of Highways.

   
   _______________  District Engineer  _______________

   Only North Carolina Department of Transportation approved structures are to be constructed on public right-of-way.

   *(Am. Ord. 2264, passed 10-9-17)*

C. **GUARANTEES.** In the event the Final Plat involves the installation and construction of public improvements required by this Title, the subdivider shall provide in a form acceptable to the Town and Mecklenburg County Land Use and Environmental Services Agency a subdivision improvement guarantee in the manner
prescribed in § 155.405.10.

D. AS-BUILT DRAWINGS REQUIRED. AutoCAD compatible digital as-built drawings and plans of all water system, sewer system, and storm drainage system facilities shall be prepared by the subdivider and submitted to the Town Engineer and Mecklenburg County Land Use and Environmental Services Agency at the time of request for Final Plat. Where financial guarantees are provided in lieu of completed improvements at the time of Final Plat approval, then the as-built drawings shall be required at time of the release of any surety for required improvements. These as-built plans must show all easements and/or rights-of-way to demonstrate that the facilities are properly placed. [formerly § 152.26.A.9]

155.405.10 Subdivision Improvement Guarantees

A. PURPOSE AND INTENT. Final approval of a Final Plat is subject to i) installation of or provision for all improvements required by this Title, or ii) the subdivider filing a financial guarantee in lieu of completing, installing and dedication of all improvements prior to Final Plat approval, and iii) the performance of all other obligations required by this Title and in accordance with this § 155.405.10.

B. TYPES OF GUARANTEES. For the purpose of this Section, there shall be the following types of subdivision improvement guarantees (the “Guarantee”):

1. Type 1 Guarantee, shall refer to a subdivision improvement guarantee required for the approval of a Final Plat following construction, installation and provision of improvements required by this Title, except the final one inch (1”) surface course when paving according to Chapter 7, and before issuance of any building permits in the subdivision.

2. Type 2 Guarantee, shall refer to a subdivision improvement guarantee required for the approval of a Final Plat prior to construction, installation and provision of improvements required by this Title.

3. Type 3 Guarantee, shall refer to all other guarantees required by this Title.

C. GUARANTEE REQUIREMENTS.

1. TYPE 1 GUARANTEE. Prior to release of the final plat for recordation and before issuance of any building permits, a surety bond, letter of credit, or other form of guarantee that provides equivalent security to a surety bond or letter of credit, in an amount determined by Mecklenburg County Land Use and Environmental Services Agency shall be filed with the County. This performance guarantee will assure that the final one-inch surface course will be applied to each street once the street has met the conditions outlined in Chapter 7 for acceptance for maintenance. The delayed application of the surface course shall be considered as a testing period for the streets installed in order that any defects or deficiencies will have had at least one full cycle of seasons in which to appear, except as provided for in Chapter 7 where the Board of Commissioners waives the one (1) year waiting period. In the event that defects or deficiencies do appear, the developer shall repair those defects in a manner approved by the Town Public Works Director, Town Engineer, and Mecklenburg County Land Use and Environmental Services Agency prior to applying the final one-inch surface course. (Am. Ord. 2141, passed 4-11-16) [formerly § 152.24.G]

2. TYPE 2 GUARANTEE. Where the improvements required by this Title have not been completed prior to the submission of the Final Plat for approval, the approval of the Final Plat shall be subject to the subdivider filing a surety bond, letter of credit, or other form of guarantee that provides equivalent security with Mecklenburg County Land Use and Environmental Services Agency and/or the Town Public Works Director, in an amount to be determined by the appropriate agency, with sureties satisfactory to the Town guaranteeing the installation and construction of the required improvements. Upon completion of the improvements as required by this Title, written notice shall be given by the subdivider to Mecklenburg County Land Use and Environmental Services Agency and the Town Engineer. Upon receipt of this notice, Mecklenburg County Land Use and Environmental Services Agency and the Town Engineer shall cause an inspection of the improvements to be made and, if all outstanding items have been satisfactorily resolved, shall, within thirty (30) days of the date of notice, authorize in writing the release of the surety given. (Am. Ord. 2141, passed 4-11-16) [formerly § 152.26.A.8]

