

## ARTICLE VI

### SUPPLEMENTARY DISTRICT REGULATIONS

#### CHAPTER 1. ACCESSORY OFF-STREET PARKING AND LOADING REQUIREMENTS (ENTIRE CHAPTER REPLACED BY ORDINANCE NO. 1991-25, JULY 23, 1991)

##### 6-101 PURPOSES, APPLICABILITY AND GENERAL PROVISIONS

###### 6-101.1 Purposes

The following regulations on accessory off-street parking spaces are adopted in order to provide needed spaces off the streets for parking in connection with all activities which may be located in the city and region, to reduce traffic congestion resulting from use of the streets as places of storage for automobiles, to protect the character of neighborhoods, to provide for a higher standard of development within the area and thus promote and protect the public health, safety, and general welfare.

###### 6-101.2 Applicability

###### 6-101.201 General

For every use, activity, or structure permitted by this ordinance and for all buildings or structures erected in accordance therewith, there shall be provided sufficient space for access and off-street standing, parking, circulation, unloading, and loading of motor vehicles that may be expected to transport its occupants, whether as patrons, residents, customers, employees, guests, or otherwise, to an establishment, activity, or place of residence at any time under normal conditions for any purpose. When a use is expanded, accessory off-street parking and loading shall be provided in accordance with the regulations herein for the area or capacity of such expansion in combination with the previously existing uses, structure, or activity.

###### 6-101.202 Decreased Parking Demand

When a building or structure undergoes a decrease in the number of dwelling units, gross floor area, seating capacity, number of employees, or other unit of measurement specified hereinafter as a means for determining required off-street or loading facilities, or when the application of the standards herein would result in a requirement for fewer total off-street parking or loading spaces than are provided on the subject site, the available off-street parking and loading facilities may be so reduced accordingly; provided that existing off-street parking or loading facilities may be so decreased only when the parking or loading facilities remaining would at least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of these standards to the entire building, activity, or structure as modified.

### **6-101.203 Increased Parking Demand**

When any building or structure undergoes a change of use or any increase in the number of dwelling units, gross floor area, seating capacity, or other unit of measurement specified hereinafter as a means for determining required off-street parking or loading facilities, and when such a change or increase would, through application of the provisions of these standards thereto, result in a requirement for greater total off-street parking or loading spaces, such off-street parking or loading facilities would be increased to equal or exceed the off-street parking or loading requirements resulting from application of the provisions of these standards to the entire building or structure as modified in use or capacity.

### **6-101.3 General Provisions**

#### **6-101.301 Use of Residential Parking Facilities**

Facilities accessory to a residential use which are developed in any residential district in accordance with the requirements of this article shall be used solely for the parking of passenger automobiles or commercial vehicles of not more than ten (10) tons gross weight owned by occupants of the dwelling structures to which such facilities are accessory, or by guests of such occupants.

#### **6-101.302 Repair, Service, or Sales Use of Parking Facilities**

It shall be unlawful to use any required off-street parking or loading facilities for motor vehicle repair work, service, display, or sales of any kind, except as expressly permitted elsewhere in this chapter.

#### **6-101.303 Use of Required Parking as Commercial or Public Lot**

No area designated as a required parking area in connection with any designated building or use shall be operated as a commercial or public parking lot providing parking spaces for the general public or for the occupants, tenants, customers, clients, or residents of any other use or activity for a fee or other compensation.

#### **6-101.304 Ingress and Egress**

All entrances and exits to parking and loading areas from a public right-of-way shall be subject to specific approval of the planning commission by site development plan approval in accordance with Subsection 11-202.102, in order to ensure the smooth and safe circulation of vehicles to and from the public street system. In no event shall parking and loading spaces be provided in a manner requiring the backing out of vehicles into public right-of-way.

#### **6-105.305 Location of Parking or Loading Space**

All required off-street parking or loading spaces shall be provided on the same parcel of land occupied by the use or building to which it is appurtenant: provided, however, that where there are, in the judgment of

the Planning Commission, practical difficulties in satisfying the requirement for parking space and/or if the public safety or convenience would be better served by another location, the Planning Commission may authorize as follows an alternative location for any portion of the required parking for a nonresidential use which will adequately serve the public interest, subject to the following conditions:

- (a) Required accessory off-street parking facilities may be provided elsewhere than on the lot on which the principal use served is located, provided that the property occupied as parking is in the same possession, either by deed, by easement, or by long-term lease which has a term equal to or exceeding the projected life of the facility occupied by the principal use, and further provided that the owner shall be bound by covenants filed on record in the Office of the County Clerk, requiring the owner and his or her heirs and assigns, as well as subsequent owners, heirs, or assigns, to maintain the required number of off-street parking spaces during the existence of such principal use.
- (b) Pedestrian access shall be available within a walking distance of not more than five hundred (500) feet measured from the nearest point of public access to the building to the nearest part of the accessory parking area.
- (c) Such separated parking space shall be usable without causing unreasonable traffic congestion, detriment to any residential neighborhood, or hazard to pedestrians or vehicular traffic.

**6-101.306 Zoning of Accessory Parking**

All accessory parking facilities, whether provided in fulfillment of or in excess of the requirements of this article, and whether located on the same or on a different lot from the principal use as provided in the preceding paragraph, shall be located on the property zoned within the same or a less restrictive zoning district as the principal use served by the parking.

**6-101.307 Joint Parking Facilities**

Off-street parking facilities for different buildings, structures, or uses, or for mixed uses, may be provided and used collectively or jointly in any zoning district in which separate off-street parking facilities for each constituent use would be permitted, subject to the following provisions:

- (a) A legally sufficient written agreement assuring the perpetual joint usage of said common parking for the combination of uses or buildings is properly drawn and executed by the parties concerned, approved as to form and execution of the Planning Commission and City Attorney, and filed with and made part of the application for a building permit.
- (b) Up to twenty-five (25) percent of the parking spaces required for a theater or other place of evening entertainment, for a church, for

multi-family dwelling units, or for school, may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments, and similar uses not normally open, used, or operated during evening hours, if specifically approved by the Planning Commission and Board of Aldermen; provided, however, that written agreement assuring the retention for such purpose should be properly drawn and executed by the parties concerned, approved as to form and execution by the Planning Commission, and should be filed and made part of the application for a building permit. Such approval may be rescinded by the Board of Aldermen of the city and additional parking shall be obtained by the owners in the event that the Board determines that such joint use is resulting in a public nuisance or otherwise adversely affecting the public health, safety, or welfare.

**6-101.308 Variance in the Required Number of Parking and Loading Spaces**

The number of parking and loading spaces to be constructed may be less than the number of spaces required herein in the event that the following conditions are met to the satisfaction of the Planning Commission:

- (a) Evidence is submitted firmly documenting that the special nature of the use, activity, or building proposed requires less parking area or spaces than required by this chapter for the same.
- (b) The Site Development Plan submitted to and approved by the Planning Commission in accordance with Subsection 11-202.102, indicates that the location and layout of that portion of the parking requirement deemed unnecessary can and will be constructed accordingly in the event that the Planning Commission determines at any time that all or any portion of this parking is necessary in the interest of the public health, safety, and welfare.

In no event shall that portion of the required parking or loading which is so designated, but not constructed as provided herein be counted as open space or other non-paved area required by other provisions of ARTICLE IX.

**6-101.309 On-Street Parking Allowed in TC-C & TC-R Districts  
(ADDED BY ORDINANCE 2006-58, JANUARY 9, 2007)**

On-street parking is permitted within TC-C and TC-R Districts. For such on-street parking spaces to be counted against the total number of spaces required, these spaces must be adjacent to the zone lot for which the spaces are to be counted against the required parking. See Town Center Design Guidelines, Section 7.0.

**6-102 NUMBER OF PARKING SPACES REQUIRED**

The number of off-street parking spaces shall be provided for the specified unit of measure (or fraction of one-half (1/2) or more thereof) for the following specified uses within the activity types indicated.

## 6-102.1 Residential Activities

### (1) Permanent

- (a) One-Family Detached, Two-Family Detached Dwellings, Attached, and Semi-Detached.

Two (2) spaces per dwelling unit.

- (b) Multi-Family Dwelling (Three (3) or more):

One and one-half (1 1/2) spaces for each dwelling unit with one (1) bedroom; two (2) spaces for each dwelling unit with two (2) or more bedrooms.

- (c) Mobile Homes:

Two (2) spaces per mobile home.

- (d) Where Occupancy is to be Primarily Elderly Persons over the Age of Sixty (60):

The number of developed spaces may be reduced to one (1) space per unit. There must be room on the lot to provide one and one-half (1 1/2) spaces in the future.

### (2) Semi-Transient

- (a) Boarding or Rooming House, Apartment, Hotel:

One (1) space for each dwelling or rooming unit.

## 6-102.2 Community Facility Activities

### Activity Type

### Unit of Measurement

Administrative

One (1) space for each three hundred (300) square feet of gross floor area, plus one (1) for each three (3) employees.

Community Assembly

One (1) space for each two (2) seats or one-half (1/2) of capacity in persons whichever is greater.

Educational Facilities

**Kindergarten and Nursery:** One (1) space for each employee plus one (1) space for each four (4) students.

**Elementary and Middle Schools, Grades 1-7:** Two (2) spaces for each classroom or one (1) space for each five (5) seats in the auditorium or one (1)

space for each four (4) students, teachers, and employees, whichever is greater.

**High School, Grades 8-12:** Four (4) spaces for each classroom or one (1) space for each given (5) seats in the auditorium for one (1) space for each four (4) students, teachers, and employees, whichever is greater.

**Vocational or Trade Schools:** One (1) space for each one thousand (1,000) square feet of gross floor area, plus one (1) space for each six (6) seats in any associated auditorium.

Cultural and Recreation  
Services

**Art Galleries, Libraries, Museums, Zoological and Botanical Gardens, Planetariums and Aquariums:** One (1) space for each eight hundred (800) square feet of gross floor area.

**Swimming Pools:** Thirty (30) percent of capacity.

**Parks, Playgrounds and Playfields:** Ten (10) spaces for each acre of land devoted to recreation, plus one (1) space for each four (4) spectator seats.

**Recreation Centers and Gymnasiums:** Fifty (50) percent of the capacity, plus one (1) space for each two (2) employees.

Essential Public Transport,  
Communication and Utility  
Services

Two (2) spaces per facility.

Extensive Impact

**Airports, Air Cargo Terminals, Heliports, or Aeronautical Devices:** One (1) space for each two (2) employees, plus one (1) space for every one hundred (100) square feet of gross floor area.

**Correctional or Detention Institutions:** One (1) space for each two (2) employees, plus one (1) space for each patrol car.

**Railroad, Bus, and Transit Terminals:**  
One (1) space for each one hundred (100) square feet of waiting room.

**Railroad Yards and Other Transportation Equipment Marshaling and Storage Yards:** One (1) space for each two (2) employees.

**Stadiums, Sports Arenas, Auditoriums, and Bandstands:** One (1) space for each four (4) seats.

**Water and Sewage Treatment Plants:**  
One (1) space for each employee.

**All Other Activities: (See Note 1.)**

**NOTE 1: Due to the extreme variability of parking requirements for certain uses, the requirements shall be determined by the Planning Commission as part of the review process of a Site Development Plan based upon pertinent factors with each individual situation.**

Health Care Facilities

**Centers for Observation or Rehabilitation, Convalescent Homes:**  
One (1) space for each four (4) beds, plus one (1) space for each one thousand (1,000) square feet of gross floor area.

**Hospitals:** One and one-half (1 1/2) spaces for each bed.

**Medical or Dental Clinics:** Five (5) spaces for each staff member or doctor or dentist or two (2) spaces for each treatment or examination room, whichever is greater.

Intermediate Impact

**Colleges, Junior Colleges and Universities:** One (1) space for each one thousand (1,000) square feet of gross floor area suited for academic purposes, plus one (1) space for each six (6) seats in an auditorium, arena, or stadium on the same lot.

