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# 2025 ZONING ORDINANCE

Ordinance 2025-19 | Adopted October 28, 2025  
Effective November 18, 2025  
Ordinance 2023-26 | January 23, 2024  
Revising Ordinance 2022-13 | June 28, 2022  
Revision Ordinance 2019-45 | January 14, 2020

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## Table of Contents

CHAPTER 1   TITLE, PURPOSE, AND APPLICABILITY .....	19
1.1 TITLE.....	19
1.2 PREFACE AND INTENT.....	19
1.3 PURPOSE .....	20
1.4 APPLICABILITY .....	22
1.4.1   TERRITORIAL APPLICATION .....	22
1.4.2   GENERAL APPLICATION .....	22
1.4.3   GENERAL PROHIBITION .....	22
1.4.4   PRIVATE AGREEMENTS.....	22
1.4.5   OTHER LAWS AND REGULATIONS.....	22
1.5 RULES FOR CONSTRUCTION OF LANGUAGE .....	23
1.5.1   PURPOSE .....	23
1.5.2   RULES OF CONSTRUCTION LANGUAGE .....	23
1.5.3   RULES OF INTERPRETATION .....	24
1.6 TRANSITION RULES.....	24
1.6.1   EXISTING ILLEGAL USES AND STRUCTURES.....	24
1.6.2   EXISTING PERMITTED USES.....	25
1.6.3   CERTAIN USES RENDERED NONCONFORMING.....	25
1.6.4   CERTAIN BUILDINGS, STRUCTURES & PROPERTY RENDERED NONCONFORMING.....	25
1.6.5   EXISTING NONCONFORMING LOTS OF RECORD .....	25
1.6.6   PREVIOUSLY GRANTED CONDITIONAL USES AND VARIANCES.....	25
1.6.7   PREVIOUSLY APPROVED PRELIMINARY AND FINAL DEVELOPMENT PLANS .....	25
1.6.8   PREVIOUSLY APPROVED ALTERNATE OPEN SPACE DEVELOPMENTS .....	26
1.6.9   PREVIOUSLY APPROVED SITE PLANS .....	26
1.6.10   PENDING APPLICATIONS.....	26
1.6.11   PREVIOUSLY ISSUED BUILDING PERMITS .....	26
1.6.12   PREVIOUSLY ISSUED SIGN PERMITS .....	26
1.6.13   PREVIOUSLY ISSUED USE AND OCCUPANCY PERMITS.....	26
1.7 SEVERABILITY .....	27
1.8 EFFECTIVE DATE.....	27
1.9 REPEAL OF PREVIOUS ZONING ORDINANCE.....	27

CHAPTER 2   COMMISSIONS, BOARDS, AND OFFICIALS .....	29
2.1 PURPOSE .....	29
2.2 BOARD OF MAYOR AND ALDERMEN .....	29
2.3 BOARD OF ZONING APPEALS .....	29
2.4 PLANNING COMMISSION .....	32
2.5 BOARD OF ZONING APPEALS & PLANNING COMMISSION OPERATING RULES .....	32
2.6 PLANNING DEPARTMENT .....	33
2.6.1   AUTHORITY OF THE PLANNING DIRECTOR TO CORRECT MINOR ERRORS .....	34
CHAPTER 3   ADMINISTRATIVE PROCEDURES .....	37
3.1 PURPOSE .....	37
3.2 APPLICATION.....	37
3.2.1   AUTHORIZATION .....	37
3.2.2   PRE-SUBMITTAL STAFF MEETING .....	37
3.2.3   FILING .....	37
3.2.4   COMPLETENESS.....	38
3.2.5   FEES.....	38
3.2.6   STAFF REVIEW AND COMMENTS .....	38
3.2.7   WITHDRAWAL OF APPLICATION .....	39
3.2.8   SUCCESSIVE APPLICATIONS.....	39
3.3 NOTICE .....	39
3.3.1   TYPE(S) OF NOTICE REQUIRED .....	39
3.3.2   PUBLISHED NOTICE .....	40
3.3.3   MAILED NOTICE.....	40
3.3.4   POSTED SIGN NOTICES .....	40
3.3.5   FAILURE TO POST .....	41
3.4 PUBLIC HEARING .....	42
3.4.1   CONDUCT OF PUBLIC HEARINGS .....	42
3.4.2   CONTINUANCES .....	43
3.5 VESTING .....	43
3.5.1   INITIATION OF VESTING .....	43
3.5.2   VESTING PERIODS .....	43
3.5.3   EXPIRATION DATES .....	44
3.5.4   EXTENSION OF VESTED RIGHTS .....	45

3.5.5   REVISION OF VESTED PLANS AND RETENTION OF VESTED RIGHTS.....	46
3.5.6   VIOLATION OF CONDITIONS OF APPROVAL .....	47
3.5.7   WHEN VESTING DOES NOT APPLY.....	47
CHAPTER 4   APPLICATIONS AND APPROVAL PROCESSES .....	49
4.1 PURPOSE .....	49
4.2 ZONING INTERPRETATION .....	49
4.2.1   PURPOSE .....	49
4.2.2   INITIATION.....	49
4.2.3   AUTHORITY AND EXECUTION.....	49
4.2.4   PROCEDURE .....	50
4.3 APPEAL OF A PLANNING DEPARTMENT INTERPRETATION.....	50
4.3.1   PURPOSE .....	50
4.3.2   INITIATION.....	50
4.3.3   AUTHORITY AND EXECUTION.....	50
4.3.4   PROCEDURE .....	50
4.3.5   LIMITATIONS ON APPEALS .....	51
4.4 ZONING VARIANCE .....	51
4.4.1   PURPOSE .....	51
4.4.2   INTIATION.....	51
4.4.3   AUTHORITY AND EXECUTION.....	51
4.4.4   PROCEDURE .....	51
4.4.5   FINDINGS OF FACT.....	51
4.4.6   VARIANCE LESS THAN REQUESTED.....	52
4.5 CONDITIONAL USE.....	53
4.5.1   PURPOSE .....	53
4.5.2   INITIATION.....	53
4.5.3   AUTHORITY AND EXECUTION.....	53
4.5.4   PROCEDURE .....	53
4.5.5   FINDINGS OF FACT.....	54
4.5.6   NO PRESUMPTION OF APPROVAL.....	55
4.5.7   APPEAL OF DENIAL .....	55
4.6 PLANNED DEVELOPMENT.....	55
4.7 SITE PLAN AND DESIGN REVIEW.....	56

4.7.1   PURPOSE .....	56
4.7.2   INITIATION.....	56
4.7.3   AUTHORITY AND EXECUTION.....	56
4.7.4   PROCEDURE .....	57
4.7.5   STANDARDS FOR SITE PLAN AND DESIGN REVIEW .....	60
4.7.6   AMENDMENTS TO APPROVED SITE PLAN REVIEWS.....	61
4.7.7   MODIFICATIONS PROHIBITED .....	61
4.7.8   EXPIRATION AND EXTENSIONS .....	61
4.8 ZONING AMENDMENT.....	61
4.8.1   PURPOSE .....	61
4.8.2   INITIATION.....	61
4.8.3   PROCEDURE .....	61
4.8.4   FINDINGS OF FACT FOR ZONING MAP AMENDMENT .....	63
4.9 ZONING PERMIT (PLANNING DEPARTMENT VERIFICATION) .....	63
4.9.1   PURPOSE .....	63
4.9.2   APPLICABILITY.....	63
4.9.3   ZONING PERMIT/VERIFICATION REQUIRED .....	63
4.9.4   EXPIRATION OF ZONING PERMIT/VERIFICATION .....	64
4.10 USE AND OCCUPANCY PERMIT .....	64
4.10.1   PURPOSE.....	64
4.10.2   APPLICABILITY.....	64
4.10.3   PROCEDURE.....	64
4.10.4   CERTIFICATION.....	65
4.10.5   TEMPORARY USE AND OCCUPANCY PERMITS .....	66
4.10.6   EXPIRATION OF USE AND OCCUPANCY PERMITS.....	67
4.11 SIGN PERMIT .....	67
4.12 TREE REMOVAL PERMIT .....	67
4.12.1   APPLICABILITY.....	67
4.12.2   AUTHORITY AND EXECUTION .....	68
4.12.3   PERMIT ISSUANCE.....	68
4.12.4   FAILURE TO OBTAIN TREE REMOVAL PERMIT .....	68
4.13 VIOLATIONS .....	69
CHAPTER 5   ZONING DISTRICTS - GENERAL.....	71

5.1 PURPOSE .....	71
5.2 DISTRICTS .....	71
5.2.1   RESIDENTIAL DISTRICTS .....	71
5.2.2   COMMERCIAL DISTRICTS .....	72
5.2.3   INDUSTRIAL DISTRICTS .....	72
5.2.4   SPECIAL PURPOSE DISTRICTS .....	72
5.3 ZONING MAP .....	72
5.3.1   LOCATION OF DISTRICTS .....	72
5.3.2   INTERPRETATION OF BOUNDARY LINES .....	72
5.4 ANNEXED LAND .....	73
5.5 PUBLICLY OWNED FACILITIES AND ESSENTIAL UTILITY EQUIPMENT .....	73
CHAPTER 6   RESIDENTIAL DISTRICTS .....	75
6.1 RESIDENTIAL DISTRICTS PURPOSE .....	75
6.1.1   RURAL RESIDENTIAL.....	75
6.1.2   ESTATE RESIDENTIAL .....	75
6.1.3   SUBURBAN RESIDENTIAL.....	75
6.1.4   SUBURBAN RESIDENTIAL.....	75
6.1.5   SUBURBAN RESIDENTIAL PRESERVATION DISTRICT .....	76
6.1.6   TOWNHOME RESIDENTIAL .....	76
6.1.7   -WATERFRONT RESIDENTIAL.....	76
6.1.8   -MIXED RESIDENTIAL .....	76
6.1.9   -MULTI-FAMILY RESIDENTIAL .....	77
6.1.10   DOCKSIDE NEIGHBORHOOD.....	77
6.2 PERMITTED AND CONDITIONAL USES .....	77
6.3 LOT AND BUILDING BULK STANDARDS .....	82
6.4 GENERAL STANDARDS OF APPLICABILITY.....	83
6.4.1   SUPPLEMENTAL STANDARDS .....	83
6.4.2   SITE DEVELOPMENT STANDARDS .....	83
6.4.3   BUILDING DESIGN STANDARDS.....	83
6.4.4   SIGNS.....	83
6.4.5   LANDSCAPE STANDARDS .....	83
CHAPTER 7   COMMERCIAL DISTRICTS .....	85
7.1 COMMERCIAL DISTRICTS PURPOSE .....	85

7.1.1   NEIGHBORHOOD COMMERCIAL.....	85
7.1.2   OFFICE .....	85
7.1.3   MIXED COMMERCIAL .....	85
7.1.4   GENERAL COMMERCIAL.....	86
7.1.5   HEAVY COMMERCIAL .....	86
7.1.6   INDUSTRIAL .....	86
7.1.7   MIXED RESIDENTIAL .....	86
7.1.8   DOCKSIDE NEIGHBORHOOD .....	86
7.2 PERMITTED AND CONDITIONAL USES .....	87
7.3 INTERPRETATION OF UNLISTED USES .....	93
7.3.1   PROCEDURE FOR APPROVING UNLISTED USES .....	93
7.3.2   STANDARDS FOR APPROVING UNLISTED USES .....	93
7.3.3   EFFECTS OF FINDING BY PLANNING DEPARTMENT .....	94
7.4 LOT AND BUILDING BULK STANDARDS .....	94
7.4.1   LOT AND BUILDING BULK STANDARDS.....	94
7.4.2   SPECIAL HEIGHT STANDARDS .....	96
7.5 GENERAL STANDARDS OF APPLICABILITY.....	96
7.5.1   SUPPLEMENTAL STANDARDS .....	96
7.5.2   SITE DEVELOPMENT STANDARDS .....	96
7.5.3   BUILDING DESIGN STANDARDS.....	97
7.5.4   SIGNS.....	97
CHAPTER 8   PLANNING DEVELOPMENT DISTRICTS.....	99
8.1 PURPOSE .....	99
8.2 INITIATION .....	100
8.3 AUTHORIZATION .....	100
8.4 GENERAL STANDARDS FOR PLANNED DEVELOPMENTS .....	100
8.5 EXCEPTIONS FROM DISTRICT STANDARDS.....	101
8.6 RESIDENTIAL PLANNED DEVELOPMENTS .....	107
8.6.1   MINIMUM SIZE .....	107
8.6.2   PERMITTED USES.....	107
8.6.3   LOT AND BUILDING BULK STANDARDS.....	107
8.6.4   BUILDING DESIGN STANDARDS.....	107
8.6.5   ALL RESIDENTIAL PLANNED DEVELOPMENTS.....	109