3. TYPE 3 GUARANTEE. The amount of Type 3 Guarantees shall be determined as follows:
A. **TREE MAINTENANCE AND REPLACEMENT GUARANTEE.** Where the improvements required by this Title include a future guarantee for tree maintenance and/or replacement, the approval of the Final Plat shall be subject to the subdivider filing a surety bond, cash bond, or irrevocable letter of credit with the Town in an amount to be determined by the Town to guarantee tree life and health for three (3) years. Upon conclusion of the three (3) year period, written notice shall be given to the Town by the subdivider, at which time the Town Public Works Director shall cause an inspection of the trees within thirty (30) days of the date of the notice, and upon satisfactory completion, shall authorize in writing the release of the surety given. See also Section 155.606.13.H (Ord. No. 1618, passed 4-14-08; Am. Ord. 2231, passed 6-12-17) [formerly § 152.26.A.10]

B. (RESERVED)

D. **AS-BUILT DRAWINGS REQUIRED.** As a condition of release of any Guarantee, AutoCAD compatible digital as-built drawings and plans of all water system, sewer system, and storm drainage system facilities shall be prepared by the subdivider and submitted to the Town Public Works Director and Mecklenburg County Land Use and Environmental Services Agency at the time of request for release of any surety for required improvements. These plans shall show all easements and/or rights-of-way to demonstrate that the required improvements and facilities are properly placed.

(Ord. 2025A, passed 6-9-14; Am. Ord. 2141, passed 4-11-16)

**155.405.11 Development Agreements**

A. **Purpose.** The Town may consider and enter into development agreements with developers, subject to the procedures of G.S. 160D Article 10, Development Agreements. Development agreements may be approved by the Town Board as a legislative decision and may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the Town. If a development agreement is incorporated into a conditional zoning district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer’s bankruptcy.

B. **Pursuant to G.S. 160D-1001 (b), a local government must be a party to a development agreement (a water and sewer authority may enter an agreement as a party, but not independently).** A development agreement shall, at a minimum, include all of the following:

1. A description of the property subject to the agreement and the names of its legal and equitable property owners.
2. The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.
3. The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.
4. A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the local government shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.
5. A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.
6. A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.
7. A description, where appropriate, of any provisions for the preservation and restoration of historic structures. The development agreement may also cover any matter not inconsistent with G.S. 160D Article 10. The developer shall record the agreement with the Mecklenburg County Register of Deeds within 14 days after the Town Board and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. Subject to the provisions of G.S. 160D-1006(e), a development agreement may be amended or terminated by mutual consent of the parties.
DECLARATION OF UNDERSTANDING THAT
ZONING VARIANCES ARE NOT ANTICIPATED IN THIS SUBDIVISION
FOR THE PURPOSE OF INADEQUATE BUILDABLE AREA

Date

Name of Developer ____________________________________________________________

Name of Subdivision ____________________________

Location of Subdivision ________________________________________________________

The above-named subdivision is being developed within the zoning and subdivision jurisdiction of the Town of Matthews.

The above-named developer, by signing this statement, agrees that he/she is aware of the zoning dimensional requirements for potential structures likely to be constructed within the above-named development, and does not anticipate any zoning variances to be requested on individual lots due to insufficient buildable area.

8. This declaration is intended to verify that the lots being designed in the above-named subdivision will have adequate building envelopes, after applying all required limiting factors that can reasonably be expected to be known prior to construction of dwelling unit or other structures, including but not limited to: setbacks, yards, easements, floodplain lines, septic drain fields and reserve fields, demolition disposal sites, on-site parking, etc.

The zoning on this property is: __________________________________________________

The dimensional requirements of this/these zoning district(s) are:

Min. lot size ____________________________
Min. lot width ____________________________
Min./Max front setback ____________________________
Min. side yard ____________________________
Min. rear yard ____________________________
Min./Max. height ____________________________
Other (specify) ____________________________

(Attach additional pages if multiple zoning districts are involved)

9. It is understood that the developer of the subdivision may or may not be involved in any subsequent design or siting of buildings and structures, and is not guaranteeing all possible structural configurations will fit each lot.

10. Where the developer of the land will not be the ultimate user, the developer, by signing this declaration, agrees to inform buyers of lots, dwellings, or other interests, that this subdivision was designed to meet zoning dimensional requirements, and that variances to zoning dimensional requirements were not anticipated based on the physical layout design of the property.

Signature of Developer ____________________________ Title ____________________________ Date ____________________________

Development Company

(Am. Ord. 2025A, passed 6-9-14)