**All Other Activities: (See Note 1.)**

Special Personal and Group Care

**Associations for Physically or Mentally Handicapped:** One (1) space for each employee.

**Day Care Centers:** One (1) space for each employee, plus one (1) space for each five (5) children.

**Nursing Homes:** One (1) space for each employee, plus one (1) space for each two (2) patients.

Religious Facilities

**All Activity Types:** One (1) space for each three (3) seats.

**6-102.3 Commercial Activities**

**6-102.301 Uses Located on Freestanding Sites**

The provisions of this subsection shall apply to uses which are located on individual lots of record where no parking is shared with any other use or activity.

| <u>ACTIVITY TYPE</u>                         | <u>GROSS FLOOR AREA<br/>(Square Feet)</u>   |
|--|---|
| 1. Animal Care & Veterinarian Services       | 300   |
| 2. Automotive Service and Repair             | 500   |
| 3. Building Materials & Farm Equipment Sales | 1,000   |
| 4. Contract Construction                     | 500   |
| 5. Convenience Retail Sales and Services     | 150   |
| 6. Equipment Repair Services                 | 500   |
| 7. Entertainment and Amusement Services:     |   |
| (a) Art Galleries (Commercial)               | 400   |
| (b) Motion Picture Theaters                  | For (b) and (c) one (1) space per four (4) permanent seats, plus one (1) space for every twenty-five (25) square feet of area where temporary seats are used. |
| (c) Theaters (Legitimate)                    |   |
| (d) Bowling Alleys and Billiard Parlors      | (For (d) through (i), See <b>Note 1.</b> )  |
| (e) Coin Operated Amusement                  |   |

|     |     |   |   |
|-----|-----|---|---|
|     | (f) | Commercial Sporting Facilities                          |   |
|     | (g) | Dance Halls, Studios and Schools                        |   |
|     | (h) | Exhibition Halls and Commercial Auditoriums             |   |
|     | (i) | Gardens (Botanical and Zoological)                      |   |
|     | (j) | Marinas, Boat Docks and Boat Rental                     |   |
|     | (k) | Recording and Motion Picture Productions Studios        |   |
|     | (l) | Theatrical Producers, Band, Orchestras and Entertainers |   |
| 8.  |     | Financial, Consulting and Administrative Services       | 400   |
| 9.  |     | General Business and Communications Services            | 400   |
| 10. |     | General Personal Services                               |   |
|     | (a) | Funeral and Crematory Services                          | One (1) space per (100) square feet of gross floor area or where a chapel is provided, one (1) space for each four (4) seats, plus one (1) space for every twenty-five (25) square feet of floor area where temporary seats are used whichever required the greater number of spaces. |
|     | (b) | All Others Personal Services                            | 400   |
| 11. |     | General Retail Trade                                    | 250   |
| 12. |     | Group Assembly  | One (1) space per four (4) permanent seats, plus one (1) space for every twenty-five (25) square feet of area where temporary seats are used or as may be determined by the   |

|     |  | Planning Commission.<br>(See <b>Note 1.</b> )   |
|-----|--|---|
| 13. | Professional Services - Medical          | 300   |
| 14. | Professional Services - Nonmedical       | 400   |
| 15. | Restaurant, Carry-Out                    | 150   |
| 16. | Restaurant, Full-Service                 | 100   |
| 17. | Restaurant, Quick-Service                | 100   |
| 18. | Transient Habitation                     | One (1) space for each unit in a building serving transient guests, except that the Planning Commission may permit a lesser number of spaces where it is adequately shown that most of the guests do not use private automobiles for or during their stay, but in no case shall there be less than one (1) space for each two (2) units within the building serving transient guests. |
| 19. | Warehousing, Goods Transport and Storage | One (1) space per three thousand (3,000) square feet of gross floor area, plus one (1) space seven thousand (7,000) square feet of open storage area.   |
| 20. | Vehicular, Craft, and Related Equipment  | 500   |
| 21. | Wholesale Sales                          | 1,000   |

**6-102.302 Uses Located Within Commercial Complexes (AMENDED BY ORDINANCE 2008-05 ADOPTED MAY 27, 2008)**

Where two (2) or more commercial activities are grouped together on a single site or in any other configuration which involves the use of shared or common parking facilities, the parking requirements for such uses shall be calculated as provided herein.

**SHOPPING CENTERS**

| <b><u>Size of Complex</u></b> | <b><u>Number of Spaces Required</u></b>         |
|-------------------------------|---|
| 0-20,000 square feet          | 1 space per 200 square feet of gross floor area |
| 20,001-100,000 square feet    | 1 space per 250 square feet of gross floor area |
| 100,001+ square feet          | 1 space per 300 square feet of gross floor area |

**ALL OFFICE COMPLEXES**

Four (4) spaces per one thousand (1,000) square feet of gross leasable area

**6-102.4 Manufacturing Activities**

One (1) space for each fifteen hundred (1,500) square feet of gross floor area or one (1) space for each three (3) employees during the largest shift, whichever is greater.

**6-102.5 Agricultural, Resource Production, or Extractive Activities**

|                                     |  |
|-------------------------------------|--|
| Agricultural Services               | One (1) space for each employee and for veterinary services, one (1) space for each three hundred (300) square feet of gross floor area. |
| Commercial Feed Lots and Stockyards | (See <b>Note 1.</b> )  |
| Mining, Drilling, and Quarrying     | One and one-half (1 1/2) spaces for each two (2) employees.  |
| Plant and Forest Nurseries          | Five (5) spaces, plus one (1) space for each employee and one (1) space for each five (5) acres.   |

## **6-103 OFF-STREET PARKING LOT DESIGN STANDARDS**

### **6-103.1 Design Objectives**

Parking areas shall be designed with careful regard given to orderly arrangement, topography, amenity of view, ease of access, and as an integral part of the overall site design.

For reasons of use and appearance, it is desirable that parking areas be level or on terraces formed with the slope of the land. Changes in level between such terraces should be formed by retaining walls or landscaped banks.

Efforts shall be made to assure that a parking area does not dominate a site or building. Such efforts may include depressing the level of the parking area, construction of earth berms, dividing large lots into smaller sub-lots, and other similar techniques. Wherever possible, the size of parking areas visible from the street shall be minimized.

### **6-103.2 Submission of Site Plan (DELETED BY ORDINANCE 2005-34, NOVEMBER 22, 2005)**

### **6-103.3 Access Control**

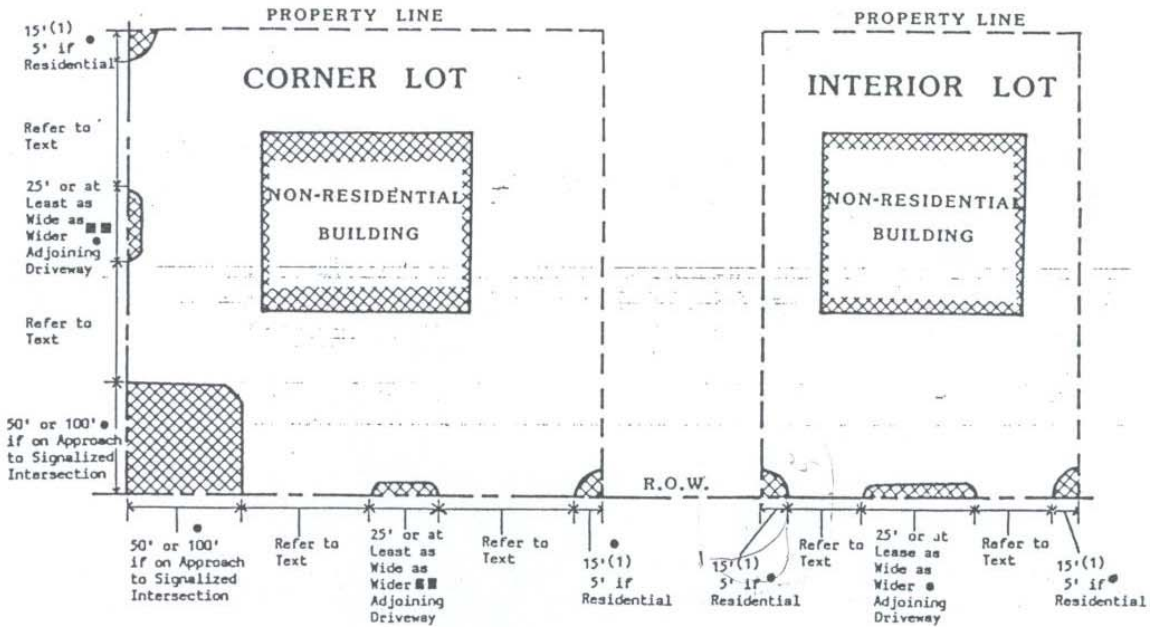
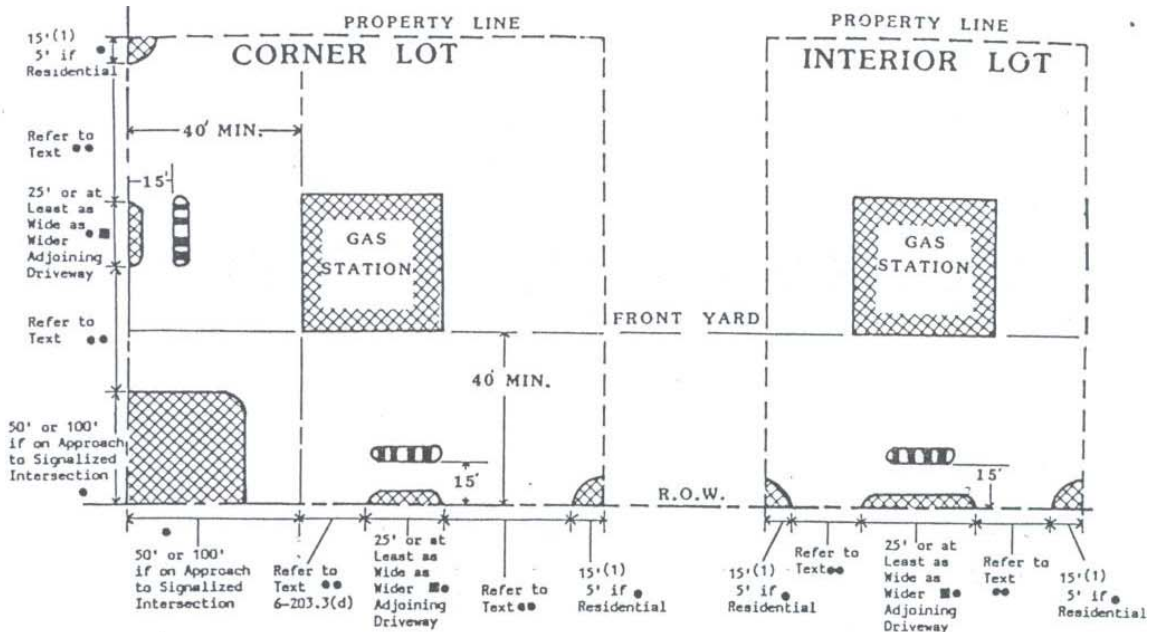
In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following regulations shall apply. (See Illustration 6-103.3A.)

#### **(a) Access from Arterial or Collector Public Ways**

The city may require:

- (i) That corner lots or double frontage lots not derive access from arterial or collector public ways.
- (ii) That access to residential lots from collectors and minor arterials shall be provided by joint driveways.

**ILLUSTRATION 6-103.3A**  
**DRIVEWAY CONSTRUCTION**



**DRIVEWAY CONSTRUCTION**

- NO MAXIMUM
- Also Applies to Trucking Terminals and Other Commercial and Industrial Uses Customarily Having a Large Volume of Tractor-Trailer Vehicular Traffic.
- 40' Minimum on State Highways (at Least as Wide as Adjacent Driveway)
- 35' Minimum on State Highways (at Least as Wide as Adjacent Driveway)
- (1) Except for Joint Driveways
- 200' Minimum Frontage Required for Double Driveways
- (1) Requests for Double Driveways Are Reviewed on a Case by Case Basis.

- (iii) That direct access to residential lots from major arterial highways designated in the major thoroughfare plan not be permitted.

(b) Minimum Separation Between Driveways

For each permitted nonresidential driveway, there shall be a corresponding minimum road frontage of:

- (i) At least two hundred (200) feet along routes designated in the major thoroughfare plan as rural arterial highways and six (6) lane urban arterial highways.
- (ii) At least one hundred-fifty (150) feet along routes designated in the Major Thoroughfare Plan as five (5) lane and three (3) lane urban arterial highways.
- (iii) At least one hundred (100) feet along routes designated in the Major Thoroughfare Plan as four (4) lane urban arterial highways and two (2) lane collector highways.

The city will consider requests for modifications to this standard to permit the construction of double driveways, serving the same property from the same street, on a case by case basis. Double driveways shall be allowed only on lots with more than two hundred (200) feet of road frontage. In all cases, the separation between double driveways shall be at least twenty-five (25) feet and shall also be greater than the width of the wider adjoining driveway.

The city may require that access to proposed new lots be provided indirectly via cross connections, joint access easements, or local access roads. Nonresidential lots of record as of the date of the enactment of this ordinance shall have direct access to at least one (1) public way.

(c) Minimum Clearances

The minimum corner clearance between proposed new driveways and existing or proposed thoroughfares shall be at least fifty (50) feet. In order to ensure adequate storage space for vehicles stopped at a signalized intersection, the city may require that the nearside corner clearance shall be at least one hundred (100) feet.

Corner clearances shall be as defined in the Rules and Regulations for Constructing Driveways on State Highway Rights-of-Way, adopted by the Tennessee Department of Highways and effective **April 3, 1967**.

Except when access is via a joint driveway, the distance between the frontage property line and the tangent projection of the nearest edge of each driveway, measured along the edge of the public way, shall be at least fifteen (15) feet for nonresidential driveways, and at least five (5) feet for residential driveways.

(d) Design Standards for Nonresidential Driveways

For access to thoroughfares where the posted speed limit is 35 m.p.h., or less, all nonresidential driveways shall be constructed with a minimum return radius of fifteen (15) feet and a minimum horizontal width of twenty-five (25) feet.

For access to thoroughfares where the posted speed limit is 40 m.p.h., nonresidential driveways shall be constructed with:

- (i) A minimum return radius of fifteen (15) feet and a minimum driveway width of forty (40) feet; or
- (ii) A minimum return radius of twenty (20) feet and a minimum driveway width of thirty (30) feet; or
- (iii) A minimum return radius of twenty-five (25) feet and a minimum driveway width of twenty-five (25) feet.

For access to thoroughfares where the posted speed limit is 45 m.p.h., nonresidential driveways shall be constructed with a right turn deceleration lane and:

- (i) A minimum return radius of twenty-five (25) feet and a minimum driveway width of forty (40) feet; or
- (ii) A minimum return radius of thirty (30) feet and a minimum driveway width of thirty (30) feet.

The city will review proposed driveway designs for access to other thoroughfares on a case by case basis.

Where required, deceleration lanes shall be designed to provide for sufficient reduction in travel speeds as well as for vehicle storage.

Driveway openings shall be no wider than necessary to ensure conformance with this standard.

All nonresidential driveways shall be permanently paved. Lanes shall be clearly designated and lane uses shall be clearly and permanently marked.

The maximum vertical slope of nonresidential driveway ramps shall be in accordance with the standard drawings for driveway ramps as shown in Appendix E, of the Subdivision Regulations.

The centerline of every nonresidential two (2) way driveway shall intersect the centerline of the public way at an angle between seventy-five (75) and ninety (90) degrees.