8.7 COMMERCIAL PLANNED DEVELOPMENT .....	109
8.7.1   MINIMUM SIZE .....	109
8.7.2   PERMITTED USES.....	109
8.7.3   LOT AND BUILDING BULK STANDARDS.....	109
8.7.4   MARKET ANALYSIS.....	110
8.7.5   SITE DEVELOPMENT STANDARDS .....	111
8.7.6   BUILDING DESIGN STANDARDS.....	111
8.7.7   SIGN STANDARDS.....	111
8.8 PLANNED DEVELOPMENT APPROVAL PROCEDURE .....	111
8.8.1   PRE-APPLICATION CONSULTATION .....	111
8.8.2   PLANNED DEVELOPMENT CONCEPT PLAN (OPTIONAL).....	112
8.8.3   APPLICATION FOR A PRELIMINARY DEVELOPMENT PLAN .....	112
8.8.4   APPLICATION FOR FINAL DEVELOPMENT PLAN.....	116
8.8.5   COMPREHENSIVE DEVELOPMENT PLAN OPTION (COMBINED PRELIMINARY DEVELOPMENT PLAN & FINAL DEVELOPMENT PLAN) .....	120
8.9 CHANGES TO APPROVED PRELIMINARY OR FINAL DEVELOPMENT PLANS .....	121
8.9.1   PRELIMINARY DEVELOPMENT PLAN .....	121
8.9.2   FINAL DEVELOPMENT PLAN.....	121
8.9.3   PRELIMINARY OR FINAL DEVELOPMENT PLAN ADD USE .....	121
8.10 REVOCATION.....	121
8.11 CONDITIONS AND GUARANTEES.....	122
8.12 ISSUANCE OF BUILDING PERMIT .....	122
8.13 ENFORCEMENT OF PLANNED DEVELOPMENT .....	122
CHAPTER 9   HISTORIC AND LANDMARK DISTRICT REGULATIONS.....	123
9.1 PURPOSE AND INTENT .....	123
9.2 CREATION, ORGANIZATION, AND APPOINTMENT OF HISTORIC ZONING COMMISSION .....	123
9.2.1   CREATION .....	123
9.2.2   MEMBERSHIP.....	124
9.2.3   APPOINTMENT TO THE HISTORIC ZONING COMMISSION .....	124
9.2.4   ELECTION OF OFFICERS, RULES, AND MEETINGS.....	124
9.2.5   CONFLICT OF INTEREST.....	124
9.3 POWERS, FUNCTIONS, AND DUTIES .....	125

9.4 CREATION OF HISTORIC AND LANDMARK DISTRICTS .....	126
9.4.1   DISTRICT CLASSIFICATIONS .....	126
9.4.2   SURVEYS AND RESEARCH.....	127
9.4.3   CRITERIA FOR DESIGNATION OF HISTORIC AND LANDMARK DISTRICTS .....	127
9.4.4   NOMINATION OF HISTORIC DISTRICTS.....	127
9.4.5   REVIEW AND RECOMMENDATION .....	127
9.4.6   VOLUNTARY DESIGN GUIDELINES .....	128
9.4.7   NOTIFICATION OF NOMINATION .....	130
9.4.8   PUBLIC HEARING.....	130
9.4.9   PLANNING COMMISSION REVIEW .....	130
9.4.10   ACTION BY BOARD OF MAYOR AND ALDERMEN .....	131
9.4.11   THE DESIGNATION ORDINANCE .....	131
9.4.12   INTERIM CONTROL .....	131
9.4.13   AMENDMENT AND RESCISSION OF DESIGNATION .....	132
9.5 CERTIFICATE OF APPROPRIATENESS.....	132
9.5.1   APPLICATION FOR CERTIFICATES OF APPROPRIATENESS.....	132
9.5.2   REVIEW AND DESIGNATION BY HISTORIC ZONING COMMISSION .....	133
9.5.3   STANDARDS FOR REVIEW .....	133
9.5.4   DENIAL OF A CERTIFICATE OF APPROPRIATENESS .....	134
9.6 ECONOMIC HARDSHIP .....	135
9.6.1   CERTIFICATE OF ECONOMIC HARDSHIP .....	135
9.6.2   DETERMINATION OF ECONOMIC HARDSHIP.....	136
9.7 PREVENTION OF DEMOLITION BY NEGLECT .....	136
9.8 APPEALS FROM DECISION OF THE HISTORIC ZONING COMMISSION .....	137
CHAPTER 10   SUPPLEMENTARY STANDARDS.....	139
10.1 PURPOSE .....	139
10.2 USE OF LAND AND BUILDINGS .....	139
10.2.1   USE TO BE IN CONFORMITY.....	139
10.2.2   NUMBER OF PRINCIPAL DWELLINGS ON A LOT .....	139
10.2.3   ALL ACTIVITIES WITHIN AN ENCLOSED BUILDING.....	140
10.2.4   FRONTAGE ON A PUBLIC OR PRIVATE STREET .....	140
10.2.5   REQUIRED YARDS.....	140
10.2.6   APPLICABILITY OF BULK REQUIREMENTS .....	140

10.2.7   APPLICABILITY OF USE RESTRICTIONS .....	141
10.2.8   MOTORIST VIEW OBSTRUCTION IN ALL DISTRICTS.....	141
10.2.9   BUILDINGS NOT TO BE ON EASEMENTS.....	142
10.3 USE-SPECIFIC STANDARDS .....	142
10.3.1   ASSISTED LIVING FACILITY, HOME FOR THE AGED, INDEPENDENT LIVING FACILITY, AND NURSING HOME .....	142
10.3.2   ADULT-ORIENTED ESTABLISHMENT .....	143
10.3.3   COMMUNITY RESIDENCE.....	143
10.3.4   DAY CARE CENTER, ADULT AND CHILD.....	144
10.3.5   DAY CARE HOME, ADULT AND CHILD.....	144
10.3.6   ENTERTAINMENT AND RECREATION FACILITIES, INDOOR OR OUTDOOR .....	145
10.3.7   KENNEL.....	145
10.3.8   MOTOR VEHICLE SERVICE STATION .....	145
10.3.9   MOTOR VEHICLE DEALERSHIP .....	146
10.3.10   MOTOR VEHICLE OPERATIONS FACILITY .....	146
10.3.11   MOTOR VEHICLE SERVICE AND REPAIR, MAJOR OR MINOR.....	146
10.3.12   RADIO AND TELEVISION TOWERS AND TRANSMISSION FACILITIES.....	147
10.3.13   RECYCLING DROP-OFF CENTER .....	147
10.3.14   SCRAP OPERATIONS .....	148
10.3.15   SMALL MEDIA PRODUCTION FACILITY .....	148
10.3.16   SMOKE SHOPS .....	149
10.3.17   SOCIAL CLUB OR LODGE.....	150
10.3.18   WIRELESS TELECOMMUNICATIONS FACILITIES AND TOWERS.....	151
10.4 ACCESSORY USES, BUILDINGS, AND STRUCTURES.....	151
10.4.1   GENERAL STANDARDS AND LIMITATIONS .....	151
10.4.2   ACCESSORY APARTMENTS (ATTACHED TO OR WITHIN) AND DWELLINGS (DETACHED).....	156
10.4.3   AMATEUR (HAM & CB) RADIO EQUIPMENT.....	160
10.4.4   AUTO REPAIR AT A RESIDENTIAL (AUTO HOBBYIEST) .....	161
10.4.5   CHILD AND FAMILY CARE.....	161
10.4.6   DECKS AND PATIOS.....	162
10.4.7   DONATION AND COLLECTION BINS .....	162
10.4.8   ELECTRICAL GENERATORS .....	162

10.4.9   ELECTRIC VEHICLE (EV) CHARGING EQUIPMENT, MINOR .....	163
10.4.10   ELECTRIC VEHICLE (EV) CHARGING EQUIPMENT, MAJOR.....	163
10.4.11   FENCES .....	164
10.4.12   HOME OCCUPATIONS.....	173
10.4.13   MECHANICAL EQUIPMENT .....	176
10.4.14   OUTDOOR SEATING .....	177
10.4.15   OUTDOOR DISPLAY.....	177
10.4.16   OUTDOOR STORAGE.....	178
10.4.17   PARKING .....	179
10.4.18   PETS, POULTRY, AND OTHER ANIMALS .....	180
10.4.19   PORCHES .....	181
10.4.20   PRODUCTION OF GOODS AT A RETAIL BUSINESS AND RESTAURANT .....	182
10.4.21   RETAINING WALLS.....	182
10.4.22   SATELLITE DISH ANTENNAS .....	182
10.4.23   SIGNS .....	183
10.4.24   SOLAR PANELS.....	183
10.4.25   SWIMMING POOLS AND HOT TUBS.....	184
10.5 PERMITTED ENCROACHMENTS AND HEIGHT EXCEPTIONS.....	184
10.5.1   PERMITTED ENCROACHMENTS INTO REQUIRED YARDS.....	184
10.5.2   PERMITTED EXCEPTIONS FROM HEIGHT LIMITATIONS .....	187
10.6 TEMPORARY USES AND STRUCTURES .....	188
10.6.1   TEMPORARY USE AND STRUCTURE PERMIT APPLICATION .....	188
10.6.2   GENERAL PROVISIONS.....	188
10.6.3   PERMITTED TEMPORARY USES.....	190
10.7 AIRPORT HAZARD AREA.....	194
10.7.1   TEMPORARY USE AND STRUCTURE PERMIT APPLICATION .....	194
CHAPTER 11   SITE DEVELOPMENT STANDARDS.....	199
11.1 PURPOSE .....	199
11.2 OFF-STREET PARKING AND LOADING.....	200
11.2.1   GENERAL PROVISIONS.....	200
11.2.2   COMPUTATION .....	202
11.2.3   CONSTRUCTION OF PARKING AND LOADING FACILITIES .....	203
11.2.4   COLLECTIVE PROVISIONS.....	203

11.2.5   LAND BANKED FUTURE PARKING .....	204
11.2.6   LOCATION OF OFF-STREET PARKING SPACES .....	204
11.2.7   DESIGN STANDARDS .....	205
11.2.8   ADA ACCESSIBLE PARKING.....	209
11.2.9   STACKING SPACES FOR DRIVE-THROUGH FACILITIES .....	210
11.2.10   REQUIRED OFF-STREET PARKING SPACES .....	211
11.2.11   REQUIRED OFF-STREET LOADING SPACES.....	216
11.2.12   DESIGN OF OFF-STREET LOADING SPACES.....	216
11.3 OUTDOOR LIGHTING .....	217
11.3.1   LIGHTING LEVELS AND TYPE .....	217
11.3.2   LIGHT DISTRACTION .....	217
11.3.3   LIGHT TRESPASS .....	218
11.3.4   LIGHT POLE AND BUILDING MOUNTED LIGHTING HEIGHTS .....	218
11.3.5   LIGHT POLE AND FIXTURE DESIGN STANDARDS .....	218
11.4 LANDSCAPING, SCREENING, AND TREE PRESERVATION .....	218
11.4.1   APPLICABILITY.....	218
11.4.2   LANDSCAPE PLAN.....	219
11.4.3   SELECTION, INSTALLATION, AND MAINTENANCE OF PLANT MATERIALS.....	220
11.4.4   LANDSCAPE DESIGN STANDARDS .....	221
11.4.5   BUILDING FOUNDATION LANDSCAPING.....	224
11.4.6   PARKING LOT PERIMETER LANDSCAPE YARD.....	224
11.4.7   INTERIOR PARKING LOT LANDSCAPING .....	225
11.4.8   SIGN LANDSCAPING .....	227
11.4.9   STREET YARD .....	227
11.4.10   BUFFER YARDS.....	228
11.4.11   SCREENING REQUIREMENTS .....	231
11.4.12   TREE PRESERVATION.....	232
11.5 MULTI-FAMILY SITE DEVELOPMENT STANDARDS (NOT TOWNHOMES).....	233
11.6 RESIDENTIAL SUBDIVISION AND MULTI-FAMILY DEVELOPMENT ENTRY WAYS, WALLS, AND FENCING .....	235
11.6.1   SITE PLAN AND DESIGN REVIEW APPROVAL REQUIRED .....	235
11.6.2   DESIGN STANDARDS.....	235
11.7 STREET AND OTHER REQUIRED IMPROVEMENTS.....	236

11.8 UTILITY SERVICE.....	237
11.8.1   UTILITY SERVICE TO BE UNDERGROUND.....	237
11.8.2   SEWER.....	237
11.9 ROADWAY ARCHES .....	237
11.10 CLUSTER MAILBOXES.....	238
CHAPTER 12   BUILDING DESIGN STANDARDS .....	239
12.1 PURPOSE, GOALS, BASIS.....	239
12.1.1   PURPOSE.....	239
12.1.2   GOALS.....	240
12.1.3   BASIS/PRINCIPLES.....	241
12.2 RESIDENTIAL BUILDING DESIGN STANDARDS .....	241
12.2.1   APPLICABILITY.....	241
12.2.2   DESIGN REVIEW APPROVAL REQUIRED .....	242
12.2.3   ARCHITECTURAL STYLE AND COMPATIBILITY .....	242
12.2.4   BUILDING MATERIALS .....	242
12.2.5   FRONT-ENTRY GARAGES.....	244
12.2.6   SUPPLEMENTAL DESIGN STANDARDS FOR MULTI-FAMILY RESIDENTIAL BUILDINGS.....	244
12.2.7   SUPPLEMENTAL DESIGN STANDARDS FOR TOWNHOMES .....	244
12.2.8   MOVING DWELLINGS AND MANUFACTURED DWELLINGS INTO DEVELOPED AREAS .....	244
12.3 COMMERCIAL BUILDING DESIGN STANDARDS .....	245
12.3.1   APPLICABILITY.....	245
12.3.2   DESIGN REVIEW APPROVAL REQUIRED .....	245
12.3.3   MASSING AND SCALE OF BUILDINGS .....	246
12.3.4   BUILDING SETBACK.....	246
12.3.5   ORIENTATION OF BUILDINGS.....	246
12.3.6   ARCHITECTURAL CHARACTER AND BUILDING ELEMENTS .....	247
12.4 INDUSTRIAL BUILDING DESIGN STANDARDS .....	256
12.4.1   APPLICABILITY.....	256
12.4.2   DESIGN REVIEW APPROVAL REQUIRED .....	256
12.4.3   MASSING AND SCALE OF BUILDING.....	256
12.4.4   ORIENTATION OF BUILDINGS.....	256

12.4.5   ARCHITECTURAL CHARACTER AND BUILDING ELEMENTS .....	257
12.5 MUNICIPAL EXEMPTIONS FROM DESIGN STANDARDS.....	258
CHAPTER 13   SIGN STANDARDS .....	261
13.1 PURPOSE AND INTENT .....	261
13.1.1   APPLICABILITY.....	262
13.1.2   EXEMPT SIGNS .....	262
13.1.3   SIGN PERMIT REQUIRED.....	263
13.1.4   CONSTRUCTION AND MAINTENANCE.....	264
13.1.5   NO VARIANCES.....	265
13.2 DESIGN STANDARDS .....	265
13.2.1   DESIGN REVIEW AND CONFORMANCE .....	265
13.2.2   DESIGN PRINCIPLES.....	265
13.2.3   DESIGN GUIDELINES .....	265
13.3 MASTER SIGNAGE PLAN.....	267
13.4 GENERAL DEVELOPMENT STANDARDS .....	268
13.4.1   SIGNS ALLOWED ON PRIVATE PROPERTY .....	268
13.4.2   COMPUTATIONS.....	271
13.5 SIGN TYPES .....	272
13.5.1   GROUND SIGNS, PERMANENT.....	272
13.5.2   WALL SIGNS, PERMANENT .....	277
13.5.3   INSTITUTIONAL SIGNS .....	281
13.5.4   TEMPORARY SIGNS .....	282
13.6 PROHIBITED SIGNS.....	284
13.7 EXEMPTIONS .....	287
13.7.1   ELECTION SIGNS.....	287
13.7.2   REAL ESTATE SIGNS.....	288
13.7.3   REAL ESTATE DEVELOPMENT SIGNS .....	289
13.8 NONCONFORMING SIGNS .....	289
13.8.1   CONTINUATION .....	290
13.8.2   RESTORATION .....	290
13.8.3   CHANGE OF USE .....	290
13.8.4   ABANDONMENT OF NONCONFORMING SIGN .....	291
13.8.5   VOLUNTARY REPLACEMENT .....	291

13.8.6   TRANSITIONAL PROVISIONS .....	291
13.9 NEW VIOLATIONS .....	292
CHAPTER 14   NONCONFORMING USE STANDARDS .....	293
14.1 PURPOSE .....	293
14.2   GENERAL STANDARDS OF APPLICABILITY .....	293
14.2.1   AUTHORITY TO CONTINUE .....	293
14.2.2   BURDEN ON PROPERTY OWNER TO ESTABLISH LEGALITY .....	294
14.2.3   SAFETY REGULATIONS .....	294
14.3 NONCONFORMING USES.....	294
14.3.1   ORDINARY REPAIRS AND MAINTENANCE .....	294
14.3.2   STRUCTURAL ALTERATIONS AND REPLACEMENTS.....	294
14.3.3   EXPANSION OF USE .....	294
14.3.4   RELOCATION .....	295
14.3.5   CHANGE OF USE .....	295
14.3.6   DISCONTINUATION OR ABANDONMENT.....	295
14.3.7   DAMAGE OR DESTRUCTION.....	296
14.4 NONCONFORMING STRUCTURES .....	296
14.4.1   ORDINARY REPAIRS AND MAINTENANCE, STRUCTURAL ALTERATIONS AND ADDITIONS.....	296
14.4.2   RE-CONSTRUCTION AND REPLACEMENT .....	296
14.4.3   RELOCATION .....	296
14.4.4   DAMAGE .....	297
14.5 NONCONFORMING LOTS OF RECORD .....	297
14.6 NONCONFORMING SIGNS .....	297
14.7 INVOLUNTARY NONCONFORMITIES.....	297
CHAPTER 15   WIRELESS TELECOMMUNICATIONS FACILITIES AND TOWERS.....	299
15.1 LIMITS .....	299
15.2 PURPOSES.....	299
15.3 SPECIAL PROVISIONS FOR AMATEUR RADIO STATIONS .....	300
15.4 DEVELOPMENT OF TOWERS .....	301
15.5 APPLICATION .....	302
15.6 SETBACKS .....	303
15.7 STRUCTURAL REQUIREMENTS.....	304

15.8 SEPARATION OF TOWERS.....	304
15.9 METHOD OF DETERMINING TOWER HEIGHT .....	304
15.10 ILLUMINATION.....	304
15.11 EXTERIOR FINISH.....	304
15.12 LANDSCAPING AND SCREENING .....	304
15.13 TELECOMMUNICATIONS FACILITIES ON ANTENNA SUPPORT STRUCTURES.....	305
15.14 MODIFICATION OF TOWERS .....	305
15.15 CERTIFICATIONS AND INSPECTIONS .....	306
15.16 MAINTENANCE .....	306
15.17 CRITERIA FOR SITE PLAN DEVELOPMENT MODIFICATIONS .....	307
15.18 ABANDONMENT .....	308
15.19 SPECIAL CONDITIONS FOR LOCATION OF TELECOMMUNICATION FACILITIES WITHIN RESIDENTIAL DISTRICTS .....	309
15.19.1   PROPERTY ALLOWED .....	309
15.19.2   LOCATION AND CO-LOCATION.....	309
15.19.3   TOWER DESIGN .....	309
15.19.4   PROTECTION AGAINST CLIMBING .....	309
15.19.5   COLOR.....	310
15.19.6   EQUIPMENT ENCLOSURE .....	310
15.20 SMALL CELL WIRELESS FACILITIES.....	310
15.20.1   GENERAL DESIGN AND CONSTRUCTION STANDARDS .....	310
15.20.2   POLE / ATTACHMENT GUIDELINES .....	312
15.20.3   DEFINITIONS .....	315
CHAPTER 16   DEFINITIONS .....	317
16.1 PURPOSE .....	317
16.2 INTERPRETATION .....	317
16.3 GENERAL TERMS .....	317
APPENDICES.....	353
APPENDIX A   ANNEXATION, REZONING / PRELIMINARY DEVELOPMENT PLAN, FINAL DEVELOPMENT PLAN, SUBDIVISION REVIEW, AND SITE PLAN REVIEW PROCESS.....	355
APPENDIX B   SITE PLAN LETTER OF CREDIT INSTRUCTIONS AND TEMPLATE .....	360
APPENDIX C   <i>OPEN FOR FUTURE USE</i> .....	363
APPENDIX D   LANDSCAPE STANDARDS .....	364

AD.1 IRRIGATION.....	364
AD.2 RECOMMENDED PLANT MATERIALS .....	365
AD.3 TREE SELECTION SPECIFICATIONS.....	367
AD.4 TREE PLANTING SPECIFICATIONS.....	368
AD.5 PLANTING DETAILS .....	369
APPENDIX E   CONSENT FOR PROPERTY USE FOR MOBILE VENDOR TEMPLATE .....	373
APPENDIX F   AFFIDAVIT OF PUBLIC NOTICE .....	375
APPENDIX G   RECORDS OF AMENDMENTS .....	377

## List of Table

TABLE 1: COMMISSIONS, BOARDS, & OFFICIALS: APPEALS & VARIANCE DETERMINATION .....	31
TABLE 2: ADMINISTRATIVE PROCEDURES: PUBLIC NOTICE REQUIREMENTS .....	41
TABLE 3: RESIDENTIAL DISTRICTS: PERMITTED AND CONDITIONAL USES .....	78
TABLE 4: RESIDENTIAL DISTRICTS: LOT AND BUILDING BULK STANDARDS.....	82
TABLE 5: COMMERCIAL DISTRICTS: PERMITTED AND CONDITIONAL USES.....	87
TABLE 6: COMMERCIAL DISTRICTS: LOT AND BUILDING BULK STANDARDS .....	95
TABLE 7: PLANNED DEVELOPMENT: COMMON OPEN SPACE.....	104
TABLE 8: PLANNED DEVELOPMENT: DWELLING MAXIMUM RESTRICTED ALLOWANCES .....	105
TABLE 9: RESIDENTIAL PLANNED DEVELOPMENT: LOT AND BUILDING BULK STANDARDS .....	108
TABLE 10: COMMERCIAL PLANNED DEVELOPMENTS: LOT AND BUILDING BULK STANDARDS ...	110
TABLE 11: RESIDENTIAL FENCES.....	164
TABLE 12: PERMITTED ENCROACHMENTS.....	184
TABLE 13: PARKING REQUIREMENTS.....	212
TABLE 14: OFF-STREET LOADING REQUIREMENTS.....	216
TABLE 15: BUFFER MATRIX .....	228
TABLE 16: BUILDING MATERIALS REQUIREMENTS .....	243
TABLE 17: PERMITTED SIGNS .....	269
TABLE 18: NUMBER, DIMENSIONS, AND LOCATION OF INDIVIDUAL SIGNS.....	270
TABLE 19: RESIDENTIAL & COMMERCIAL TEMPORARY GROUND SIGNS .....	283

## List of Figures

FIGURE 1: VESTING .....	45
FIGURE 2: VIEW OBSTRUCTION.....	141
FIGURE 3: OFF-STREET PARKING DIMENSIONS .....	206
FIGURE 4: RESIDENTIAL DRIVEWAY WIDTH .....	207
FIGURE 5: SCHEMATIC OF INTEGRATED LIGHTING POLE DESIGN .....	313
FIGURE 6: CORNER AND INTERIOR LOTS.....	334
FIGURE 7: LOT WIDTH AND LOT DEPTH.....	334
FIGURE 8: DOUBLE-FRONTAGE LOT.....	335

FIGURE 9: REAR LOT LINE CHORD FOR IRREGULAR LOTS ..... 335  
FIGURE 10: SETBACK ..... 344  
FIGURE 11: YARDS ..... 350



# CHAPTER 1 | TITLE, PURPOSE, AND APPLICABILITY

- 1.1 | TITLE
- 1.2 | PREFACE AND INTENT
- 1.3 | PURPOSE
- 1.4 | APPLICABILITY
- 1.5 | TRANSITION RULES
- 1.6 | SEVERABILITY
- 1.7 | EFFECTIVE DATE
- 1.8 | REPEAL OF PREVIOUS ZONING ORDINANCE

## 1.1 TITLE

---

This Ordinance shall be known, referred to and cited as “The Zoning Ordinance of the City of Hendersonville.”