For other nonresidential driveways, the intersection angle shall be subject to the approval of the city.

(e) Design Standards for Residential Driveways

Where permitted, residential driveways fronting collector and arterial routes designated in the Major Thoroughfare Plan shall be designed so as to avoid requiring vehicles to back onto these highways.

(f) Relationship to State Standards

Where the driveway design and location standards listed above are not in conformance with the standards of the Tennessee Department of Transportation, the city may require conformance with whichever standard is more restrictive.

**6-103.4 Dimensions of Parking Stalls and Maneuvering Spaces**

Except as provided by Subsection 6-103.5, the minimum dimensions of parking stalls and Maneuvering spaces shall be shown on ILLUSTRATION 6-103.4A.

**6-103.5 Special Provisions for Handicapped Parking**

The following provisions shall apply to all uses and structures for which handicapped parking spaces are required by the provisions of Title 68, Chapter 18, Area 2, Tennessee Code Annotated.

**6-103.501 Number of Spaces Required**

A minimum of one (1) parking space for the handicapped shall be provided for the first fifty (50) regular parking spaces and one (1) additional handicapped space per each additional fifty (50) regular spaces.

**6-103.502 Dimensions and Location of Spaces**

Handicapped parking spaces shall be a minimum of twelve and one-half (12 1/2) feet wide and shall be located as near as possible to the main public entrances of a single building or centrally located in parking lots that serve more than one (1) building. (See Illustration 6-103.5A.)

**6-103.503 Signage**

All handicapped parking spaces shall be clearly marked by signs (see Illustration 6-103.5A) which specify their intended use by handicapped persons.

**6-103.6 Surfacing**

All off-street parking areas containing five (5) spaces or more shall be surfaced with asphalt, concrete, or other hard surfaced dustless material and so constructed to provide for adequate drainage for both on and off-site and to prevent the release of dust. In no case shall drainage be allowed to cross sidewalks.

## ILLUSTRATION 6-103.4A

### SUGGESTED PARKING LOT CONFIGURATIONS

(REVISED BY ORDINANCE 2006-30 ADOPTED JULY 25, 2006)

**\*If aisles are designated as fire lanes, they must be a minimum of twenty (20) feet in width.**

**\*\* The minimum aisle width shall be 12 feet per lane. This applies to restaurant drive through and pass by lanes.**

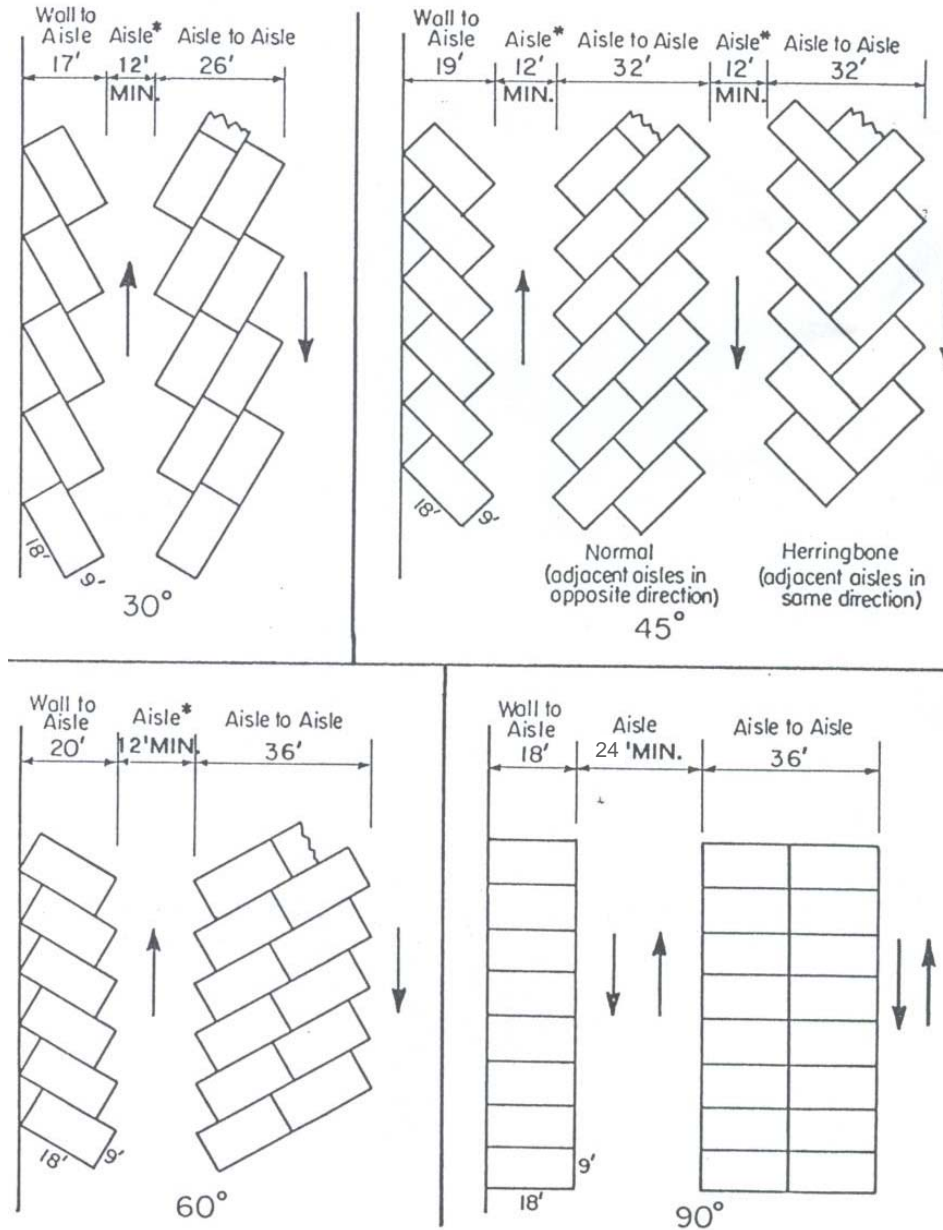
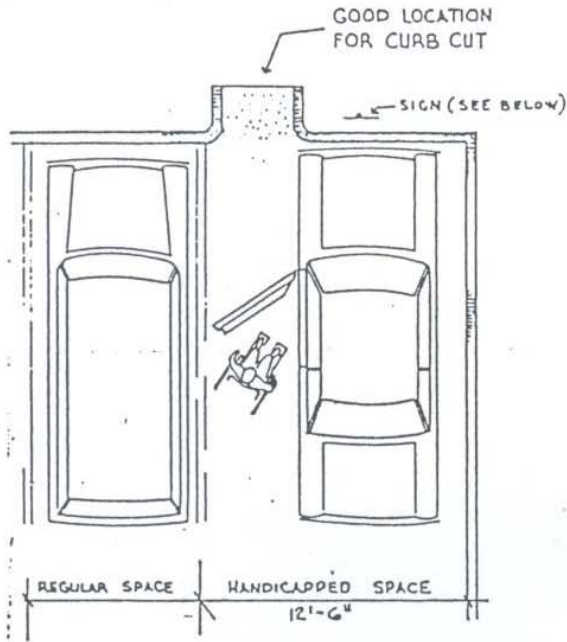


ILLUSTRATION 6-103.5A

DESIGN DETAILS FOR HANDICAPPED PARKING SPACES



REQUIRED SIGNS DESIGNATING HANDICAPPED SPACES

**6-103.7 Parking Area Design, Lighting and Landscaping**

The site design, landscaping and lighting provisions of ARTICLE IX, Subsection 9-204, shall apply to parking areas containing five (5) or more spaces.

**6-104 OFF-STREET LOADING REGULATIONS**

The following regulations on permitted or required accessory off-street loading berths are adopted in order to provide needed space off public streets for loading and unloading activities, to help relieve traffic congestion in commercial areas, and thus to promote and protect public health, safety, and general welfare.

**6-104.1 Applicability**

Except as otherwise provided in this ordinance, the provisions of this chapter on accessory off-street loading regulations shall apply to residential activities, community facility activities, commercial activities, industrial activities, and agricultural and extractive activities permitted by right or as a conditional use under the applicable provisions of this ordinance.

**6-104.2 Accessory Off-Street Loading Berths**

In all districts, accessory off-street loading berths shall be provided in conformity with the requirements set forth in the table in this section for all new development after the effective date of this ordinance for the uses listed in the table, as a condition precedent to the use of such development.

After the effective date of this ordinance, if the use of any building or other structure is enlarged or modified to increase the floor area, the requirements set forth herein shall apply to the increased floor area of the enlarged or modified portion of such building or other structure.

**REQUIRED OFF-STREET LOADING BERTHS FOR NEW CONSTRUCTION, ENLARGEMENTS OR MODIFICATIONS**

| <b><u>TYPE OF USE</u></b>                  | <b><u>FOR FLOOR AREA (IN SQUARE FEET)</u></b>         | <b><u>BERTHS</u></b> |
|--|---|----------------------|
| <b>(a) <u>Residential Multi-Family</u></b> | Less than 20,000                                      | None                 |
|  | 20,001 to 100,000                                     | 1                    |
|  | 100,001 to 300,000                                    | 2                    |
|  | each additional                                       | 1                    |
|  | 300,000 or fraction of one-half (1/2) or more thereof |                      |

**(b) Community Facilities**

|    |  |   |                     |
|----|--|---|---------------------|
| 1. | Community Assembly                               | Less than 20,000<br>20,001 to 100,000<br>100,001 to 300,000<br>each additional<br>300,000 or fraction<br>of one-half (1/2)<br>or more thereof | None<br>1<br>2<br>1 |
| 2. | Educational Facilities                           | Less than 20,000<br>20,001 to 100,000<br>100,001 to 300,000<br>each additional<br>300,000 or fraction<br>of one-half (1/2)<br>or more thereof | None<br>1<br>2<br>1 |
| 3. | Cultural and<br>Recreational Services            | Less than 20,000<br>20,001 to 100,000<br>100,001 to 300,000<br>each additional<br>300,000 or fraction<br>of one-half (1/2)<br>or more thereof | None<br>1<br>2<br>1 |
| 4. | Health Care                                      | Less than 10,000<br>10,001 to 100,000<br>100,001 to 300,000<br>each additional<br>300,000 or fraction<br>of one-half (1/2)<br>or more thereof | None<br>1<br>2<br>1 |
| 5. | Special Personal<br>and Group Care<br>Facilities | Less than 20,000<br>20,001 to 100,000<br>100,001 to 300,000<br>each additional<br>300,000 or fraction<br>of one-half (1/2)<br>or more thereof | None<br>1<br>2<br>1 |

**(c) Commercial**

|    |   |   |                               |
|----|---|---|-------------------------------|
| 1. | Convenience Retail<br>Sales and Service | Less than 10,000<br>10,001 to 25,000<br>25,001 to 40,000<br>40,001 to 60,000<br>60,001 to 100,000<br>each additional<br>150,000 or fraction<br>of one-half (1/2)<br>or more thereof | None<br>1<br>2<br>3<br>4<br>1 |
|----|---|---|-------------------------------|

|    |  |  |      |
|----|--|--|------|
| 2. | Transient Habitation   | Less than 20,000   | None |
|    |  | 20,001 to 100,000  | 1    |
|    |  | 100,001 to 300,000   | 2    |
|    |  | each additional  | 1    |
|    |  | 300,000 or fraction of one-half (1/2) or more thereof                |      |
| 3. | Food and Beverage Service - General<br>Food and Alcoholic Beverage Service                           | Less than 10,000   | None |
|    |  | 10,001 to 25,000   | 1    |
|    |  | 25,001 to 40,000   | 2    |
|    |  | 40,001 to 60,000   | 3    |
|    |  | 60,001 to 100,000  | 4    |
|    |  | each additional 80,000 or fraction of one-half (1/2) or more thereof | 1    |
| 4. | Professional Services - Medical  | Less than 20,000   | None |
|    |  | 20,001 to 100,000  | 1    |
|    |  | 100,001 to 300,000   | 2    |
|    |  | each additional  | 1    |
|    |  | 300,000 or fraction of one-half (1/2) or more thereof                |      |
| 5. | General Personal Service; Financial, Consulting and Administrative; or Professional Services - Other | Less than 20,000   | None |
|    |  | 20,001 to 100,000  | 1    |
|    |  | 100,001 to 300,000   | 2    |
|    |  | each additional  | 1    |
|    |  | 300,000 or fraction of one-half (1/2) or more thereof                |      |
| 6. | General Business and Communication Service, or Contract Construction Services                        | Less than 10,000   | None |
|    |  | 10,001 to 25,000   | 1    |
|    |  | 5,001 to 40,000  | 2    |
|    |  | 40,001 to 60,000   | 3    |
|    |  | each additional  | 1    |
|    |  | 150,000 or fraction of one-half (1/2) or more thereof                |      |
| 7. | Wholesale Sales  | Less than 10,000   | None |
|    |  | 10,001 to 25,000   | 1    |
|    |  | 25,001 to 40,000   | 2    |
|    |  | 40,001 to 60,000   | 3    |
|    |  | 60,001 to 100,000  | 4    |
|    |  | each additional 80,000 or fraction of one-half (1/2) or more thereof | 1    |

|   |   |  |      |
|---|---|--|------|
| 8.  | Automotive Servicing<br>and Repair  | Less than 10,000   | None |
|   |   | 10,001 to 25,000   | 1    |
|   |   | 25,001 to 40,000   | 2    |
|   |   | 40,001 to 60,000   | 3    |
|   |   | 60,001 to 100,000  | 4    |
|   |   | each additional<br>80,000 or fraction<br>of one-half (1/2)<br>or more thereof  | 1    |
| 9.  | General Trade Retail<br>Repair; Group<br>Assembly or<br>Entertainment and<br>Amusement Services | Less than 10,000   | None |
|   |   | 10,001 to 25,000   | 1    |
|   |   | 25,001 to 40,000   | 2    |
|   |   | 40,001 to 60,000   | 3    |
|   |   | 60,001 to 100,000  | 4    |
|   |   | each additional<br>150,000 or fraction<br>of one-half (1/2)<br>or more thereof | 1    |
| 10.   | Animal Care and<br>Veterinarian   | Less than 10,000   | None |
|   |   | 10,001 to 25,000   | 1    |
|   |   | 25,001 to 40,000   | 2    |
|   |   | 40,001 to 60,000   | 3    |
|   |   | 60,001 to 100,000  | 4    |
|   |   | each additional<br>80,000 or fraction<br>of one-half (1/2)<br>or more thereof  | 1    |
| 11.   | Building Materials<br>and Farm Equipment<br>Sales and Service                                   | Less than 2,000  | None |
|   |   | 2,001 to 10,000  | 1    |
|   |   | 10,001 to 25,000   | 2    |
|   |   | 25,001 to 40,000   | 3    |
|   |   | 40,001 to 60,000   | 4    |
|   |   | 60,001 to 100,000  | 5    |
| each additional<br>80,000 or fraction<br>of one-half (1/2)<br>or more thereof | 1   |  |      |
| 12.   | Vehicular, Marine<br>Craft, Aircraft and<br>Related Equipment<br>Sales Rental and<br>Delivery   | Less than 10,000   | None |
|   |   | 10,001 to 25,000   | 1    |
|   |   | 25,001 to 40,000   | 2    |
|   |   | 40,001 to 60,000   | 3    |
|   |   | 60,001 to 100,000  | 4    |
|   |   | each additional<br>300,000 or fraction<br>of one-half (1/2)<br>or more thereof | 1    |