## 1.2 PREFACE AND INTENT

---

Hendersonville has grown rapidly since incorporating in 1969. The City benefits from its adjacency to Old Hickory Lake and proximity to downtown Nashville. Substantial investments have been made in Hendersonville from local, regional, national, and international businesses as well as individuals and families investing in existing and new homes throughout the City.

By implementing design standards and other planning and growth management strategies, development in the City has resulted in attractive residential and commercial areas. This provides a comfort level that encourages further investment. Individuals and companies have developed a trust that if they build here their investment will be protected. They can expect that new development will be held to the same high standards that have been implemented for years and that their investment in Hendersonville will continue to pay off for years to come.

However, the City is aging, and the City will soon reach “build-out.” At that point, there would be little opportunity for greenfield development. At the same time, Hendersonville would be competing with new, modern development with the latest and most popular home styles and amenities. Under these circumstances, it will become increasingly difficult to sustain property values and to protect the investments that have been made in homes and businesses and avoid the fate of similar cities that have failed to adequately plan and manage their growth and development. The City must trust that it has established a lasting value that will compensate for the age and condition of its homes, businesses, and infrastructure. While the lake is a great benefit and asset to the City, this alone may not guarantee long-term sustainability.

It is the intent of this document to:

- A. Protect investments that have been made in the homes and businesses of Hendersonville.
- B. Preserve property values and to enhance these values where possible.
- C. Avoid the fate of other cities that have failed to adequately plan and manage new development and growth.

The intent of this document is to protect private property from adjacent uses and activities that are not in character with surrounding development and that are not suitable within a dense urban setting – activities that could harm the use and enjoyment of one’s property and make it more difficult to sell, if desired or necessary. This intent recognizes the fact that such an occurrence could have a “domino effect” on the value of other properties in the neighborhood. Such a decrease in value erodes the tax base and requires a tax increase or else a decrease in services. This, in turn, often leads to further decline.

This document establishes comprehensive land use standards that serve the future planning vision of City of Hendersonville. The standards and regulations enumerated are based upon the City's Land Use and Transportation Plan and the overall City policies and objectives. These standards are intended to serve the City as it deals with future development. Furthermore, this Ordinance is enacted by the Board of Mayor and Aldermen of the City of Hendersonville pursuant to the authority granted them under Tennessee Code Annotated (T.C.A.). Any reference to this Ordinance includes all subsequent amendments.

### **1.3 PURPOSE**

---

The purpose of this Ordinance is to:

- 1. Promote and protect the public health, safety, and general welfare of the people.
- 2. Secure adequate natural light, air and open space, and safety from fire and other dangers.
- 3. Lessen or reduce congestion on public streets.
- 4. Facilitate adequate provision of transportation, utility systems, parks, and other public facilities and services.
- 5. Protect the air, water, and land resources of the City from the hazards of pollution.
- 6. Ensure and facilitate the preservation of sites, areas, and buildings and structures of historical, architectural, and aesthetic importance.

7. Preserve and maintain the existing character of the City . To preserve and protect the natural features and historic locations of buildings and groups of buildings as neighborhoods and communities of distinguished architectural character and appearance.
8. Regulate the height, size, bulk, and scale of buildings.
9. Establish building setbacks along any street, traffic-way, drive, parkway, or storm or floodwater runoff channel or basin.
10. Regulate the intensity of the use of lot areas, and to regulate and determine the area of open spaces, within and surrounding such buildings.
11. Classify and regulate the location of commercial and industrial business, and the location of buildings designed for specified commercial, industrial, residential and other uses.
12. Divide the entire municipality into districts of such number, shape and area, and of such different classes (according to use of land and buildings, height and bulk of buildings, intensity of the use of lot area, density, area of open spaces, or other classification) as may be deemed best suited to carry out the purposes of this Ordinance.
13. Fix standards to which buildings or structures shall conform.
14. Provide for design review of development to ensure that it is compatible with the existing character of its surroundings.
15. Prohibit uses, buildings, or structures incompatible with the character and allowable land uses of the zoning district where they are located.
16. Gradually eliminate nonconforming uses of land, buildings, and structures.
17. Conserve the taxable value of land and buildings throughout the City.
18. Promote the economic diversity of the community and enhance opportunities for participation in the economic and social systems of the community.
19. Define the powers and duties of administrative officers and bodies.
20. Prescribe penalties for the violation of the provisions of this Ordinance.

# 1.4 APPLICABILITY

---

## 1.4.1 | TERRITORIAL APPLICATION

This Ordinance shall apply to all land, uses, buildings, and structures within the corporate limits of the City. To the extent allowed by State law, it shall also apply to real property owned by municipal corporations, government bodies, and utility districts.

## 1.4.2 | GENERAL APPLICATION

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion and protection of the public health, safety, convenience, comfort, and general welfare, and shall be construed to achieve the purposes for which this Ordinance was adopted.

## 1.4.3 | GENERAL PROHIBITION

Except as otherwise provided by this Ordinance, no portion or whole of any building, structure or land shall be used or occupied, and no building or structure, in whole or in part, shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered unless it conforms with the provisions of this Ordinance.

## 1.4.4 | PRIVATE AGREEMENTS

This Ordinance is not intended to nullify any private agreement or covenant, including Homeowner Associations (HOA). However, where this Ordinance is more restrictive than a private agreement or covenant, this Ordinance shall control.

## 1.4.5 | OTHER LAWS AND REGULATIONS

Unless otherwise specifically provided, the Ordinance shall control over less restrictive statutes, ordinances or regulations, and more restrictive statutes, ordinances, or regulations will control over the provisions of this Ordinance.

Where State law specifically overrides local zoning authority (i.e., in regard to farms and agriculture, political signs, flags, and HUD-certified manufactured homes), the conflicting terms of this Ordinance shall not apply or be enforced and the applicable State law shall govern.

# 1.5 RULES FOR CONSTRUCTION OF LANGUAGE

## 1.5.1 | PURPOSE

The purpose of this Section is to provide for precision in the interpretation of the zoning regulations. The meaning and construction of words and phrases defined in this Section apply throughout this Zoning Ordinance, except where the context clearly indicates a different meaning.

## 1.5.2 | RULES OF CONSTRUCTION LANGUAGE

The following rules of construction apply:

1. The specific controls the general.
2. Absent ambiguity, plain means governs.
3. Unless the context clearly indicates the contrary, the following conjunctions are to be interpreted as follows:
  - A. The term “and” indicates that all connected words or provisions apply.
  - B. The phrase “and/or” indicates that the connected words or provisions apply singularly or in any combination.
  - C. The term “or” indicates that the connected words or provisions apply singularly or in any combination.
  - D. The phrase “either/or” indicates that the connected words or provisions apply singularly but not in combination.
4. In case of conflict between the text and a diagram or graphic, the text controls.
5. All references to departments, committees, boards, or other public agencies are to those of the City, unless otherwise indicated.
6. All references to public officials are to those of the City, and include designees of such officials, unless otherwise indicated.
7. All references to the City are to a specific department or decision-making body with review authority over a project or development.
8. All references to days are calendar days, unless otherwise indicated. If a deadline falls on a weekend or City-observed holiday, or a day when the City offices are closed, the deadline shall be extended to the next working day. The end of a time period is the regular close of business on the last day of the period.

9. The terms and phrases “shall,” “have to,” “must,” “will,” “are to,” “is to,” and “may not” are always mandatory and not discretionary. The words “should” or “may” are meant to be permissive or act as guidelines that are strongly encouraged, but not always mandatory if an acceptable alternative is feasible and approved by the review authority.
10. The present tense includes the past and future tenses and the future tense includes the past.
11. The singular number includes the plural and the plural includes the singular.
12. Sections and subsection headings contained herein are for reference only and are not to be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any regulations or development standards therein.

### *1.5.3 | RULES OF INTERPRETATION*

#### *1.5.3.1 | DEFINITIONS*

The Planning Director shall determine the interpretation for any definition not expressly identified in this Ordinance or provide clarification and determination of these rules.

#### *1.5.3.2 | UNLISTED USES PROHIBITED*

Use types are listed in Chapters 6 – Residential Districts, and Chapter 7 – Commercial Districts, and are also further defined in Chapter 16 – Definitions.

- A. Any use not listed in Chapter 16 is prohibited unless the Director determines that the unlisted use is substantially similar in character to a listed use that is permitted or conditionally permitted.
- B. In cases where a specific land use or activity is not defined, the Director will assign the land use or activity to a classification type that is substantially similar in character.

## **1.6 TRANSITION RULES**

---

In determining the applicability of this Ordinance, with respect to the previously applicable zoning regulations, the following rules shall apply.

### *1.6.1 | EXISTING ILLEGAL USES AND STRUCTURES*

A structure or use that is illegal at the time of the adoption of but is made legal by the provisions of this Ordinance, is deemed lawful as of the effective date of this Ordinance. However, if that structure or use does not conform with all applicable requirements of this Ordinance, then that structure or use shall remain unlawful and must be removed or otherwise legalized or legally permitted.

### *1.6.2 | EXISTING PERMITTED USES*

If property is used in a manner that was classified as a permitted use prior to the effective date of this Ordinance and that use is classified as a conditional use by this Ordinance, that use shall be deemed a lawful conditional use as if a conditional use permit has been approved. However, any subsequent addition, enlargement or expansion of that use shall be required to conform to any applicable substantive requirements for conditional uses pursuant to this Ordinance.

### *1.6.3 | CERTAIN USES RENDERED NONCONFORMING*

If property is used in a manner that was a lawful use before the effective date of this Ordinance, and this Ordinance no longer classifies that use as either a permitted or conditional use in the zoning district in which it is located, that use shall be deemed a legal nonconforming use and shall be controlled by the provisions of [Chapter 14.3](#) (Nonconforming Uses).

### *1.6.4 | CERTAIN BUILDINGS, STRUCTURES & PROPERTY RENDERED NONCONFORMING*

If a building, structure or property existing on the effective date of this Ordinance does not meet all standards set forth in this Ordinance, that building, structure, or property shall be deemed nonconforming and shall be controlled by the provisions of [Chapter 14.4](#) (Nonconforming Buildings).

### *1.6.5 | EXISTING NONCONFORMING LOTS OF RECORD*

Existing nonconforming lots of record shall be governed by [Chapter 14.6](#) (Nonconforming Lots of Record).

### *1.6.6 | PREVIOUSLY GRANTED CONDITIONAL USES AND VARIANCES*

All conditional uses and variances granted prior to the effective date of this Ordinance shall remain in full force and effect. The recipient of the conditional use or variance may proceed to develop the property in accordance with the plans approved by the Board of Zoning Appeals and any applicable conditions. However, if the recipient has failed to act on the conditional use or variance before the approval expires, including any periods of extension granted, the provisions of this Ordinance shall govern.

### *1.6.7 | PREVIOUSLY APPROVED PRELIMINARY AND FINAL DEVELOPMENT PLANS*

Preliminary and Final Development Plans approved under a prior Zoning Ordinance shall remain valid and shall continue to govern the development of the property unless the property has not developed and the plan has expired pursuant to the terms of the Ordinance in effect when the new plan was approved. For zoning matters where approved Plans are silent or unclear, as determined by the Planning Department, the provisions of this Ordinance shall apply. Amendments to previously approved Plans shall be in accordance

with the provisions of the Ordinance under which the Plan was approved, or, at the discretion of the owner, in accordance with the terms of this Ordinance.

#### *1.6.8 | PREVIOUSLY APPROVED ALTERNATE OPEN SPACE DEVELOPMENTS*

Site Development Plans approved under Section 3-403 (Alternate Provisions for the Location of Open Space and Placement of Buildings) of the City's 1985 Zoning Ordinance, provided they have not expired, shall remain in effect and shall continue to govern the development of the property. Any amendment shall be in accordance with the 1985 Zoning Ordinance.

#### *1.6.9 | PREVIOUSLY APPROVED SITE PLANS*

Site plans approved prior to the effective date of this Ordinance shall remain valid provided a building permit is secured within one year from the date the Planning Commission approved or granted an extension of the Site Plan.

#### *1.6.10 | PENDING APPLICATIONS*

Even though an application may have been submitted prior to the effective date of the Ordinance, if the application has not been approved and, if applicable, the permit issued, the provisions of this Ordinance shall govern that application.

#### *1.6.11 | PREVIOUSLY ISSUED BUILDING PERMITS*

If a building permit for a building or structure was lawfully issued prior to the effective date of this Ordinance, and if construction has begun within 180 days of the issuance of that permit and diligently pursued to completion, the building or structure may be completed in accordance with the plans on the basis of which the building permit was issued and may, upon completion and issuance of a [Use and Occupancy Permit](#), be occupied for the use originally intended.

#### *1.6.12 | PREVIOUSLY ISSUED SIGN PERMITS*

See [Chapter 13.8.6](#) (Transitional Provision).

#### *1.6.13 | PREVIOUSLY ISSUED USE AND OCCUPANCY PERMITS*

If a Use and Occupancy Permit was lawfully issued prior to the effective date of this Ordinance, and the building and/or land has not yet been occupied for the purpose for which the permit has been issued, the permittee has six months from the date of the issuance of the permit to occupy the building and/or land for the purpose for which the permit was issued; otherwise, a new Use and Occupancy Permit shall be required and shall only be issued if the proposed use conforms to the provisions of this Ordinance.

**1.7 SEVERABILITY**

---

If any Chapter, Subchapter, Section, subsection, paragraph, subdivision, clause, sentence, or provision of this Ordinance is adjudged by any court of competent jurisdiction to be invalid, that judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance. The effect of the judgment shall be confined only to that part of the Ordinance that is immediately involved in the controversy in which the judgment or decree was rendered.

**1.8 EFFECTIVE DATE**

---

The effective date of this Ordinance, or any subsequent amendment, is the day established by the Board of Mayor and Aldermen.

**1.9 REPEAL OF PREVIOUS ZONING ORDINANCE**

---

After the effective date of a new Zoning Ordinance, the previously effective Zoning Ordinance is expressly repealed and replaced in its entirety. In the case of an Ordinance Amendment, only those amended portions shall be repealed and replaced with the newly adopted language, development standards, and/or regulations.



# CHAPTER 2 | COMMISSIONS, BOARDS, AND OFFICIALS

- 2.1 | PURPOSE
- 2.2 | BOARD OF MAYOR AND ALDERMEN
- 2.3 | BOARD OF ZONING APPEALS
- 2.4 | PLANNING COMMISSION
- 2.5 | OPERATING RULES
- 2.6 | PLANNING DEPARTMENT

## 2.1 PURPOSE

---

The purpose of this Chapter is to outline the specific powers of the different commissions, boards, and officials as they relate to this Ordinance.

## 2.2 BOARD OF MAYOR AND ALDERMEN

---

The Board of Mayor and Aldermen shall have the following specific powers, pursuant to this Zoning Ordinance:

1. To make final decisions on all requests for amendment to the official [Zoning Map \(Chapter 4.8\)](#).
2. To make final decisions on all requests for amendment to the text of the Zoning Ordinance ([Chapter 4.8](#)).
3. To make final decisions on all requests for approval of a Development Plan as specified in [Chapter 8](#) (Planned Development Districts).
4. To make final decisions on adoptions / revisions to the Major Thoroughfare Plan (Transportation Plan) in accordance with State laws.
5. Act as the elected legislative body for decisions requiring their discretionary review.

## 2.3 BOARD OF ZONING APPEALS

---

1. Creation of the Board of Zoning Appeals:
  - A. The Board of Zoning Appeals as created by Ordinance 1985-8 and as currently existing, shall remain in effect and authority.
  - B. The Board's authority is for territory within the city limits of the City of Hendersonville. Authority over any area annexed into the City is transferred to the Municipal Board.

- C. Each Board shall consist of five members. The Board members shall reside within the City. The terms of the board members shall be for three years, or until replaced. The terms in effect prior to the adoption of this Ordinance shall continue. Terms shall be staggered in the current manner. Replacements shall be for the remaining term of the person replaced.
- D. Appointments shall be by the Board of Mayor and Aldermen in accordance with Ordinance 1982-38, as may be amended from time to time.
- E. Members shall serve with such compensation as may be fixed by the Board of Mayor and Aldermen.
- F. Training and continuing education of Board members shall be in accordance with State law, in particular TN Code 13-7-205 (c) as may be amended.

## 2. Powers of the Board:

The Board of Zoning Appeals acts as a quasi-judicial body that is hereby vested with the powers to:

- 1. The Board of Zoning Appeals may, in appropriate cases and subject to the principles, standards, rules, conditions, and safeguards set forth in the Ordinance, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent.
- 2. Hear and decide appeals from any order, requirement, decision, or determination made by Planning Staff in carrying out the enforcement of this Ordinance, whereby it is alleged in writing that staff is in error or has acted in an arbitrary manner (See [Chapter 4.3](#));
- 3. Hear and decide, in accordance with the provisions of any such Ordinance, requests for special exceptions or for interpretation of the map or for decisions upon other special questions upon which such board is authorized by any such Ordinance to pass; and
- 4. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulation, or by reason of exceptional topographic conditions or of the extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property, authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship; provided, that such relief may be granted without substantial detriment to

the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance (See Chapter 4.4 & Chapter 4.5).

5. Variances may be authorized in accordance with Chapter 4.4.5 (Findings of Fact), in which enforcement of the provisions of this Ordinance will result in practical difficulties or particular hardship for the owner of land or structures. (See Chapter 4.4).
6. Hear and act upon applications for Conditional Use Permits (See Chapter 4.5).

TABLE 1: COMMISSIONS, BOARDS, & OFFICIALS: APPEALS & VARIANCE DETERMINATION

TABLE 1   COMMISSIONS, BOARDS & OFFICIALS   APPEALS & VARIANCE DETERMINATION						
ITEMS OF INTEREST	BOARD OF ZONING APPEALS			PLANNING COMMISSION		PLANNING STAFF DETERMINATION
	VARIANCE	CONDITIONAL USE	APPEAL	VARIANCE	CONDITIONAL USE	
Accessory Dwelling Lot Size Requirement	No appeal/variance available.					
Accessory Structure Height		X <sup>5</sup>				
Accessory Structure Location <sup>1</sup>	X <sup>5</sup>					
Accessory Structure Material		X <sup>4,5</sup>				
Accessory Structure Size		X <sup>5</sup>				
Accessory Structure Amount		X <sup>5</sup>				
Accessory Uses						X
Appeal Staff Interpretation/Enforcement			X			
Building Height				X <sup>2</sup>		
Cell Towers		X				
Conditional Use		X <sup>3</sup>			X <sup>2</sup>	
Fence Height		X				
Fence Material						X
Fence in Prohibited Zone	No appeal/variance available.					
Gravel Driveway	No appeal/variance available.					
Lot Width				X <sup>2</sup>		
Major Home Occupation		X <sup>6</sup>				
Max Lot Coverage				X <sup>2</sup>		
Min Lot Area/ Density Units				X <sup>2</sup>		
Min Pervious Area				X <sup>2</sup>		
Setback Variance <sup>1</sup>	X			X <sup>2</sup>		
Sign Requirement Variance	No appeal/variance available.					

**NOTES:**

1. Items may only be appealed to the Board of Zoning Appeals if criteria outlined in Chapter 4.4.5 (Findings of Fact) are met.
2. Variance/Conditional Use available to Planned Developments only.
3. As indicated in the Permitted and Conditional Use Tables listed in Chapter 6 and Chapter 7.
4. Conditional Use Permit is not available in front yard. No appeal/variance available.
5. Available to Residential Property only.
6. A Major Home Occupation follows the permit path of a Conditional Use Permit.

## 2.4 PLANNING COMMISSION

---

Planning Commission refers to the Hendersonville Planning Commission as previously created by the Hendersonville Municipal Code Title 14, Chapter 1, which shall have the following administrative and deliberative powers, pursuant to this Ordinance:

1. To review and make final decisions on Site Plan and Design Review ([Chapter 4.7](#)).
2. To make recommendations to the Board of Mayor and Aldermen on amendments to the official [Zoning Map](#) ([Chapter 4.8](#))
3. To make recommendations to the Board of Mayor and Aldermen on amendments to the text of the Zoning Ordinance ([Chapter 4.8](#)).
4. To make recommendations to the Board of Mayor and Aldermen on Planned Developments (Chapter [4.6](#) and Chapter [8](#)).
5. To make recommendations to the Board of Mayor and Aldermen to adopt/revise the major Thoroughfare Plan (Transportation Plan) in accordance with State law.
6. To adopt, in accordance with State law, a comprehensive plan; including a Land Use and Transportation Plan and other elements of said plan and amendments thereto.
7. To adopt and amend Subdivision Regulations in accordance with State law.

## 2.5 BOARD OF ZONING APPEALS & PLANNING COMMISSION OPERATING RULES

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1. The Board of Zoning Appeals and the Planning Commission shall elect from its members its own chairman, vice-chairman, and secretary, who shall serve for one year and may upon election serve succeeding terms.
2. Any member of the Board of Zoning Appeals or Planning Commission who shall have a direct or an indirect interest in any property that is the subject matter of or affected by a decision of the Board or Commission shall be disqualified from participating in the discussion, decision, and proceedings. The burden for revealing any such conflict rests with individual members of the Board and Commission. Failure to reveal any such conflict shall constitute grounds for immediate removal from the Board or Commission for cause.
3. Regular meetings shall be held at specific times and at such times as the Board and Commission may determine. The chairman of the Board of Zoning Appeals, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

4. The Board of Zoning Appeals and Planning Commission shall adopt rules and/or by-laws for the conduct of its meetings. Such rules shall at the minimum require that:
  - A. The presence of a majority of the Board or Commission shall constitute a quorum. The concurring vote of a majority or members present shall constitute approval of a motion.
  - B. No action shall be taken until after a public hearing and notice thereof, if required by this Ordinance. Said notice of public hearing shall be in accordance with [Chapter 3.3](#).
  - C. The Board and Planning Commission may call upon any other office or agency of the city government for information in the performance of its duties and it shall be the duty of such other agencies to render such information to the Board or Planning Commission as may be reasonably required.
  - D. The Planning Commission may submit an advisory opinion on any matter before the Board of Zoning Appeals, and such opinion shall be made part of record of such public hearing.
  - E. Any Board or Planning Commission member, Zoning Administrator, or other employee charged with the enforcement of this Ordinance, acting for the City of Hendersonville in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability and shall be held harmless by the City of any damage that may occur to person or property as the result of any act required or permitted in the proper discharge of their duties. Any suit brought against any Board or Commission member, Zoning Administrator, or employee charged with the enforcement of any provision of this Ordinance shall be defended by legal representation furnished by the City until the final termination of such proceedings.
  - F. The Board, Planning Commission, its members, and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this Ordinance.

## 2.6 PLANNING DEPARTMENT

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The Planning Department refers to the City of Hendersonville Planning Department as directed by the Planning Director or designee(s), which may include other City staff. The Planning Department shall have the following powers, pursuant to this Zoning Ordinance:

- A. To review and make decisions on zoning interpretations ([Chapter 4.2](#)).
- B. To review and make final decisions on staff-level Site Plan review ([Chapter 4.7.4.1](#)).
- C. To receive and process all applications for use and occupancy permits ([Chapter 4.10](#)).

- D. To review and make decisions on applications for sign permits ([Chapter 4.11](#)).
- E. To receive and process all applications for Zoning Permits.
- F. To receive and forward applications for zoning appeals, zoning variances, site plans, design reviews, conditional uses, planned developments, zoning amendments, and other administrative reviews required by this Ordinance to the Board of Zoning Appeals, Planning Commission, or Board of Mayor and Aldermen, as indicated.
- G. To conduct inspections of structures or the use of land to determine whether there is compliance with this Ordinance, and, in case of any violation, order corrective action.
- H. To maintain permanent and current records as required by this Ordinance including, but not limited to, all relevant information and official action on inspections and violations, zoning appeals, zoning variances, site plans, design reviews, conditional uses, planned developments, zoning amendments, use and occupancy permits, and other administrative reviews.
- I. To maintain and make available the City’s official Zoning Ordinance Text and Map, and all permanent and current records required by this Ordinance.
- J. To maintain for public distribution an adequate supply of the compiled text of the Zoning Ordinance Text, including the official [Zoning Map](#), and appropriate forms and instructional material for all required hearings and review procedures provided for herein.
- K. Any language referring to the Director also refers to the Director’s designee, if applicable.