**(d) Manufacturing**

|    |                              |                     |      |
|----|------------------------------|---------------------|------|
| 1. | All Manufacturing Activities | Less than 5,000     | None |
|    |                              | 5,001 to 20,000     | 1    |
|    |                              | 20,001 to 40,000    | 2    |
|    |                              | 40,001 to 60,000    | 3    |
|    |                              | 60,001 to 100,000   | 4    |
|    |                              | each additional     | 1    |
|    |                              | 300,000 or fraction |      |
|    |                              | of one-half (1/2)   |      |
|    |                              | or more thereof     |      |

**6-104.3 Accessory Off-Street Loading Berths Under Conditional Use Requirements**

The number of accessory off-street loading spaces shall be prescribed by the Board of Appeals as part of the conditional use requirements of this ordinance. Such requirements shall be based upon a report from the Planning Commission which takes into account traffic generation, amount and frequency of loading and unloading operations, the time of operation, and such other factors as affect the need for off-street loading for the activity type.

**6-104.4 Special Provisions for Multiple Uses Located on a Single Zone Lot**

When any building or zone lot contains two (2) or more uses having different requirements for loading berths as set forth above, and if

- (a) The floor area of each separate use is less than the minimum floor area for which berths are required, and
- (b) The total floor area of all the uses for which berths are required for any of the uses individually, off-street loading berths shall be provided as if the total floor area of the uses for which berths are required were used for that use for which the most loading berths are required.

**6-104.5 Size of Required Berths**

Off-street loading berths, shall have a minimum dimension of:

|                           |                             |
|---------------------------|-----------------------------|
| <b>Length</b>             | <b>Fifty-five (55) feet</b> |
| <b>Width</b>              | <b>Twelve (12) feet</b>     |
| <b>Vertical Clearance</b> | <b>Fifteen (15) feet</b>    |

The dimensions of off-street berths shall not include driveways or entrances to, or exits from, such off-street berths.

**6-104.6 Special Screening Provisions (ADDED BY ORDINANCE 1985-40, NOVEMBER 26, 1985)**

All permitted or required open off-street loading berths situated within or adjacent to residential districts or commercial districts where residences are permitted (CBD and MRO Districts) shall be screened from the adjoining districts by either:

- (a) A strip at least four (4) feet wide, densely planted with shrubs or trees which are at least four (4) feet high at the time of planting and which are of a type which may be expected to form a year-round dense screen at least six (6) feet high within three (3) years.
- (b) A wall or barrier of uniformly painted fence of fire-resistant material, at least six (6) feet in height, but not more than eight (8) feet in height as measured from the finished grade. Such wall, barrier, or fence may be opaque or perforated provided that not more than fifty (50) percent of the fence is open.

In addition, such screening:

- (a) Shall be maintained in good condition at all times.
- (b) Shall not be located within fifteen (15) feet of normal vehicular entrances and exits.

**CHAPTER 2.            SIGN REGULATIONS (ENTIRE CHAPTER REPLACED BY ORDINANCE NO. 2004-9, JUNE 22, 2004)**

**6-201 PURPOSE AND INTRODUCTION**

**6-201.1            Purposes**

The purposes of these sign regulations are:

- (1) to encourage the effective use of signs as a means of communication for businesses, organizations and individuals in the City of Hendersonville;
- (2) to provide a means of way-finding in the community, thus reducing traffic confusion and congestion;
- (3) to maintain and enhance the pleasing look of the City of Hendersonville; to preserve Hendersonville as a community that is attractive to business;
- (4) to improve pedestrian and traffic safety;
- (5) to differentiate in the restriction of signs that may distract drivers in active traffic and those signs that may provide information to drivers while they remain in their cars but out of active traffic;
- (6) to minimize the possible adverse effects of signs on nearby public and private property while protecting First Amendment free speech rights; and
- (7) to implement the Long Range General Development Plan, as updated from time to time.

**6-201.2            Applicability and Effect**

**6-201.201 Applicability**

A sign may be erected, placed, established, painted, created or maintained on private property in Hendersonville only in conformance with the standards, procedures, exemptions, and other requirements of this Ordinance.

**6-201.202 Effect**

The effect of this Ordinance, as more specifically set forth herein, is:

- (a) To establish a permit system to allow a variety of types of signs in commercial, industrial and some mixed-use zones, and a limited

variety of signs in other zones, subject to the standards and the permit procedures of this ordinance;

- (b) To allow certain signs that are small, unobtrusive and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this ordinance, but without a requirement for permits;
- (c) To provide for temporary signs in limited circumstances;
- (d) To prohibit all signs not expressly permitted by this Ordinance; and
- (e) To provide for the enforcement of the provisions of this Ordinance.

### **6-201.3 Transitional Provisions**

#### **6-201.301 Existing Signs**

All signs legally erected prior to the effective date of this Ordinance are considered legal by this ordinance and may remain in place and in use, subject to certain restrictions on modification, replacement and other actions affecting the sign, as set forth in this Ordinance.

#### **6-201.302 Existing Permits**

All holders of permits for signs issued legally prior to the effective date of this Ordinance may erect the signs which are the subject of such permits within the times allowed by such permits, and such signs shall then be treated as though they had been erected prior to the effective date of this Ordinance. However, such permits may not be extended or amended unless the sign which is the subject of such permit will conform to all of the requirements of this Ordinance.

#### **6-201.303 Existing Violations**

All violations of the sign regulations repealed by this Ordinance shall remain violations of the ordinances of the City of Hendersonville and all penalties and enforcement remedies set forth hereunder shall be available to the City of Hendersonville as though the violation were a violation of this Ordinance. However, if the effect of this Ordinance is to make a sign that was formerly nonconforming become conforming, then enforcement action shall cease except to the extent of collecting penalties (other than removal of the sign) for violations that occurred prior to the effective date of this Ordinance.

## **6-202 DEFINITIONS AND INTERPRETATION**

### **6-202.1 Rules of Interpretation**

Words and phrases used in this Ordinance shall have the meanings set forth in this Ordinance. Words and phrases not defined in this Ordinance but defined elsewhere in the Ordinances of the City of Hendersonville shall be given the meanings set forth there. Principles for computing sign area and sign height are given in the next section. All other words and phrases shall be given their common, ordinary meanings, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this Ordinance.

### **6-202.2 Computations**

#### **6-202.201 Computation of Sign Area of Individual Signs**

The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative fence or wall when such fence or wall otherwise meets the regulations of the Ordinances of the City of Hendersonville and is clearly incidental to the display itself.

#### **6-202.202 Computation of Area of Multifaced Signs**

Where the sign faces of a double-faced sign are parallel or the interior angle formed by the faces is 60 degrees or less, only one display face shall be measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign shall be the area of the larger sign. In all other cases, the areas of all faces of a multifaced sign shall be added together to compute the area of the sign.

#### **6-202.203 Computation of Height**

The height of a sign shall be computed as the distance from the base of the sign at a computed grade to the top of the highest attached component of the sign. The computed grade shall be the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot.

### **6-202.3      Definitions of Particular Words**

In interpreting this ordinance, the following words and phrases shall be given the specific definitions used here. Words and phrases not defined in this section, but defined in Article I, Chapter 2 of this Ordinance shall be given the meanings set forth in said Article I, Chapter 2.

**ABANDONED OR OBSOLETE SIGN.** Any sign which (1) advertises or pertains to a business, product, service, event, activity, or purpose which has not been conducted on the premises upon which said sign is located for a continuous period of 90 days or (2) any sign which was created for an occupant, product or business unrelated to the present occupant of the premises or (3) any sign that no longer displays any sign copy or (4) any sign for which a site plan has expired.

**ANIMATED SIGN.** Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

**ATTENTION-ATTRACTING DEVICE:** Any device or object visible from any public street which is primarily designed to attract the attention of the public to a business(s), institution, sign, or activity through such means, including but not limited to illumination, color, size or location. Attention-attracting devices or objects oftentimes incorporate illumination, which may be stationary, moving, turning, blinking (including animation) or flashing. Attention-attracting devices may or may not convey a message and can include, but are not limited to, search lights, beacons, strobe lights, strings of lights, streamers, pennants, propellers and inflatable objects including strings of balloons) or other device/objects designed to attract attention. Approved traffic-control devices are not considered to be attention-attracting devices for purposes of this Ordinance.

**AWNING.** A fabric, plastic or other non-rigid protective covering that extends from the exterior wall of a building and is supported by or attached to a frame.

**AWNING SIGN.** A sign attached to or incorporated into an awning.

**BANNER.** Any sign of lightweight fabric or similar non-rigid material. National flags, state or municipal flags, or the official flag of any institution shall not be considered a banner.

**BEACON.** Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

**BUILDING MARKER.** Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

**BUILDING, PRINCIPAL:** A building in which is conducted the principal use of the lot on which it is situated. A multi-occupant property may have more than one principal building, but only structures regularly used for human occupancy may be considered principal buildings. Not an accessory building.

**BUILDING SIGN.** Any sign attached to any part of a building, as contrasted to a "Ground Sign".

**BUILDING WALL:** An exterior load-bearing or non-load-bearing vertical structure that encompasses the area between the final grade elevation and eaves of the building, and is used to enclose functional space within the building.

**CAMPAIGN SIGN.** A sign expressing support for a candidate for public office or another position regarding a public figure or a public issue but bearing no commercial message whatsoever.

**CANOPY.** A rigid roof, generally supported at all corners or extremities by poles, posts or direct attachment to a building; a canopy typically has little vertical or wall space on it and is only as thick as necessary to create a functional roof.

**CHANGEABLE COPY SIGN.** A sign that is capable of changing the position or format of word messages or other displays on the sign face and that can also change the visible display of words, numbers, symbols and graphics by the use of a matrix of electric lamps, movable discs, movable panels, light apertures, or other methods, and such changes are actuated by a control mechanism, rather than being made manually on the face of the sign. A sign that changes more than eight times per calendar day shall be considered an animated sign and not a changing sign for purposes of this Ordinance.

**COMMERCIAL MESSAGE.** Any sign, wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

**DIRECTORY SIGN:** A ground or building sign that lists tenants or occupants of a building or project, with unit numbers, arrows or other directional information.

**ENFORCEMENT OFFICIAL :** A person charged by the City with enforcement of this Ordinance.

**FLAG.** Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision or other entity.

**FLASHING SIGN.** A sign, the illumination of which is not kept constant in intensity at all times when in use, and which exhibits sudden or marked changes in lighting effects.

**GROUND SIGN.** Any sign not supported by a building.

**INCIDENTAL SIGN.** A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and similar information and directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

**INSTITUTIONAL USE:** A school, religious institution, or other use operated by a public agency or non-profit organization and permitted as a use in one or more residential zoning districts in the City. Child day-care centers, nursing homes, and marinas shall be considered -institutional uses regardless of ownership or operation.

**INSTITUTIONAL SIGN.** A sign identifying or advertising an institutional use permitted in a residential district, where such sign is located on the same premises as such use.

**LOT.** Any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record that is recognized and intended as a unit for the purpose of transfer of ownership.

**MONUMENT SIGN.** A type of sign affixed directly to the ground or affixed directly to a solid base without visibility between the sign and the base or between the base and the ground or a sign above ground level supported by a post or posts which are concealed from visibility by a curtain wall of brick or similar material constructed around the base of the sign.

**NONCONFORMING SIGN.** Any sign that does not conform to the requirements of this ordinance.

**PENNANT.** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

**PERSON.** Any association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

**PRINCIPAL BUILDING.** The building in which is conducted the principal use of the zone lot on which it is located. Zone lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

**PROJECTING SIGN.** Any sign attached to a building wall and extending laterally more than 18 inches from the face of such wall.

**REAL ESTATE SIGN.** A sign advertising property or a building for sale, lease or rent.

**RESIDENTIAL SIGN.** A sign, typically located in a district zoned for residential use, meeting the standards of this Ordinance for a residential sign, and containing no commercial message.

**ROOF SIGN.** A sign that is placed above or supported on the top of a building.  
**ROOF SIGN, INTEGRAL.** Any sign erected and constructed as an integral or essential integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

**SETBACK.** The distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line.

**SIGN.** Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announces the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

**STREET.** A strip of land or way subject to vehicular traffic (as well as pedestrian traffic) that provides direct or indirect access to property, including but not limited to, alleys, avenues, boulevards, courts, drives, highways, lanes, places, roads, terraces, trails or other thoroughfares.

**STREET FRONTAGE.** The distance for which a lot line of a zone lot adjoins a public street from one lot line intersecting said street to the furthest distant lot line including the distances along not more than two streets for a corner lot or double frontage lot.

**SUSPENDED SIGN.** A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

**TEMPORARY SIGN.** Any sign that is used only temporarily and is not permanently mounted.

**VEHICLE SIGN.** Signs contained in, attached to, suspended from, or painted or displayed on any vehicle regularly parked on any street or private property when one of the purposes of so locating such vehicle is to display, demonstrate, advertise or attract the attention of the public.

**WALL SIGN.** Any sign attached parallel to, but within six inches of a wall, painted on the wall surface or erected and confined within the limits of an outside wall of

any building or structure, which is supported by such wall or building, and which displays only one sign surface.

WINDOW SIGN. Any sign that is placed inside a window or upon the window panes or glass and is legible from the exterior of the window.

ZONE LOT. A lot or other parcel of land in single ownership that is large enough to meet minimum zoning requirements for area, coverage, and use and that can provide such yards and other open spaces required by the zoning ordinance.

ZONING DISTRICT. The zoning classification of property as per the Hendersonville Zoning Ordinance.

## **6-203 PERMITTED SIGNS, LOCATION, DESIGN AND NUMBER**

### **6-203.1 Signs Allowed on Private Property**

#### **6-203.101 Types of Signs Permitted**

Signs shall be allowed on private property in the City of Hendersonville in accordance with, and only in accordance with, Table 1. If the letter "P" appears for a sign type in a column, such sign is allowed without prior permit approval in the zoning district(s) represented by that column. If the letter "S" appears for a sign type in a column, such sign is allowed only with prior permit approval in the zoning district(s) represented by that column. If the letter "N" appears for a sign type in a column, such a sign is not allowed in the zoning district(s) represented by that column, under any circumstances.

#### **6-203.102 Special Conditions**

Special conditions shall apply to certain types of signs. Those signs are identified with a paragraph number reference in the right-hand column of Table 1, which number refers to a paragraph in Section 6-203.2. A sign of such type shall be permitted only subject to the requirements of those supplemental regulations.

Table 1 Permitted Signs, By Type, by Zoning District (AMENDED BY ORDINANCE 2006-58, JANUARY 9, 2007)

| Sign Types       | All R & A-R | All RM TC-R | OPS MRO | NCS | TC-C | GCS MCD &HCD | IR | IG | IS | Cond'ns                |
|------------------|-------------|-------------|---------|-----|------|--------------|----|----|----|------------------------|
| <b>Ground</b>    |             |             |         |     |      |              |    |    |    |                        |
| Directory        | N           | N           | S       | N   | (1)  | S            | S  | S  | S  | 6-203.203              |
| Incidental       | P           | P           | P       | P   | (1)  | P            | P  | P  | P  | 6-203.204              |
| Institutional    | S           | S           | S       | S   | (1)  | N            | N  | N  | N  | 6-203.205              |
| Principal Ground | N           | S           | S       | S   | (1)  | S            | S  | S  | S  | 6-203.207              |
| Residential      | P           | P           | N       | N   | (1)  | N            | N  | N  | N  | 6-203.209              |
| Temporary        | P           | P           | S       | S   | (1)  | S            | S  | S  | S  | 6-203.211              |
| <b>Building</b>  |             |             |         |     |      |              |    |    |    |                        |
| Awning           | N           | N           | S       | S   | (1)  | S            | S  | S  | S  | 6-203.201              |
| Building Marker  | P           | P           | P       | P   | (1)  | P            | P  | P  | P  | 6-203.202              |
| Directory        | N           | P           | P       | P   | (1)  | P            | P  | P  | P  | 6-203.203              |
| Incidental       | P           | P           | P       | P   | (1)  | P            | P  | P  | P  | 6-203.204              |
| Institutional    | P           | P           | P       | P   | (1)  | P            | P  | P  | P  | 6-203.205              |
| Integral Roof    | N           | N           | S       | S   | (1)  | S            | S  | S  | S  | 6-203.201              |
| Projecting       | N           | N           | N       | S   | (1)  | S            | N  | N  | N  | 6-203.208              |
| Temporary        | N           | N           | N       | S   | (1)  | S            | S  | S  | S  | 6-203.211              |
| Wall             | P           | P (2)       | S       | S   | (1)  | S            | S  | S  | S  | 6-203.212<br>6-203.213 |
| Window           | N           | N           | N       | N   | (1)  | P            | P  | P  | P  | 6-203.214              |
| <b>Other</b>     |             |             |         |     |      |              |    |    |    |                        |
| Flags            | P           | P           | P       | P   | (1)  | P            | P  | P  | P  | 6-203.206              |

- (1) See Town Center Design Guidelines
- (2) Permitted for Community Facility Uses only

**6-203.103 Number, Dimensional and Locational Limitations**

Although permitted under the previous paragraph, a sign designated by an “S” or a “P” in Table 1 shall be allowed only if:

- (a) The size of any individual ground sign does not exceed the size given for “individual sign area” in Table 2 or, Section 6-203.2, whichever is less;
- (b) The height of any ground sign does not exceed the number given for “height” in Table 2 or Section 6-203.2, whichever is less;
- (c) Each ground sign shall be setback far enough away from the street to be off the right of way. Should the Hendersonville Major Thoroughfare Plan dictate a greater right of way width than exists, said greater right of way width shall apply. In no event shall any sign be placed any closer to the edge of the pavement than 12 feet or in such a location which blocks visibility of motorists;
- (d) The number of principal ground signs per zone lot shall not exceed the number 1 or the number resulting from the “number permitted” computation in Table 2 or as specified in Section 6-203.2;

- (e) The area of wall sign(s) on an individual wall does not exceed the area in square feet listed in Table 2 for building signs or as specified in Section 6-203.2, whichever is less.

Table 2 Number, Dimensions and Location of Individual Signs by Zoning District (AMENDED BY ORDINANCE 2006-58, JANUARY 9, 2007)

| Sign Types                       | All R & A-R                              | All RM TC-R           | OPS MRO   | NCS       | TC-C      | GCS MCD &HCD | IR        | IG        | IS        |
|----------------------------------|--|-----------------------|-----------|-----------|-----------|--------------|-----------|-----------|-----------|
| ANY GROUND:                      |  |                       |           |           |           |              |           |           |           |
| Individual Sign Area (sq. feet)  | 9(2)                                     | 30(2)                 | 40(2)     | 40(2)     | 40(2)     | 40(1)(2)     | 40(1)(2)  | 40(1)(2)  | 40(1)(2)  |
| Height (feet)                    | 4  | 4                     | 6(3)      | 3         | 6         | 6(3)         | 6(3)      | 6(3)      | 6(3)      |
| Setback (feet)                   | .....see Section 6-203.103(c) above..... |                       |           |           |           |              |           |           |           |
| PRINCIPAL GROUND:                |  |                       |           |           |           |              |           |           |           |
| Number Permitted                 |  |                       |           |           |           |              |           |           |           |
| --Max/ Zone Lot                  | 1  | 2                     | 2         | 2         | 2         | 2            | 2         | 2         | 2         |
| --Per Feet of Street Frontage(4) | NA                                       | 1 per 200             | 1 per 200 | 1 per 200 | 1 per 200 | 1 per 200    | 1 per 200 | 1 per 200 | 1 per 200 |
| BUILDING:                        |  |                       |           |           |           |              |           |           |           |
| Area (maximum square feet)       | 2  | .....See 6-203.2..... |           |           |           |              |           |           |           |

- FOOTNOTES: (1) 1 square foot of sign area for each 3 feet of street frontage with a minimum of 40 feet allowed and a maximum of 80 feet  
 (2) provided not more than 50% of the area is changeable copy.  
 (3) 1 foot of sign height for each 20 feet of street frontage with a minimum of 6 feet allowed and a maximum of 15 feet.  
 (4) must have at least 400 feet of frontage to qualify for a 2<sup>nd</sup> sign.

**6-203.104 Permitted Characteristics**

The characteristics of signs shall conform with the limitations of Table 3, and with any additional limitations on characteristics listed in Section 6-203.2, Special Conditions. "N" in a column indicates that a characteristic is not permitted in that zoning district. "S" in a column indicates that a characteristic is allowed on a wall sign or principal ground sign with a sign permit. Characteristics of other types of signs are limited by the conditions set forth in Section 6-203.2.

Table 3 Permitted Sign Characteristics (AMENDED BY ORDINANCE 2006-58, JANUARY 9, 2007)

| Sign Types                                | All R & A-R | All RM TC-r | OPS MRO | NCS | TC-C | GCS MCD &HCD | IR | IG | IS |
|---|-------------|-------------|---------|-----|------|--------------|----|----|----|
| Changeable Copy                           | S           | S           | S       | S   | S    | S            | S  | S  | S  |
| Illumination, Internal                    | N           | N           | S       | N   | S    | S            | S  | S  | S  |
| Illumination, External                    | N           | S           | S       | S   | S    | S            | S  | S  | S  |
| Illumination, Exposed Bulbs or Neon Tubes | N           | N           | N       | N   | N    | N            | N  | N  | N  |

## **6-203.2 Special Conditions by Sign Type**

The following Supplemental Regulations apply to particular types of signs or to particular signs in particular circumstances. Where appropriate, the tables refer to the conditions set forth in these Supplemental Regulations by paragraph number within this section.

### **6-203.201 Awning Sign/Integral Roof Sign**

An awning sign or an integral roof sign shall not cover more than 30 percent of the awning or roof surface.

### **6-203.202 Building Marker**

Building marker signs shall be permitted, subject to the following conditions:

- (a) Such signs shall not exceed three square feet in area;
- (b) Such signs shall contain no logo or commercial message;
- (c) Such signs shall be made of permanent material, such as bronze or masonry, and shall be permanently affixed to or made part of the building;
- (d) There shall be only one such sign on any building; and

### **6-203.203 Directory Sign**

Directory signs shall be permitted where a particular site includes more than one tenant or occupant, subject to the following conditions:

- (a) In shopping centers:

Directory signs in shopping centers may be located near entrances to parking areas, but at least 50 feet from any public right-of-way, and at principal intersections within the center, where such intersections are at least 50 feet from any public right-of-way. Such signs shall not exceed 16 square feet in area or 42 inches in height. Such signs may contain logos or business names with arrows or other directional information. Such sign shall not be separately illuminated.

- (b) At multi-family projects, office buildings or business parks:

One directory sign may be located near the principal entrance to a parking area for multi-family projects, office buildings or business parks, as shown on an approved Uniform Sign Plan. Such sign shall be located away from any public right-of-way, so that drivers can conveniently pull up to and read the directory without impeding traffic on any driveway or entrance serving the development. Such sign may contain an unlimited number of pieces of information, but letters shall not be more than three inches in height and shall not be legible from any public right-of-way. Such sign may not exceed eight square feet in area and five feet in height. Such sign may not be separately illuminated.

#### **6-203.204 Incidental Signs**

Incidental signs may carry any type of information except a commercial message that is visible from a position off the lot on which the sign is located. Typical incidental signs include “restroom,” “phone,” “no parking,” “entrance,” “exit,” and generic directions such as “office,” “atm,” or “stores.” No such sign shall exceed 9 square feet in size.

#### **6-203.205 Institutional Sign**

In residential zoning districts, an institutional ground sign shall be permitted on the same site as any house of worship, school, hospital or other institution which is a permitted use in that location, subject to the following:

- (a) Such sign shall not exceed 4 feet in height plus 2 feet of additional height for each additional 5 feet of setback beyond the minimum required setback up to a maximum height of 8 feet;
- (b) Such sign shall not exceed 40 square feet in size;
- (c) Up to fifty percent (50%) of the surface area on each side of the sign may be a changeable copy sign; and
- (d) Such signs may be illuminated by external light only.
- (e) Such sign shall be a monument style sign.

In residential zoning districts, an institutional wall sign shall be permitted on the same site as any house of worship, school, hospital or other institution which is a permitted use in that location, subject to the following:

- (a) Such wall sign shall not exceed 40 square feet in size;

- (b) Such sign shall not be internally illuminated, but may be externally illuminated.

In nonresidential zoning districts, an institution may elect to erect the ground sign that would be permitted to a business in the same location, or it may elect to erect the institutional sign permitted under these provisions, but it may not erect or maintain both.

#### **6-203.206 Flag**

The display of flags shall be subject to the following limitations:

- (a) There shall be no more than three flagpoles per principal building on any zone lot;
- (b) There shall be no more than two flags per pole;
- (c) No flag may contain a commercial message except that one of the three allowed flags may contain a commercial message in a non-residential zone;
- (d) No flagpole shall exceed thirty five (35) feet in height. Flagpoles on buildings shall not extend more than fifteen (15) feet above the highest point of the building or roof.

#### **6-203.207 Principal Ground Sign**

A principal ground sign shall be permitted subject to the following:

- (a) Such sign shall not exceed the applicable height specified for a ground sign in that district in Table 2;
- (b) Such sign shall not exceed in square feet the number given in Table 2. A ground sign located on a vacant lot shall not exceed 12 square feet until such time that a building permit is issued for construction. Following issuance of a building permit, the restrictions in Table 2 shall apply. **(REVISED BY ORDINANCE 2005-34, NOVEMBER 22, 2005)**
- (c) Setbacks shall conform to Table 2;
- (d) One principal ground sign is permitted for each 200 feet of street frontage per lot with a maximum of 2 such signs being permitted. Where more than one sign is allowed, there shall be separation between each sign of at least 200 feet. Corner lots and other multi-frontage lots shall be allowed one sign for each of two street

frontages even if there is not 400 feet of total frontage, but provided said signs are separated by at least 200 feet, such distance to be measured parallel to the street frontage rather than in a straight line.