## 2.6.1 | *AUTHORITY OF THE PLANNING DIRECTOR TO CORRECT MINOR ERRORS*

### 2.6.1.1 | PURPOSE

To ensure the accuracy and clarity of the Zoning Ordinance, the Planning Director is authorized to correct minor errors that do not alter the substantive meaning or intent of the ordinance.

### 2.6.1.2 | SCOPE OF CORRECTIONS

The Planning Director may correct the following types of errors:

- A. Typographical errors (e.g., misspellings, punctuation)
- B. Grammatical mistakes that affect readability

- C. Formatting inconsistencies (e.g., numbering, indentation)
- D. Cross-reference inaccuracies within the ordinance
- E. Clerical omissions that do not affect policy or regulation

#### 2.6.1.3 | DOCUMENTATION OF CHANGES

Each correction shall be accompanied by a parathetical note indicating the date of the change. Example: “(Corrected 07/03/2025)”

#### 2.6.1.4 | LIMITATIONS

Corrections must not:

- A. Change permitted uses or development standards
- B. Alter procedural requirements or enforcement provisions

Any change beyond the scope defined above must follow the formal amendment process.

#### 2.6.1.5 | RECORDKEEPING

All corrections shall be logged in a publicly accessible amendment register maintained by the Planning Department.



# CHAPTER 3 | ADMINISTRATIVE PROCEDURES

- 3.1 | PURPOSE
- 3.2 | APPLICATION
- 3.3 | NOTICE
- 3.4 | PUBLIC HEARING
- 3.5 | VESTING

## 3.1 PURPOSE

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The purpose of this Chapter is to outline the general application, notice and public hearing procedures for the zoning applications and approvals found within this Zoning Ordinance.

## 3.2 APPLICATION

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### 3.2.1 | AUTHORIZATION

An application for a Zoning Interpretation, Zoning Appeal, Zoning Variance, Conditional Use Permit, Site Plan, Design Review, Planned Development, Use and Occupancy Permit, Zoning Text Amendment, Zoning Map Amendment, Tree Removal Permit, Zoning Permit, or sign permit may be filed by an owner of the subject property in the City or their authorized agent.

### 3.2.2 | PRE-SUBMITTAL STAFF MEETING

Applicants and their professional consultants are encouraged to meet with City staff prior to finalizing and submitting applications. This especially applies to Planned Development Plans, Zoning Amendments, and Site Plan and Design Review applications. City staff which should participate varies with conditions, but may include staff from the Planning, Public Works, and Codes Departments, and the Fire Marshal. The applicant is encouraged to provide plans which the staff may retain to review in more detail. The meeting should be scheduled far enough in advance to allow for meaningful review and for changes to be made to the application and plans prior to the submittal date.

### 3.2.3 | FILING

1. An application for a Zoning Interpretation, Zoning Appeal, Zoning Variance, Site Plan and/or Design Review, Conditional Use Permit Planned Development, Zoning Text Amendment, Zoning Map Amendment, Use and Occupancy Permit, Tree Removal Permit, Zoning Permit, or Sign Permit shall be filed with the Planning Department.
2. The application shall be submitted by the deadline specified in the Submittal Guide published annually by the Planning Department. Application shall be on forms provided by the City and shall be filed in such number as the instructions provide. All plans shall be at a scale sufficient to permit a clear and precise understanding of the proposal. Maximum plan sizes are shown on the Submittal Guide available in the office of the

Planning Department and on the City website. The application shall include information, plans and data as specified on the checklist provided by the Planning Department and sufficient to determine whether the application conforms to the requirements set forth in this Ordinance.

### 3.2.4 | *COMPLETENESS*

The Planning Department shall determine whether the application is complete. If the application is not complete, the Planning Department shall notify the applicant of any deficiencies within one week and shall take no steps to process the application until the deficiencies are remedied. Once the Planning Department determines that the application is complete, the application shall be scheduled for consideration by the appropriate board, commission or official.

### 3.2.5 | *FEES*

Every application shall be accompanied by the required filing fee as established and modified, from time to time, by the Board of Mayor and Aldermen. The failure to pay such fee when due shall be grounds for refusing to process the application, and for denying or revoking any permit or approval for the subject property. No fees shall be waived except those authorized by the Board of Mayor and Aldermen at its sole discretion. No fees shall be refunded except those by the Planning Director at their sole discretion.

### 3.2.6 | *STAFF REVIEW AND COMMENTS*

Copies of the submitted plans for development plans and Site Plan and Design Review approval shall be distributed by the Planning Department to all City staff which administers standards which relate to the application. These may include Planning staff, Public Works staff, Codes Inspectors, and the Fire Marshal. A copy of the plans shall also be distributed to the Utility District which serves the proposed development (Hendersonville Utility District), if applicable.

Planning staff review of all applications shall be under the supervision of the Planning Director. Staff review of landscape and irrigation plans shall be performed under the supervision of a licensed landscape architect.

Staff shall submit initial staff comments in accordance with the Submittal Guide.

Applicants shall address all staff comments. This does not mean applicants shall make all changes recommended by staff, but, if not, appropriate written response must be provided. If not, the staff has the right to withhold applications from the agenda until responses are provided. Applicants shall submit final plans as per the Submittal Guide. The number and size of copies shall be as specified in the Submittal Guide.

Staff shall submit final staff comments. The Planning Department shall assemble the comments into a Staff Report and Comments which shall be distributed to the Planning Commission and applicant.

### 3.2.7 | WITHDRAWAL OF APPLICATION

An applicant shall have the right to withdraw an application at any time prior to the decision on the application by a City official, commission or board, including the ability to withdraw the application if it has been deferred by a commission or board. There shall be no refund of fees. Requests for withdrawal shall be in writing by the applicant, or their designated representative.

### 3.2.8 | SUCCESSIVE APPLICATIONS

Within one year of the date of denial, a subsequent application shall not be reviewed or heard unless there is substantial new evidence available, or if a significant mistake of law or of fact affected the prior denial. Such subsequent application then shall include a detailed statement of the grounds justifying its consideration. The Planning Director shall make a determination as to whether the subsequent application is appropriate. If the Planning Director finds that there are no grounds for consideration of the subsequent application, the request shall be summarily denied without a hearing.

## 3.3 NOTICE

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### 3.3.1 | TYPE(S) OF NOTICE REQUIRED

1. Zoning Text Amendment:
  - A. Published Notice of Planning Commission Public Hearing. See Chapter 3.3.2 (Published Notice)
  - B. Published Notice of Board of Mayor and Aldermen Public Hearing. See [Chapter 3.3.2](#) (Published Notice).
2. Zoning Map Amendment/Rezoning including rezoning to a Planned Development along with the approval of Preliminary Development Plan:
  - A. Mailed Notice and Posted Notice of Planning Commission Public Hearing. See [Chapter 3.3.3](#) (Mailed Notice) and Chapter [3.3.4](#) (Posted Notice).
  - B. Mailed Notice and Published Notice of Board of Mayor and Alderman Public Hearing. See Chapter [3.3.3](#) (Mailed Notice) and Chapter [3.3.2](#) (Published Notice).
3. Changes/Revisions that exceed the changes listed in Chapter 8.8.4.2.A and Add-Uses to Final Development Plans:
  - A. Mailed Notice of the Planning Commission Public Hearing. See Chapter [3.3.3](#) (Mailed Notice).

*NOTE: As per [Chapter 8.9](#) (Changes to Planned Developments), the Planning Commission and Board of Mayor and Aldermen decide on a case by case basis as to whether it will conduct a Public Hearing.*

#### 4. Zoning Variance and Conditional Use:

- F. Published Notice of Board of Zoning Appeals Public Hearing. See [Chapter 3.3.2](#) (Published Notice),
- G. Posted Notice of Board of Zoning Appeals Public Hearing. See Chapter 3.3.4 (Posted Notice).
- H. Mailed Notice of Board of Zoning Appeals Public Hearing. See [Chapter 3.3.3](#) (Mailed Notice).

#### 3.3.2 | PUBLISHED NOTICE

Pursuant to Table 2, when published notice is required, it shall be in a newspaper of general circulation within the City. The notice shall include the date, time, place and purpose of such hearing, the name of the applicant, and the address or location of the subject property. Except as listed below, such notice shall be published no less than 15 days, nor more than 30 days, in advance of the scheduled hearing date. When required, a copy of the Published Notice shall be provided to the City Recorder.

*Exception: Any item going before the Board of Mayor and Aldermen as listed in Table 2 will require a minimum of a 21-day notice. Reference TCA 13-7-203(a).*

#### 3.3.3 | MAILED NOTICE

1. Mailed notice shall be in the form of a written notice provided by the Planning Department. The notice shall be mailed by regular mail no less than 15 days, but no more than 30 days prior to the public hearing to all affected property owners located within 250 feet from the property line of the subject property. The Planning Department may increase this distance as deemed appropriate for the circumstances. The 250 feet shall be measured from all directions along the perimeter of the subject property.
2. The Planning Department shall obtain the names and mailing addresses of the affected owners from the Sumner County Tax Assessor Geographic Information System or similar service. The City shall provide an affidavit stating that notices were mailed. The notice shall include the date, time, place and purpose of such hearing, the name of the applicant, and the address or location of the subject property.

#### 3.3.4 | POSTED SIGN NOTICES

A sign shall be posted on the subject property in accordance with the following provisions:

### 3.3.4.1 | LOCATION AND TIME PERIOD FOR POSTING SIGNS

The required posting period shall be no less than 15 consecutive days, but no more than 30 days, prior to the public hearing (excluding the day of the hearing). The sign shall be posted at a prominent location on the property, near the sidewalk or public road right-of-way so that it is visible to passing pedestrians and motorists. Projects with more than one street frontage shall be required to post one sign visible from each street frontage, if, in the opinion of the Planning Department, such is appropriate.

### 3.3.4.2 | RESPONSIBILITY FOR POSTING SIGNS

It is the City’s responsibility to erect the sign on the property. The City shall provide an affidavit to the body conducting the hearing verifying compliance with the sign posting requirement. (See [Appendix F](#)).

### 3.3.5 | FAILURE TO POST

Failure to provide notice as required by this Chapter may constitute grounds for suspension or continuance of the approval process; however, failure to post or sign, theft, etc. of a public notice sign shall not be used as a basis for a legal challenge of a proposed zoning amendment.

TABLE 2: ADMINISTRATIVE PROCEDURES: PUBLIC NOTICE REQUIREMENTS

TABLE 2   ADMINISTRATIVE PROCEDURES   PUBLIC NOTICE REQUIREMENTS						
PROJECT TYPE <sup>1</sup>	HPC NOTICE REQUIRED			BOMA NOTICE REQUIRED		
	PUBLISHED	MAILED	POSTED <sup>4</sup>	PUBLISHED	MAILED	POSTED <sup>4</sup>
Annexation	X <sup>5</sup>	X <sup>5</sup>	X <sup>5</sup>	X <sup>6</sup>	X <sup>6</sup>	X <sup>3,6</sup>
Zoning Map Amendment (Rezoning)		X	X	X <sup>6</sup>	X <sup>6</sup>	X <sup>6</sup>
Preliminary Development Plan		X	X	X <sup>6</sup>	X <sup>6</sup>	X <sup>6</sup>
Preliminary Development Plan Changes/Revisions		X	X	X <sup>6</sup>	X <sup>6</sup>	X <sup>6</sup>
Preliminary Development Plan Add-Use		X				
Final Development Plan	No Public Notice Required			No Public Notice Required		
Final Development Plan Add-Use		X	X			
Final Development Plan Changes/Revisions <sup>1</sup>		X	X		X <sup>6</sup>	X <sup>6</sup>
Comprehensive Development Plan		X	X	X <sup>6</sup>	X <sup>6</sup>	X <sup>6</sup>
Future Land Use & Transportation Plan Amendment	X <sup>2</sup>					
Street Abandonment/Relocation	X			X		
Zoning Text Amendment	X			X <sup>6</sup>		
PROJECT TYPE <sup>1</sup>	BZA NOTICE REQUIRED			HZC NOTICE REQUIRED		
	PUBLISHED	MAILED	POSTED <sup>4</sup>	PUBLISHED	MAILED	POSTED <sup>4</sup>
Appeal of Planning Dept. Interpretation	X				X	
Certificate of Appropriateness	X	X	X			
Conditional Use	X	X	X			
Major Home Occupation Permit	X	X	X			
Zoning Variance	X	X	X			

**NOTES:**

1. These notice requirements do not pertain to revisions limited to the Planning Department Staff review and approval authority.