- (e) Principal ground signs shall be separated from principal ground signs on other lots by a distance of at least 75 feet. The Planning Commission may approve a lesser distance in instances where it is not physically possible or otherwise practical, in the opinion of the Planning Commission, to provide 75 feet separation.

#### **6-203.208 Projecting Signs**

The size of a projecting sign shall not exceed the size permitted for a ground sign on the same property. A projecting sign shall be at least 12 feet above any sidewalk, parking lot, driveway or other vehicular or pedestrian way and shall not exceed 25 feet in height.

#### **6-203.209 Residential Signs**

A residential sign shall not exceed 9 square feet in size nor 4 feet in height. Residential signs shall carry no commercial message whatsoever.

#### **6-203.210 Suspended signs**

Suspended signs shall be permitted under canopies attached to buildings at entrances to businesses or other users under that canopy. Suspended signs shall be subject to the following specific conditions:

- (a) There may be one suspended sign per entrance, and the suspended sign may have copy on both sides;
- (b) A suspended sign shall not exceed two square feet in face area on one side; and
- (c) A suspended sign shall not be illuminated.

#### **6-203.211 Temporary Signs**

The following temporary signs are permitted in addition to whatever permanent signs are permitted:

- (a) Temporary Building Signs

One (1) banner or other temporary building sign per business shall be permitted in commercial and industrial zones. Such signs shall

not exceed 40 square feet in size and shall be securely attached flat against the wall of the building and shall not be erected on poles or any other means of support other than the wall of the principal building on the property. Such banners or other temporary building signs may remain in place for not more than 60 days per year. This time period may be separated into four periods.

(b) Temporary Ground Signs (such as civic signs and business temporary signs)

One temporary ground sign per lot shall be permitted. Such signs shall not exceed 9 square feet in size and 4 feet in height in residential zones and 12 square feet in size and 6 feet in height in commercial and industrial zones and may remain in place for 45 days per year. Such 45 day period may be divided into as many as three periods.

Temporary residential signs shall include political preference message signs, campaigns signs, baby announcements, garage sale signs, lost pet signs and any other message a property owner wishes to display provided the sign contains no commercial message, except during one of the 15-day periods specified in the above paragraph. No permit is required.

In residential zones, a label issued by the office of the Zoning Administrator shall be affixed to the front of each temporary ground sign bearing a commercial message. This label shall specify the time period during which the sign is allowed to remain and shall also state the address where the sign is to be displayed.

(c) Exceptions:

i. Campaign Signs

Temporary campaign signs may be displayed on private property to express support of, opposition to, or any other opinion on a political candidate; an election issue; a non-commercial civic health, safety or welfare campaign; or any issue of civic or public interest. Multiple signs are allowed on a lot, but not more than one such sign per candidate or issue. Such campaign signs are allowed in addition to all other permitted signs. A sign permit is not required.

ii. Real Estate Signs

One temporary signs advertising the sale, auction, rental or lease of real estate may be displayed on private property which is for sale. The maximum in residential zones is 9 square feet in size and 4 feet in height. The maximum in commercial and industrial zones is 20 square feet in size and 8 feet in height. On corner lots and double frontage lots, one such sign may be displayed on each of the two frontages. For this purpose frontage includes street, lake and golf course frontage. These two signs shall be separated by at least 100 feet. These signs may remain for as long as the property is for sale, auction, rental or lease and shall be removed within three days of closing of the sale, end of the auction or rental of the premises.

To accommodate an open house, an "open house" sign may also be placed on the property under the same size and setback requirements specified above. Furthermore, there may be four off premise open house directional signs not exceeding one square foot in size nor three feet in height. These open house signs shall be allowed on Friday, Saturday and Sunday only. Such off-premise directional sign may not be placed on public property or right-of-way but may be placed on private property with the permission of the owner of that property.

Futhermore, there may be four off premise auction signs not exceeding 9 square feet in size nor 4 feet in height placed not more than 10 days in advance of the auction and removed within 3 days after the auction. Such signs may not be placed on public property or right of way but may be placed on private property with the permission of the owner of that property.

Such signs are allowed in addition to all other permitted. A permit is not required.

iii. Real Estate Development Signs

As an accessory use to an approved subdivision and land development, each new subdivision (residential, commercial or industrial) shall be allowed one real estate development sign to advertise lots for sale within the subdivision. Such sign shall carry no other commercial message whatsoever and shall not exceed 32 square feet in size nor ten feet in height and shall be removed when 90% of the lots are built

upon, but not later than five years unless an extension is granted by the Planning Commission.

**6-203.212 Wall Sign, Commercial/Industrial**

Wall signs in commercial and industrial districts shall be allowed, subject to the following limitations:

- (a) A wall sign may be installed or painted only on a building wall of a principal building, as defined in this Ordinance and may be on any side of the building;
- (b) The total amount of signage per wall of building shall not exceed 1.5 square feet per linear foot of length of the wall to which the sign is to be attached plus a setback bonus of 1 square foot for each additional foot of building setback beyond the required setback with a maximum of 3 square feet per linear foot of building frontage. Where a building has more than one occupant or tenant, a percentage of the setback bonus shall be allocated corresponding to the tenant's building square footage percentage. Any departure from this formula must be explicitly stated in the Master Signage Plan. In no event shall the allocated setback bonus exceed 100%.
- (c) Where a wall of a building in a commercial or industrial district faces and is within one hundred feet (100 feet) of a residential zoning district, the size and lighting limitations applicable to institutional uses in that zoning district shall apply to the sign(s) on that wall only.

**6-203.213 Wall Sign, Residential**

Single-family residential units (either attached or detached) in zoning districts or portions of planned developments designated for single-family use shall be permitted one wall sign meeting the following criteria: [A] the sign shall not exceed two square feet in area; [B] the sign shall not be separately illuminated.

Multi-family residential uses located in residential zoning districts, including portions of planned developments designated for residential use, shall be permitted one wall sign per public entrance, which wall sign shall be subject to the following: [A] no such sign shall exceed six square feet in area; [B] each sign may be illuminated only by direct, external illumination; and [C] the sign shall not contain any commercial message other than information about leasing units in the project. Non-residential uses in RM-1, RM-2 and MRO zones shall be permitted one square foot of wall sign for each linear foot of length of wall to which the sign is to be attached.

### **6-203.214 Window Sign**

Signs may be placed on the window glass on the first floor of buildings occupied by retail and service uses (not including offices or financial institutions), provided that they cover no more than 40 percent of the gross glass area on any one side of the building. Window signs shall not be illuminated.

### **6-204 SIGNS EXEMPT FROM REGULATION**

The following signs shall be exempt from regulation under this Ordinance:

- (A) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
- (B) Any sign not legible from a public street and any sign inside a building, not attached to a window or door that is not legible from a distance of more than three feet beyond the lot line of the zone lot or parcel on which such sign is located;
- (C) Works of art that do not include a commercial message;
- (D) Traffic control signs on private property, such as Stop, Yield, and similar signs, the faces of which meet Department of Transportation standards and which contain no commercial message of any sort.

### **6-205 PROHIBITED SIGNS**

All signs not expressly permitted under this Ordinance or exempt from regulation hereunder in accordance with the previous section are prohibited. Such signs include, but are not limited to:

- (A) Animated;
- (B) Beacons;
- (C) Flashing signs, including flashing signs inside the window if visible from the property line;
- (D) Obscene signs;
- (E) Pennants;
- (F) Roof signs;

- (G) Streamers;
- (H) Strings of lights not permanently mounted to a rigid background;
- (I) Inflatable signs and tethered balloons;
- (J) Other attention-attracting devices except to the extent that they conform fully to the dimensional, design, lighting and other standards applicable to a sign in the same location.
- (K) Abandoned or Obsolete Signs: Such signs and all frames, supporting structure, posts, and appurtenances shall be removed by the owner of the property, his agent, or person having beneficial use of the premises upon which said sign is located.
- (L) Vehicle Signs

**6-206 DESIGN, CONSTRUCTION, AND MAINTENANCE**

**6-206.1 Code Compliance**

All signs shall comply with the applicable provisions of the building code and the electrical code of the City of Hendersonville at all times.

**6-206.2 Permanent Installation Required**

Except for permitted banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this Ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

**6-206.3 Design Review (AMENDED BY ORDINANCE 2006-58, JANUARY 9, 2007)**

Compliance with the Hendersonville Design Review Manual, or, if within the TC-R or TC-C Districts, the Town Center Design Guidelines, is required for all new permanent signs including replacement signs for which a permit is required as per Table 1 of this Article including principal ground signs, directory ground signs, institutional ground signs, awning signs, projecting signs and wall signs. The Hendersonville Regional Planning Commission shall, prior to issuance of a sign permit as required by Section 6-209 of this Article, review such proposed signs and approve or deny as to conformance with the Design Review Manual, Town Center Design Guidelines and this Article.

The Hendersonville Planning Director is hereby authorized to grant or deny Design Review approval for signs to be erected at an existing business or existing buildings. Denial may be appealed to the Planning Commission.

**6-206.4      Maintenance**

All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this Ordinance, at all times. Specifically:

- (1) A sign shall have no more than 20 percent of its surface area covered with disfigured, cracked, ripped or peeling paint, poster paper or other material for a period of more than 30 successive days.
- (2) A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than 15 degrees from vertical for a period of no more than ten successive days.
- (3) A sign shall not have weeds, trees, vines, bird nests or other vegetation growing upon it, or obscuring the view of the sign from the street or right-of way from which it is to be viewed, for a period of no more than 30 successive days.
- (4) An internally illuminated sign shall be allowed to stand with only partial illumination for a period of no more than 30 successive days.

**6-207 SIGNS NOT TO CONSTITUTE TRAFFIC HAZARD**

No signs shall be erected, and there shall be no lighting of signs or premises, in such a manner or in such location as to obstruct the view of, or be confused with, any authorized traffic signal, notice or control device, or with lights on any emergency vehicle, or to create hazards or distractions to drivers because of direct or reflected natural or artificial light, flashing, intermittent or flickering lighting, or real or apparent movement. Any such signs or light sources shall be removed at the direction of the public works department. If not removed by owners or occupants of the property within 10 days of notice, the department shall cause the signs to be otherwise removed, and the cost of removal shall become a lien against the property until satisfied.

**6-208 SIGNS IN THE PUBLIC RIGHT-OF-WAY**

No signs shall be allowed in the public right-of-way, except for the following:

**6-208.1      Permanent signs**

The following permanent signs:

- (1) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;
- (2) Bus stop signs erected by a public transit company;
- (3) Informational signs of a public utility regarding its poles, lines, pipes, or other facilities;
- (4) Signs appurtenant to a use of public property permitted under a franchise or lease agreement with the City of Hendersonville; and

**6-208.2 Temporary Signs**

Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

**6-209 PERMITS**

**6-209.1 Permits Required for Sign**

If a sign requiring a permit under this Ordinance is to be placed, constructed, erected or modified on a zone lot, the sign contractor, owner of the lot or authorized representative shall secure a sign permit prior to the construction, placement, erection or modification of such a sign in accordance with the requirements of this Ordinance.

**6-209.2 Permits To Be Consistent with Ordinance**

No sign permit of any kind shall be issued for an existing or proposed sign unless such sign has received Design Review approval in accordance with Section 6-206 above and is consistent with the requirements of this Ordinance (including those protecting existing signs) in every respect and with the Master Signage Plan in effect for the property.

**6-209.3 Master Signage Plan**

No permit shall be issued for a sign requiring a permit unless and until a Master Signage Plan for the zone lot on which the sign will be erected has been submitted to and approved by the Hendersonville Regional Planning Commission as conforming with this section.

- (1) For any zone lot on which the owner proposes to erect or install one or more signs requiring a permit, the owner shall submit to the

Hendersonville Regional Planning Commission a Master Signage Plan containing the following:

- (a) An accurate plot plan of the zone lot, at such scale as the Zoning Administrator may reasonably require;
  - (b) Location of buildings, parking lots, driveways, and landscaped areas on such zone lot;
  - (c) Computation of the maximum area for signs, the height of signs and the number of principal ground signs allowed on the zone lot(s) included in the plan under this ordinance, with such computations following the applicable formulae set forth in Tables 1 through 3 of this Ordinance;
  - (d) An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that incidental signs need not be shown.
  - (e) The Master Signage Plan shall be signed by all owners or their authorized agents in such form as the Planning Commission may require.
- (2) A Master Signage Plan shall be included in any planned development plan, site plan, or other plan required by the City of Hendersonville for the proposed development.
  - (3) A Master Signage Plan may be amended by filing a new Master Signage Plan that conforms with all requirements of this Ordinance then in effect.
  - (4) After approval of a Master Signage Plan, no sign shall be erected, placed, painted, or maintained, except in accordance with such plan, and such plan may be enforced in the same way as any provision of this Ordinance. In case of any conflict between a provision of a Master Signage Plan and one or more provisions of the City of Hendersonville ordinances, the City of Hendersonville ordinances shall control.

#### **6-209.4 General Permit Procedures**

The following procedures shall govern the application for and issuance of all sign permits under this Ordinance and the submission and review of Master Signage Plans.

- (1) All applications for sign permits of any kind and for approval of a Master Signage Plan shall be submitted to the Zoning Administrator on an application form or in accordance with application specifications published by the Zoning Administrator.

- (2) Each application for a sign permit or for approval of a Master Signage Plan shall be accompanied by the applicable fees, which shall be established by the Hendersonville Board of Mayor and Aldermen from time to time by resolution.
- (3) Within five days of receiving an application for a sign permit or for a Master Signage Plan, the Zoning Administrator shall review it for completeness. If the Zoning Administrator finds that it is complete, the application shall then be processed. If the Zoning Administrator finds that it is incomplete, the Zoning Administrator shall within such five-day period, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this Ordinance.
- (4) Within seven days of the submission of a complete application for a sign permit, the Zoning Administrator shall either:
  - (a) Issue the sign permit, if the sign(s) that is or are the subject of the application conform in every respect with the requirements of this Ordinance and the applicable Master Signage Plan; or
  - (b) Deny the sign permit if the sign(s) that is or are the subject of the application fail(s) in any way to conform with the requirements of this Ordinance and/or of the applicable Master Signage Plan. In case of a rejection, the Zoning Administrator shall specify in the rejection the section or sections of this Ordinance or applicable Ordinance with which the sign(s) is or are inconsistent.
- (5) On any application for approval of a Master Signage Plan, the Planning Commission shall take action within 60 days.
- (6) On or before such applicable date, the Planning Commission shall either:
  - (a) Approve the proposed plan if the sign(s) as shown on the plan and the plan itself conform in every respect with the requirements of this Ordinance; or
  - (b) Reject the proposed plan if the sign(s) as shown on the plan or the plan itself fail in any way to conform with the requirements of this Ordinance. In case of a rejection, the Planning Commission shall specify in the rejection the section or sections of this Ordinance with which the plan is inconsistent.

**6-209.5 Permits to Construct or Modify Signs**

Signs identified with an “S” on Table 1 shall be erected, installed or created only in accordance with a duly issued and valid sign permit from the City of Hendersonville Zoning Administrator. Such a permit shall be issued only in accordance with the following requirements and procedures:

- (1) An application for construction, creation or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawing to show the dimensions, design, structure, and location of each particular sign, to the extent that such details are not contained in a Master Signage Plan then in effect for the zone lot. One application and permit may include multiple signs on the same zone lot.
- (2) The Zoning Administrator shall cause an inspection of the zone lot for which each permit for a new sign or modification of an existing sign is issued prior to six months after the issuance of such permit or at such earlier date as the owner may request. If the construction is complete and in full compliance with this Ordinance and with the building and electrical Codes of the City of Hendersonville, the Zoning Administrator shall affix to the premises a permanent symbol identifying the sign(s) and the applicable permit by number or other reference. If the construction is substantially complete but not in full compliance with this Ordinance and/or other applicable ordinances, the Zoning Administrator shall give the owner or applicant notice of the deficiencies and shall allow an additional 30 days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If the construction is complete by such date, the Zoning Administrator shall affix to the premises the permanent symbol described above.

**6-209.6 Lapse of Sign Permit**

A sign permit shall lapse automatically if the business license for the premises lapses, is revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of 180 days or more and is not renewed within 30 days of a notice to the last permittee, sent to the premises, that the sign permit will lapse if such activity is not renewed.

**6-209.7 Permits for Temporary Signs**

Temporary signs on private property shall be allowed only in accordance with the provisions of Section 6-203 and only upon the issuance of a Temporary Sign Permit, which shall be subject to the following terms:

- (1) A temporary sign permit shall allow the use of a temporary sign for the temporary period specified in Section 6-203.211 of this Article.

- (2) Only one temporary sign permit shall be issued on the same zone lot for the same period of time.
- (3) A temporary sign shall be allowed only in districts with the letter “S” and “P” for temporary signs on Table 1 and subject to all of the requirements for temporary signs as set forth in this Article.

### **6-210 NONCONFORMING SIGNS**

It is the policy of the Board of Mayor and Aldermen of Hendersonville to encourage and, to the maximum extent practicable, require that all signs within the city be brought into compliance with the requirements of this Ordinance.

Subject to the exceptions hereinafter set forth, any non-conforming signs may be continued in operation and maintenance after the effective date of this ordinance, provided that non-conforming signs shall not be:

- (A) Changed to or replaced with another non-conforming sign except changing the sign face or panel or copy of changeable copy signs.
- (B) Structurally altered so as to extend their useful life.
- (C) Expanded.
- (D) Relocated.
- (E) Re-established after damage of more than fifty percent (50%) of the value at the time of such damage or destruction.
- (F) Modified in any way that would increase the degree of non-conformity of such sign.

Nothing in this ordinance shall prevent the strengthening or restoring to a safe condition of any portion of a sign or structure declared unsafe by the Building Inspector. Such signs may be improved only to the extent that such improvement does not exceed fifty percent (50%) of the current market value of the existing sign structure.

### **6-211 VIOLATIONS AND ENFORCEMENT**

### **6-211.1 Violations**

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Ordinance and by state law:

- (1) To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the zone lot on which the sign is located;
- (2) To install, create, erect, or maintain any sign requiring a permit without such a permit;
- (3) To fail to remove any sign that is installed, created, erected or maintained in violation of this Ordinance, or for which the sign permit has lapsed;
- (4) To continue any such violation. Each such day of a continued violation shall be considered a separate violation when applying the penalty portion of this Ordinance;
- (5) Each sign installed, created, erected or maintained in violation of this Ordinance shall be considered a separate violation when applying the penalty portions of this Ordinance.

### **6-211.2 Enforcement and Remedies**

Any violation or attempted violation of this Ordinance or of any conditions or requirement adopted pursuant hereto may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings pursuant to state law. The remedies of the City of Hendersonville shall include the following:

- (1) Issuing a stop work order for any and all work on any signs on the same zone lot;
- (2) Seeking an injunction or other order of restraint or abatement that requires the removal of the sign(s) or the correction of the nonconformity;
- (3) Imposing any penalties that can be imposed directly by the City of Hendersonville under this Ordinance and under state law:
- (4) Seeking in court the imposition of any penalties that can be imposed by such court under Ordinance; and
- (5) In the case of a sign that poses an immediate danger to the public health or safety, taking such measures as are available to the Board of Mayor and Aldermen of the city of Hendersonville under the applicable provisions

of the building and zoning portions of this ordinance for such circumstances.

**6-211.3 Other Remedies**

The Hendersonville Board of Mayor and Aldermen shall have such other remedies as are and as may from time to time be provided for or allowed by state law or the Hendersonville charter.

**6-211.301 Remedies Cumulative**

All such remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a Ordinance thereof, such remedy shall remain available for other violations or other Ordinances of the same violation.

**6-211.302 No Variance**

Neither the Board of Zoning Appeals nor any other administrative body shall have the power or authority to vary the express terms of this Ordinance, including, but not limited to, sign height or setback, the number of signs, the size of an individual sign, the total area of signs on a property, sign lighting or other characteristics, or sign placement in relation to other signs.

**CHAPTER 3                    SUPPLEMENTARY PROVISIONS APPLICABLE TO TOWERS  
AND TELECOMMUNICATIONS FACILITIES (ADDED BY  
ORDINANCE 2003-7 ADOPTED May 27, 2003)**

**6-301 Findings**

The Communications Act of 1934, as amended by the Telecommunications Act of 1996, (“the Act”) grants the Federal Communications Commission (FCC) exclusive jurisdiction over:

- (A) The regulation of the environmental effects of radio frequency (RF) emissions from Telecommunications Facilities, and
- (B) The regulation of radio signal interference among users of the RF spectrum.

The City’s regulation of Towers and Telecommunications Facilities in the City and adjoining planning jurisdiction will not have the effect of prohibiting any person from providing wireless telecommunications services in violation of the Act.

**6-302 Purposes**

The general purpose of this Chapter is to regulate the placement, construction, and modification of Towers and Telecommunications Facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the jurisdictional area.

Specifically, the purposes of this Chapter are:

- (A) To regulate the location of Towers and Telecommunications Facilities in the City and adjoining planning jurisdiction;
- (B) To protect residential areas and land uses from potential adverse impact of Towers and Telecommunications Facilities;
- (C) To minimize adverse visual impact of Towers and Telecommunication Facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
- (D) To promote and encourage shared use/collocation of Towers and Antenna Support Structures as a primary option rather than construction of additional single-use Towers;
- (E) To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new Tower structures to support antenna and Telecommunications Facilities;
- (F) To avoid potential damage to property caused by Towers and Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound; and

- (G) To ensure that Towers and telecommunications Facilities are compatible with surrounding land uses.

### **6-303 Definitions**

The following words, terms, and phrases, when used in this Section shall have the meaning indicated:

**Antenna Support Structure** means any building or structure other than a Tower which can be used for location of Telecommunications Facilities.

**Applicant** means any Person that applies for a Tower development permit.

**Application** means the process by which the Owner of a parcel of land within the City or adjoining planning jurisdiction submits a request to develop, construct, build, modify, or erect a Tower upon such parcel of land. Application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an Applicant to the City concerning such a request.

**Engineer** means any engineer licensed by the State of Tennessee.

**Fall Radius** means the area in which the tower will land if it falls. This radius equates to the height of the tower, except for a collapsible tower, in which case it equates to the area in which the tower will fall as certified by the manufacturer or a structural engineer licensed in Tennessee.

**Owner** means any Person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within the jurisdictional area who desires to develop, or construct, build, modify, or erect a Tower upon such parcel of land.

**Person** is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

**Stealth** means any Tower or Telecommunications Facility which is designed to enhance compatibility with adjacent land uses, including but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a Tower such as light poles, power poles, and trees.

**Telecommunications Facilities** means any cables, wires, lines, wave guides, slim pole antennas, and any other equipment or facilities associated with the transmission or reception of communications which a Person seeks to locate or has installed upon or near a Tower or Antenna Support Structure, however, Telecommunications Facilities shall not include:

- (1) Any satellite earth station antenna (dish) two (2) meters in diameter or less which is located in an area zoned industrial or commercial; or
- (2) Any satellite earth station antenna (dish) one (1) meter or less in diameter, regardless of zoning category.

**Tower** means a monopole structure constructed from grade that supports Telecommunications Facilities. The term Tower shall not include amateur radio

operators' equipment, as licensed by the FCC.

#### **6-304 Special Provisions for Amateur Radio Stations**

Amateur Radio Stations (Hams) licensed under FCC regulations shall be exempt from the general requirements of this ordinance. However, Amateur Radio Stations shall adhere to the following regulations:

- (A) No tower shall be placed within any required front, side, or rear setback area.
- (B) Towers shall be placed behind the rear building line of the principal structure on the lot.
- (C) All towers shall be properly grounded as per National Electric Code 810, Section C.
- (D) Amateur towers greater than one hundred (100) feet in height are subject to the following additional provisions: At no time shall the fall radius of the tower include any habitable structure not owned by the amateur. The applicant shall provide documentation of ownership, lease, or permanent easement rights for the entire fall radius of the tower. The tower shall be equipped with guards or other devices to prevent it from being climbed without authorization of the amateur. The applicant shall submit documentation to the Codes Department sufficient to show that all provisions of this section have been met.
- (E) Amateur towers located at a site other than the primary residence of a licensed Ham operator shall meet the requirements for setbacks, fencing, screening, and parking/ access as detailed in this ordinance. However, amateur towers without ground mounted equipment or buildings need only meet the requirements for access/ parking and be designed so that they are not accessible to unauthorized climbing.
- (F) Temporary towers may be erected for a maximum of forty-eight (48) hours for special events or emergencies upon approval by the Codes Department.
- (G) There shall be no more than one tower per lot.

#### **6-305 Development of Towers**

- (A) No person shall build, erect, or construct a Tower upon any parcel of land within any zoning district set forth above unless a conditional use permit, if required herein, has been granted by the Hendersonville Board of Zoning Appeals and a site plan is approved by Planning Commission and a development permit shall have been issued by the City, all in accordance with the applicable provisions of the zoning ordinance.
- (B) A Tower shall be a permitted use of land in the following zoning districts:

##### **Industrial Districts**

All Industrial Districts

- (C) A Tower shall be conditional use of land in the following zoning districts:

**Residential Districts**

All Residential Districts on publicly owned property and property whose principle use is a church and subject to the special provisions of Section 6-320 (Special Conditions for Location of Telecommunication Facilities within Residential Districts).

**Commercial Districts**

- General Commercial Services
- Highway Services District
- Mixed Use Commercial District

- (D) Towers are exempt from the maximum height restrictions of the zoning districts where located. Towers shall be permitted to a height of one hundred and fifty (150) feet. Towers may be permitted in excess of one hundred and fifty (150) feet in accordance with 6-318, "Criteria for Site Plan Modifications."
- (E) No new Tower shall be built, constructed, or erected in the City or its adjoining planning region unless such Tower is capable of supporting two other Person's operating Telecommunications Facilities comparable in weight, size, and surface area to the Telecommunications Facilities installed by the Applicant on the Tower within six (6) months of the completion of the Tower construction.

**6-306 Application**

An application to develop a Telecommunications Tower containing the information indicated within this section shall be required of all such proposed facilities. The City may require an Applicant to supplement any information that it considers inadequate or that the Applicant has failed to supply. The City may deny an application on the basis that the Applicant has not satisfactorily supplied the information required in this subsection. Applications shall be reviewed by the city in a prompt manner and all decisions shall be supported in writing, setting forth the reasons for approval or denial.

As a minimum, an Application to develop a Tower shall include:

- (A) The name, address, and telephone number of the Owner and lessee of the parcel of land upon which the Tower is situated.
- (B) The legal description, map parcel number, and address of the parcel of land upon which Tower is situated.
- (C) The names, addresses, and telephone numbers of all owners of other Towers or usable Antenna Support Structures within a one mile radius of the proposed new Tower site, including city-owned property.
- (D) A description of the design plan proposed by the Applicant in the City. Applicant

must identify its utilization of the most recent technological design, including microcell design, as part of the design plan. The Applicant must demonstrate the need for towers and why design alternatives, such as the use of microcell, cannot be utilized to accomplish the provision of the Applicant's telecommunications services.