2. Notice of a requested amendment to the Future Land Use and Transportation Plan shall be published no less than 30 days in advance of the scheduled hearing date.
3. Post the Resolution in three public places in the territory proposed to be annexed and in three public places within the municipality (City Hall, Fire Administration Building, and Library). Refer to TCA § 6-51-104.
4. If a project/development requires posted public notice, the Applicant is responsible for mowing and/or maintaining existing grass or other landscaping at least 15 feet back from all road frontages to allow for sign visibility.
5. Mailed notices go to property owner, applicant, property owners within 250 feet, ward aldermen, county mayor, all connected county commissioners.
6. Any item going before the Board of Mayor and Aldermen will require a minimum of 21-day notice. Reference TCA13-7-203(a).

## 3.4 PUBLIC HEARING

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### 3.4.1 | CONDUCT OF PUBLIC HEARINGS

1. A public hearing is a formal proceeding mandated by law for the purpose of taking evidence to formulate a decision or recommendation on an issue within the jurisdiction of the Board of Zoning Appeals, Planning Commission and Board of Mayor and Aldermen. The primary purpose of a public hearing is to allow interested parties an opportunity to listen and comment on evidence presented at any legislatively mandated proceeding.
2. Meetings of the Board of Zoning Appeals, Planning Commission, and Board of Mayor and Aldermen, including public hearings, shall be subject to the Tennessee Open Meetings Act.
3. The Chair, with the consent of 2/3 majority of the body present, may limit individual testimony to a specific time to provide a reasonable opportunity for all interested persons to testify.
4. At a public hearing, an applicant may appear on his or her own behalf or may be represented by an attorney, consultant or other agent qualified to represent the petitioner.
5. In addition to the applicant, any person having an interest in the action which is the subject of the public hearing may appear at the public hearing and give testimony.
6. An interested party wishing to testify at the public hearing shall state for the record his or her name and address.
7. Minutes shall be distributed with the agenda for the next regular meeting, or as soon as such may be reasonably available.

### 3.4.2 | CONTINUANCES

The Chair, with approval of the body conducting the hearing, or, in the absence of a quorum, the Planning Staff in attendance, may change or continue the regular public hearing date and time. In order to reopen the hearing, no new notice shall be required if a hearing is continued to a specific date, provided that a public announcement of the future date, time and place of the continued hearing is made at the hearing, and placed in the minutes. If the hearing is adjourned, rather than continued to a specific date, in order to reopen the hearing, all notices must be given that would have been required for the initial public hearing per [Chapter 3.3](#) (Notice).

## 3.5 VESTING

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### 3.5.1 | INITIATION OF VESTING

1. In accordance with T.C.A. § 13-4-310, and subject to the exceptions set forth in said statute, vesting shall be initiated on the date on which an applicant submits a complete application for approval of a plan listed below on or after May 9, 2025, by the applicable review body:
  - A. Development Plan,
  - B. Preliminary Plat,
  - C. Site Plan that is not associated with an approved development plan or preliminary plat,
  - D. A revision to a development plan, site plan, or preliminary plat that was originally approved prior to May 9, 2025, and receives approval by the original review body.
2. For the remainder of this Section, these approved applications shall be referred to as “vested plans.”

### 3.5.2 | VESTING PERIODS

1. The approval of a plan in accordance with subsection 3.5.1 (Initiation of Vesting), will initiate a vesting period, during which the development standards adopted by the City and in effect on the date of approval shall remain the applicable standards to the vesting plan during its vesting period.
2. The vesting period applicable to a vested plan shall be a period of three years and begins on the date on which an applicant submits a complete application for approval by the applicable review body.
3. To keep a vested plan vested, an applicant must:

- A. Secure the approval of a site plan (only applicable when a development plan or preliminary plat is the vested plan),
- B. Obtain necessary permits to start site preparation, and
- C. Begin site preparation work, which includes any of the following activities:

excavating, grading, demolition, removing excess debris to allow for proper grading, or providing a surface for proper foundations, drainage, and settling for a development project, and physical improvements such as water and sanitary sewer lines, footings, or foundations installed on the site for which construction permits are required.

- 4. Should the applicant meet the three requirements in 3.5.2.3, the vesting period shall be extended an additional two years from the date of the expiration date of the three-year period. During this additional time granted, the applicant shall commence construction and maintain any necessary permits in order to remain vested. Construction, for purposes of this section, means that any foundations for a building are installed and the building has begun to be erected vertically.
- 5. If construction commences, the vesting period shall be extended for a total of ten years from the date on which an applicant submits a complete application for approval of the vested plan, provided that the applicant maintains any necessary permits during the ten-year period.
- 6. If the vested plan is identified with two or more phases/sections, then the vesting period shall be extended for a total of 15 years from the date on which an applicant submits a complete application for approval of the vested plan, provided the applicant maintains any necessary permits during the 15-year period.
- 7. For developments proceeding in two or more phases or sections as outlined in the vested plan, each phase or section shall have a separate vesting period. The development standards in effect at the date on which an applicant submits a complete application for approval of the vested plan for the first phase or section shall apply to all subsequent phases or sections. However, the total vesting period for the entire development shall not exceed 15 years from the date on which an applicant submits a complete application for approval of the vested plan for the first phase or section, provided the applicant maintains all necessary permits throughout the 15-year period.

### 3.5.3 | EXPIRATION DATES

- 1. Development Plans & Preliminary Plats = 3 years

At three years, an applicant may request an extension of the vesting period. Otherwise, the project must re-submit from the beginning to re-establish any entitlement.

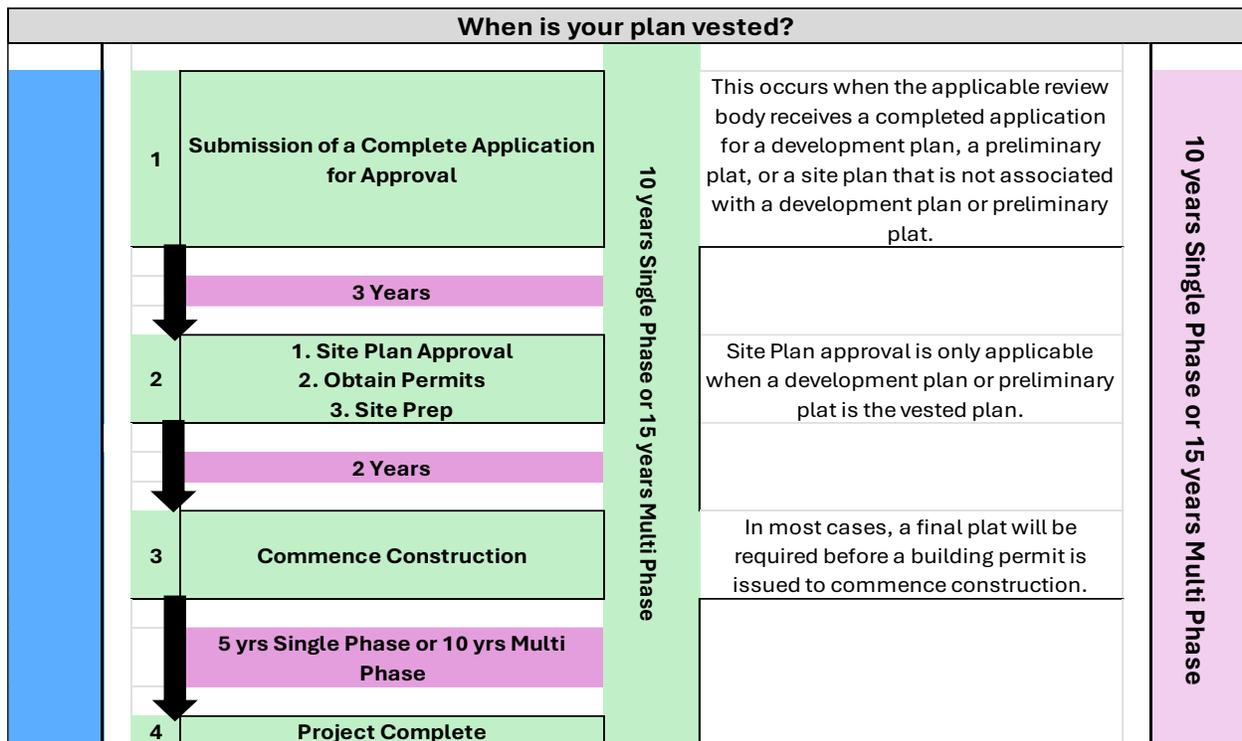
2. Site Plans = 3 Years

Site plan is approved for three years without site prep, or five years without commencing construction, or whenever vesting is lost, whichever happens first.

3. Final Plats = 3 years

If a final plat is not recorded within two years of its approval date, the plat is invalid and must be resubmitted to the City.

FIGURE 1: VESTING



3.5.4 | EXTENSION OF VESTED RIGHTS

1. An applicant may request an extension of their vesting period, which is subject to review and approval by the original review body; however, if the Planning Staff was the original review body, the Planning Commission shall serve as the review body for the requested extension.
2. The extension request shall be made prior to the end of the vesting period.
3. The extension request shall be provided in writing to the Planning Department. The request shall provide rationale as to why the extension shall be granted, and how the extension of the vesting period is in the best interest of the community to allow the

development to proceed under the existing plan while extending the vested property right.

4. The extension request shall specify a new expiration date of the vesting period.
5. If the extension is not granted, the vested rights will terminate at the end of the original vesting period.

### 3.5.5 | REVISION OF VESTED PLANS AND RETENTION OF VESTED RIGHTS

1. Recommendations and final action on a revision to a vested plan shall be based on the consideration of the following criteria:
  - A. Whether the proposed revision is consistent with all standards of the Zoning Ordinance and other applicable development standards in effect on the original approval date of the vested plan, and
  - B. Whether the proposed development meets all the requirements or conditions of any other applicable development approvals, such as a development plan or associated modification of standards.
2. If a governing review body approves a revision to a vested plan, the vesting right is retained.
3. A revision to a vested plan may be denied based on the following as it is deemed to affect vesting:
  - A. Alters the proposed use,
  - B. Increases the overall area of development,
  - C. Alters the size of any nonresidential structures included in the development plan,
  - D. Increases the density of the development so as to affect traffic, noise, or other environmental impacts, or
  - E. Increases any local government expenditure necessary to implement or sustain the proposed use.
4. If a revision to a vested plan is denied based on written finding of any of the items listed in section 3.5.5.3.A-E above, the applicant has the following two options:
  - A. Proceed under the prior approved plan with the associated vested rights, or
  - B. Allow the vested property rights to terminate and submit a new application under this chapter.

5. Notwithstanding this subsection, a vested property right shall not terminate if BOMA determines, in writing, that it is in the best interest of the community to allow the development to proceed under the plan without terminating the vested property right.

### 3.5.6 | VIOLATION OF CONDITIONS OF APPROVAL

The approval of a vested plan is subject to any conditions established at the time of approval. Pursuant to T.C.A. § 13-4-310, if those conditions are not met, the applicant shall have 90 days to cure the violation. The governing review body may grant additional time to cure the violation if it issues a written determination that such an extension is in the best interest of the community.

If the violation is not cured within the allowed period, the vested rights associated with the plan shall terminate. However, the governing review body may allow those rights to remain vested despite the violation, provided it issues a written determination that such continuation is in the community's best interest.

### 3.5.7 | WHEN VESTING DOES NOT APPLY

1. A vested development standard shall not preclude local government enforcement of any development standard when:
  2.
    - A. The City obtains written consent by the owner/applicant,
    - B. The City determines in writing that compelling evidence exists that the development plan seriously threatens the public health, safety, or welfare of the community and the threat cannot be mitigated within a reasonable period of time by the applicant using the vested property rights,
    - C. The City determines in writing the existence of a natural or man-made hazard on or in the immediate vicinity of the subject property, not identified on the development plan, and which if uncorrected would pose a serious threat to the public health, safety, or welfare and the threat cannot be mitigated within a reasonable time period by the applicant using the vested rights; or
    - D. A development standard is required by federal or state law, rule, regulation, policy, corrective action, order or other type of governance that is required to be enforced by local governments, such as stormwater or FEMA requirements; or
    - E. A local government is undertaking an action initiated or measure instituted in order to comply with a newly enacted federal or state law, rule, regulation, policy, corrective action, order or other type of governance.
  2. A vested property right does not preclude, alter, or impair the authority of a local government to exercise its eminent domain powers provided by law.