- (E) An affidavit attesting to the fact that Applicant made diligent, but unsuccessful, efforts to install or collocate the Applicant's Telecommunications Facilities on City-owned Towers or usable Antenna Support Structures (including water tanks) located within a one mile radius of the proposed Tower site.
- (F) An affidavit accompanied by written technical evidence from an Engineer(s) attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the Applicant's Telecommunications Facilities on Towers of usable Antenna Support Structures owned by other Persons located within one mile radius of the proposed Tower site.
- (G) A written statement from an Engineer(s) that the construction and placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.
- (H) Written, technical evidence from an Engineer(s) that the proposed structure meets the standards set forth in Section 6-308, "Structural Requirements", of this Ordinance.
- (I) Written, technical evidence from qualified Engineer(s) acceptable to the Fire Marshall and the Building Official that the proposed site of the tower or Telecommunications Facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
- (J) In order to assist City staff and the Planning Commission in evaluating visual impact, the Applicant shall submit color photo simulations showing the proposed site of the Tower with a photo-realistic representation of the proposed Tower as it would appear viewed from the closest residential property and from adjacent roadways
- (K) The Act gives the FCC sole jurisdiction of the field of regulation of RF emissions and does not allow the City to condition or deny on the basis of RF impacts the approval of any Telecommunication Facilities which meet FCC standards. In order to provide information to its citizens, the City shall make available upon request copies of ongoing FCC information and RF emission standards for Telecommunications Facilities transmitting from Towers or Antenna Support Structures. Applicants shall be required to submit information on the proposed power density of their proposed Telecommunications Facilities and demonstrate how this meets FCC standards.

### **6-307 Setbacks**

- (A) All Towers up to one-hundred (100) feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning

district. Towers in excess of one hundred (100) feet in height shall be set back one (1) additional foot per each foot of Tower height in excess of one hundred (100) feet.

- (B) Setback requirements for Towers shall be measured from the base of the Tower to the property line of the parcel of land on which it is located.
- (C) Setback requirements may be modified, as provided in Subsection 6-318, (b), (1), when placement of a Tower in a location that will reduce the visual impact can be accomplished. For example, adjacent to trees which may visually may hide the Tower.
- (D) Towers shall be setback from all residentially zoned property a minimum of 300 feet.
- (E) Setback of towers located in residential zones shall be at least 300 feet from all property lines.

### **6-308 Structural Requirements**

All Towers must be designed and certified by an Engineer to be structurally sound and as a minimum in conformance with the adopted Building Code and any other standards outlined in this Ordinance. All towers in operation shall be fixed to land.

### **6-309 Separation of Towers**

For the purpose of this Section, the separation distances between Towers shall be measured by following a straight line between the base on the existing or approved structure and the proposed base, pursuant to a site plan of the proposed Tower. The minimum Tower separation distances from residentially zoned land and from other Towers shall be calculated and applied irrespective of City jurisdiction boundaries.

Proposed Towers must meet the following minimum separation requirements from existing Towers or Towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this Chapter.

Tower structures shall be separated from all other Towers by a minimum of 1,500 feet.

### **6-310 Method of Determining Tower Height**

Measurement of Tower height for the purpose of determining compliance with all requirements of this Section shall include the Tower structure itself, the base pad, and any other Telecommunications Facilities attached thereto which extend more than twenty (20) feet over the top of the Tower structure itself. Tower height shall be measured from grade.

### **6-311 Illumination**

Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a Tower, in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the Tower from the Tower and when required by federal law, dual mode

lighting shall be requested from the FAA.

### **6-312 Exterior Finish**

Towers not requiring FAA painting or marking shall have an exterior finish that enhances compatibility with the natural environment.

### **6-313 Landscaping and Screening**

All landscaping on a parcel of land containing Towers, Antenna Support Structures, or Telecommunications Facilities shall be in accordance with the applicable landscaping requirements in the zoning district where such facilities are located. In order to enhance compatibility with adjacent land uses the City may require landscaping in excess of the requirements in the Zoning Ordinance.

At a minimum, there shall be provided and maintained a continuous, solid, evergreen screen around the perimeter of the Tower enclosure, except for the entry gate. The entry gate and its support structures shall be so constructed as to be one hundred (100) percent opaque. The planting bed for the evergreen screen shall be a minimum of eight (8) feet in width and the plantings shall be a minimum of six (6) feet in height at the time of planting.

### **6-314 Telecommunications Facilities on Antenna Support Structures**

Any Telecommunications Facilities which are not attached to a Tower may be permitted on any Antenna Support Structure at least fifty (50) feet tall, regardless of the zoning restrictions applicable to the zoning district where the structure is located. Telecommunications Facilities are prohibited on all other structures. The owner of such structure shall, by written certification to the zoning administrator, establish the following at the time plans are submitted for a building permit:

- (a) That the height from grade of the Telecommunications Facilities shall not exceed the height from grade of the Antenna Support Structure by more than twenty (20) feet.
- (b) That any Telecommunications Facilities and their appurtenances, located above the primary roof of an Antenna Support Structure, are set back one (1) foot from the edge of the primary roof for each one (1) foot in height above the primary roof of the Telecommunications Facilities. This setback requirement shall not apply to Telecommunication Facilities and their appurtenances, located above the primary roof of an Antenna Support Structure, if such facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques approved by the City. Setback requirements shall not apply to Stealth antennas which are mounted to the exterior of Antenna Support Structures below the primary roof, but which do not protrude more than eighteen (18) inches from the side of such an Antenna Support Structure.

### **6-315 Modification of Towers**

A Tower existing prior to the effective date of this Chapter, which was in compliance with the City's zoning regulations immediately prior to the effective date of this Chapter, may continue in existence as a non-conforming structure. Such nonconforming structures may be modified or demolished and rebuilt without complying with any of the

additional requirements of this Section, except for Sections 6-309, "Separation of Towers"; 6-313, "Landscaping and Screening"; 6-316, "Certification and Inspections"; and 6-317, "Maintenance," provided:

- (A) The Tower is being modified or demolished and rebuilt for the sole purpose of accommodating additional Telecommunications Facilities comparable in weight, size, and surface area to the discrete operating Telecommunications Facilities of any Person currently installed on the Tower.
- (B) An Application for a development permit is made pursuant to this Section allowing the modification or demolition and rebuild of an existing non-conforming Tower. The grant of a permit made pursuant to this Section shall not be considered a determination that the modified or demolished and rebuilt Tower is conforming.
- (C) The height of the modified or rebuilt Tower and Telecommunications Facilities attached, thereto, do not exceed the maximum height allowed under this Ordinance.

This provision shall not be interpreted to legalize any structure or use existing at the time this Chapter is adopted which structure or use is in violation of the Code prior to enactment of this Chapter.

#### **6-316 Certifications and Inspections**

- (A) All Towers shall be certified by an Engineer to be structurally sound and in conformance with the requirements of the standards set forth by the City's Building Code and Federal and State law. For new monopole Towers, such certification shall be submitted with an Application pursuant to Section 6-304, of this Chapter, and every five (5) years, thereafter. For existing monopole Towers, certifications shall be submitted within sixty (60) days of the effective date of this Chapter and then every five (5) years, thereafter. For existing lattice or guyed Towers, certification shall be submitted within sixty (60) days of the effective date of this Chapter and then every two (2) years, thereafter. The Tower owner may be required by the City to submit more frequent certifications should here be reason to believe that the structural and electrical integrity of the Tower is jeopardized.
- (B) The City or its agents shall have authority to enter onto the property upon which a Tower is located, between the inspection and certification required above, to inspect the Tower for the purpose of determining whether it complies with the Building Code and all other construction standards provided by the City Code and Federal and State law. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the Tower owner.

#### **6-317 Maintenance**

- (A) Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- (B) Tower owners shall install and maintain Towers, Telecommunications Facilities,

wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.

- (C) All Towers, Telecommunications Facilities, and Antenna Support Structures shall at all times be kept and maintained in good condition, order and repair so that the same shall not menace or endanger the life or property of any Person.
- (D) All maintenance or construction of Towers, Telecommunications Facilities, or antenna Support Structures shall be performed by licensed maintenance and construction personnel.
- (E) All Towers shall maintain compliance with current RF emission standards of the FCC.
- (F) In the event that the use of a Tower is discontinued by the Tower owner, the Tower owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued.

#### **6-318 Criteria for Site Plan Development Modifications**

- (A) Notwithstanding the Tower requirements provided in this Chapter, a modification to the requirements may be approved by the Planning Commission in accordance with the following:
  - (a) In addition to the requirements for a Tower, Application for modification shall include the following: -
    - (1) A description of how the plan addresses any adverse impact that might occur as a result of approving the modification.
    - (2) A description of off-site or on-site factors that mitigate any adverse impacts that might occur as a result of the modification
    - (3) A technical study that documents and supports the criteria submitted by the Applicant upon which the request for modification is based. The technical study shall be certified by an Engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties.
    - (4) For a modification of the setback requirement, the Application shall identify all parcels of land where the proposed Tower could be located, attempts by the Applicant to contract and negotiate an agreement for collocation, and the result of such attempts.
    - (5) The Planning Commission may require the Application to be reviewed by an independent Engineer under contract to the City to determine whether the antenna study supports the basis for the modification requested. The cost of review shall be reimbursed to the City by the Applicant.

- (b) The Planning Commission shall consider the Application for modification based on the following criteria:
  - (1) That the Tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties.
  - (2) Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification.
  - (3) In addition, the Planning Commission may include conditions on the site where the Tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed Tower and mitigate any adverse impacts which arise in connection with the approval of the modification.
  
- (B) In addition to the requirements of subparagraph (a) of this Section, in the following cases, the Applicant must also demonstrate, with written evidence, the following:
  - (a) In the case of a requested modification to the setback requirement established in Section 6-307, "Setbacks", that the setback requirement cannot be met on the parcel of land upon which the Tower is proposed to be located and the alternative for the Person is to locate the Tower at another site which is closer in proximity to a residentially zoned land.
  - (b) In the case of a request for modification to the separation and buffer requirements from other Towers of Section 6-309, "Separation" or Section 6-313, "Landscaping and Buffer Requirements," that the proposed site is zoned "Industrial" and the proposed site is at least double the minimum standard for separation from residentially zoned lands as provided for in Section 6-307.
  - (c) In the case of a request for modification of the separation and buffer requirements from residentially zoned land of Sections 6-307 and 6-313, if the Person provides written technical evidence from an Engineer(s) that the proposed Tower and Telecommunications Facilities must be located at the proposed site in order to meet the coverage requirements of the Applicant's wireless communications system and if the Person is willing to create approved landscaping and other buffers to screen the Tower from being visible to residentially zoned property.
  - (d) In the case of a request for modification of the height limit for Towers and Telecommunications Facilities or to the minimum height requirements for Antenna Support Structures, that the modification is necessary to:
    - (1) facilitate collocation of Telecommunications Facilities in order to avoid construction of a new Tower; or
    - (2) to meet the coverage requirements of the Applicant's wireless communication system, which requirements must be documented with written, technical evidence from an Engineer(s) that demonstrates that the height of the proposed Tower is the minimum

height required to function satisfactorily, and no Tower that is taller than such minimum height shall be approved.

**6-319            Abandonment (AMENDED BY ORDINANCE 2010-20, AUGUST 10, 2010)**

- (A) If any Tower shall cease to be used for a period of three hundred-sixty-five (365) consecutive days, the Zoning Administrator shall notify the Owner, with a copy to the applicant, that the site has been abandoned. The Owner shall have thirty (30) days from receipt of said notice to show, by a preponderance of the evidence, that the Tower has been in use or under repair during the period. If the Owner fails to show that the Tower has been in use or under repair during the period, the Zoning Administrator shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the Owner shall, within seventy-five (75) days, dismantle and remove the Tower
- (B) To secure the obligation set forth in this Section, the Applicant [and/or Owner] shall post a surety. Such amount shall be determined by the Zoning Administrator based non the anticipated cost of removal of the Tower.

**6-320            Special Conditions for Location of Telecommunication Facilities within Residential Districts**

The provisions of this section shall apply to the location and expansion of Telecommunications Facilities within any residential zoning district.

- (A) Towers in residential districts shall be limited to publicly owned property and property whose principal use is a church, and only if the Hendersonville Board of Zoning Appeals shall have issued a conditional use permit in accordance with the provisions of this ordinance.

(B) Location and Co-Location

Antennas shall be located on lawfully pre-existing towers or antenna support structures or other lawfully pre-existing buildings or structures whenever possible. No conditional use permit authorizing construction of a new antenna support structure or addition to or expansion of an existing building or structure shall be authorized within any residential district unless the applicant is able to demonstrate that no lawfully pre-existing building or structure is available, on commercially reasonable terms, and sufficient for the location of an antenna necessary for the provision of personal wireless services.

(C) Tower Design

Every new tower located within any residential zoning district shall:

- (a) not be illuminated unless otherwise required by federal law or regulations; and
- (b) be at least 1,500 feet from any other such structure.

(D) Protection Against Climbing

Every tower shall be protected against unauthorized climbing.

(E) Color

Every tower shall be of neutral colors that is harmonious with, and which blends with the natural features, buildings and structures that surround such tower.

(F) Equipment Enclosures

All electronic and other related equipment and appurtenances necessary for operation of any Personal Wireless Services Antenna shall, whenever possible be located within a lawfully pre-existing building or structure or be located entirely below grade. When a new structure is required to house such equipment any portion of such structure above grade shall have brick exterior and a shingled, pitched roof.