# CHAPTER 4 | APPLICATIONS AND APPROVAL PROCESSES

- 4.1 | PURPOSE
- 4.2 | ZONING INTERPRETATION
- 4.3 | APPEAL OF A PLANNING DEPARTMENT INTERPRETATION
- 4.4 | ZONING VARIANCE
- 4.5 | CONDITIONAL USE
- 4.6 | PLANNED DEVELOPMENT
- 4.7 | SITE PLAN AND DESIGN REVIEW
- 4.8 | ZONING AMENDMENT
- 4.9 | ZONING PERMIT
- 4.10 | USE AND OCCUPANCY PERMIT
- 4.11 | SIGN PERMIT
- 4.12 | TREE REMOVAL PERMIT
- 4.13 | VIOLATIONS

## 4.1 PURPOSE

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The purpose of this Chapter is to delineate the scope of applicability, specific procedures and requirements, and approval criteria that are applicable to each zoning application and approval.

## 4.2 ZONING INTERPRETATION

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### 4.2.1 | PURPOSE

This formal interpretation authority is not intended to add or change the essential content of the Ordinance. The formal interpretation authority is intended to recognize that the provisions of this Ordinance, though detailed and extensive, cannot, as a practical matter, address every specific zoning issue. Such issues may often be addressed by reference to general circumstances that the specific provision was intended to address.

### 4.2.2 | INITIATION

Applications for formal zoning interpretations may be filed by an owner or their authorized agent of any property in the City. In addition, the Board of Mayor and Aldermen or the Planning Commission may request that the Planning Department render an interpretation. Requests initiated by the City require an application but are exempt from fees. The interpretation must be for the purpose of furthering some actual development.

### 4.2.3 | AUTHORITY AND EXECUTION

The Planning Department shall review and make final decisions on requests for interpretations. Nothing in this Chapter shall require the Planning Department to make an

interpretation if the Department is of the opinion that the exposure to liability for the City on account of the interpretation outweighs the benefit to the applicant.

#### *4.2.4 | PROCEDURE*

All applications for interpretations shall be filed with the Planning Department, in accordance with the requirements in [Chapter 3.2](#) (Application). Upon receiving a complete application, the Planning Department shall review a request for an interpretation and render the interpretation within a reasonable time. The Planning Department shall have the ability to request additional information prior to rendering an interpretation.

### **4.3 APPEAL OF A PLANNING DEPARTMENT INTERPRETATION**

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#### *4.3.1 | PURPOSE*

The zoning appeals process for review of decisions of the Planning Department is intended to provide appropriate checks and balances on administrative authority.

#### *4.3.2 | INITIATION*

Applications for appeals may be filed by any owner of any property in the City, their authorized agent or any resident that is directly affected by a decision made under this Ordinance by the Planning Department.

#### *4.3.3 | AUTHORITY AND EXECUTION*

The Board of Zoning Appeals may review only those interpretations of the Planning Department which result from requests made pursuant to this Ordinance. Other decisions and actions of the Planning Department cannot be appealed under this process.

#### *4.3.4 | PROCEDURE*

All applications for appeals shall be filed with the Planning Department, in accordance with the requirements in [Chapter 3.2](#) (Application). Upon receiving a complete application, the Planning Department shall forward a copy of the application to the Board of Zoning Appeals. The Board of Zoning Appeals shall conduct a public hearing, in accordance with [Chapter 3.4](#) (Public Hearing), within 60 days of receipt of a complete application. If, in the Board of Zoning Appeal's judgment, the application does not contain sufficient information to enable the Board to properly discharge its responsibilities, the Board may request additional information from the applicant. In that event, the 60-day period shall be suspended pending receipt of all requested information. Notice shall be given in accordance with [Chapter 3.3](#) (Notice). Following the close of the public hearing or within 45 days, the Board of Zoning Appeals shall decide the appeal. The Board of Zoning Appeals may reverse, affirm, modify the order, requirement, decision, or determination.

#### 4.3.5 | LIMITATIONS ON APPEALS

A decision may only be appealed if an application to appeal is filed within 30 days of that decision.

## 4.4 ZONING VARIANCE

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#### 4.4.1 | PURPOSE

The variance process is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create particular hardships.

#### 4.4.2 | INITIATION

Applications for zoning variances may be filed by an owner of any property in the City, or their authorized agent for that property.

#### 4.4.3 | AUTHORITY AND EXECUTION

Variances may be authorized by the terms of this Ordinance. Variances may be authorized only after a public hearing, where the Board of Zoning Appeals has made findings of fact in accordance with [Chapter 4.4.5](#) (Findings of Fact) below, that owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in practical difficulties or particular hardship for the owner of land or a structure.

#### 4.4.4 | PROCEDURE

All applications shall be filed with the Planning Department in accordance with the requirements in [Chapter 3.2](#) (Application). Upon receiving a complete application, the Planning Department shall forward a copy of the application to the Board of Zoning Appeals. The Board of Zoning Appeals shall conduct a public hearing, in accordance with [Chapter 3.4](#) (Public Hearing), within 60 days of receipt of a complete application. If, in the Board of Zoning Appeal's judgment, the application does not contain sufficient information to enable the Board to properly discharge its responsibilities, the Board may request additional information from the applicant. In that event, the 60-day period shall be suspended, pending receipt of all requested information. Notice shall be given in accordance with [Chapter 3.3](#) (Notice). Following the close of the public hearing or within 45 days), the Board of Appeals shall decide on the request.

#### 4.4.5 | FINDINGS OF FACT

1. No Variance from the provisions of this Ordinance shall be granted unless the Board of Zoning Appeals makes specific written findings of fact based directly on the standards and conditions imposed by this Section. These standards are as follows:

- A. That by reason of exceptional narrowness, shallowness, or shape of a particular piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other exceptional and extraordinary situation or condition of such piece of property, the strict application of any bulk standards contained within this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property.
  - B. The Variance is the minimum variance that will relieve such difficulties or hardship and make possible the reasonable use of the land, building, or structure.
  - C. The Variance will not authorize uses in a zone district other than those permitted by this Ordinance.
  - D. Financial considerations shall not be considered as a basis for granting a Variance.
2. The Board of Zoning Appeals in making its findings of fact, may inquire into the following evidentiary issues, as well as any others deemed appropriate:
- A. The granting of the Variance will not be detrimental to the public welfare, injurious to other property or improvements in the area in which the property is located, or a substantial impairment to the intent and purpose of the zoning district where the property is located or the general provisions of the Ordinance.
  - B. The proposed Variance will not impair an adequate supply of natural light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, or endanger the public safety within the neighborhood.
  - C. The alleged difficulty or hardship has not been knowingly or intentionally created by any person having an interest in the property.
  - D. The proposed Variance is consistent with the spirit and intent of this Ordinance and the adopted Land Use and Transportation Plan.

#### **4.4.6 | VARIANCE LESS THAN REQUESTED**

A Variance less than that requested may be granted by the Board of Zoning Appeals when the record supports the applicant's right to some relief, but not to the entire relief requested.

#### **4.4.7 | VARIANCE APPEALS**

Any person aggrieved by a decision of the Board of Zoning Appeals on a Variance may appeal by certiorari to a court of competent jurisdiction.

The judgment and findings of the Board on all questions of fact that may be involved in any appeal, cause, hearing, or proceeding under this Chapter shall be final and subject to review only for illegality or want of jurisdiction.

## 4.5 CONDITIONAL USE

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### 4.5.1 | PURPOSE

The development and execution of a Zoning Ordinance is based upon the division of the City into districts. Within each district, the use of land and buildings, and the bulk and location of buildings and structures in relation to the land, are substantially uniform. It is recognized, however, that there are specific uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such uses may be either public or private and are of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

### 4.5.2 | INITIATION

Applications for conditional uses may be filed by an owner of any property in the City for that property or their authorized agent to use that land for one or more of the conditional uses provided for in this Ordinance within the zoning district in which the land is situated.

### 4.5.3 | AUTHORITY AND EXECUTION

The Board of Zoning Appeals shall take formal action on conditional use requests. In the case of Planned Developments, the Planning Commission shall act as the Board of Zoning Appeals. See [Chapter 8](#) (Planned Development Districts) for conditional uses in Planned Developments.

### 4.5.4 | PROCEDURE

Applications for conditional uses shall be filed with the Planning Department in accordance with the requirements in [Chapter 3.2](#) (Application). Upon receiving a complete application, the Planning Department shall schedule the application for consideration by the Board of Zoning Appeals.

#### 4.5.4.1 | ACTION BY THE BOARD OF ZONING APPEALS

- A. The Board of Zoning Appeals shall conduct a public hearing on a proposed conditional use in accordance with [Chapter 3.4](#) (Public Hearing) no more than 60 days after receipt of a complete application. Notice for the public hearing shall be in accordance with [Chapter 3.3](#) (Public Notice). If, in the Board of Zoning Appeals' judgment, the application does not contain sufficient information to enable the Board of Zoning Appeals to properly

discharge its responsibilities, the Board may request additional information from the applicant. In that event, the 60-day period shall be suspended pending receipt of all requested information.

- B. The Board of Zoning Appeals shall, immediately following or within 45 days of the close of the public hearing, make the determination as to the granting of the conditional use.

#### 4.5.4.2 | CONDITIONS ON CONDITIONAL USES

The Board of Zoning Appeals shall confirm that the applicant has shown that they will comply with any use-specific standards as referenced in the tables of permitted and conditional uses as contained in [Chapter 10.3](#) (Use-Specific Standards). The Board of Zoning Appeals may also impose additional conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the conditional use as may be deemed necessary for the protection of the public interest.

#### 4.5.5 | FINDINGS OF FACT

1. The Board of Zoning Appeals shall not approve a conditional use unless it has made all of the following findings of fact, which must be based upon the evidence presented at the public hearing:
  - A. The conditional use is so designed, located, and proposed to be operated that the public health, safety and welfare will be protected.
  - B. The conditional use will not adversely affect other property in the area in which it is located.
  - C. The conditional use conforms to all applicable provisions of this Ordinance for the district in which it is to be located.
  - D. The conditional use in the specific location proposed is consistent with the purpose and intent of this Ordinance and the Land Use and Transportation Plan.
2. The Board of Zoning Appeals, in making findings of fact, may inquire into the following evidentiary issues, as well as any others it determines to be appropriate:
  - A. Ingress and egress to the subject property and its proposed structures, with particular attention to automotive and pedestrian safety and convenience, traffic flow and control, including access by emergency vehicles.
  - B. Off-street parking and loading areas proposed for the conditional use, with particular attention to the location and adequacy of such facilities.

- C. The operational characteristics of the proposed conditional use and their effects on adjacent properties. Particular attention shall be given to the hours of operation, noise, glare, odor, refuse storage, and other relevant environmental factors.
- D. Utilities and storm drainage facilities as proposed, with reference to their location, availability, adequacy, and compatibility.
- E. Screening, landscaping, and buffering, with specific reference to the type proposed, the dimensions and character, and the effectiveness in shielding adjacent properties.
- F. Signs and proposed exterior lighting with reference to glare, traffic safety, and compatibility, and harmony with adjacent properties.
- G. The quantity and degree of deviation from the applicable requirements of the district in which the subject property is located, as balanced against the desirability of the conditional use.

#### *4.5.6 | NO PRESUMPTION OF APPROVAL*

The listing of a use as a conditional use within a zoning district does not constitute an assurance or presumption that such conditional use will be approved. Rather, each proposed conditional use shall be evaluated on an individual basis, in relation to all applicable standards of this Ordinance. Such evaluation will determine whether approval of the conditional use is appropriate at the particular location and in the particular manner proposed.

#### *4.5.7 | APPEAL OF DENIAL*

Any person aggrieved by a decision of the Board of Zoning Appeals on a conditional use may appeal by certiorari to a court of competent jurisdiction. The judgment and findings of the Board on all questions of fact that may be involved in any appeal, cause, hearing, or proceeding under this Chapter shall be final and subject to review only for illegality or want of jurisdiction.

## **4.6 PLANNED DEVELOPMENT**

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See [Chapter 8](#) (Planned Developments) of this Ordinance for planned development process and requirements.

## 4.7 SITE PLAN AND DESIGN REVIEW

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### 4.7.1 | PURPOSE

The Site Plan and Design Review process is intended to promote orderly development and redevelopment in the City, and to assure that such development or redevelopment occurs in a manner that is harmonious with surrounding properties, is consistent with the Land Use and Transportation Plan, and promotes the general welfare of the City. This Chapter provides standards by which to determine and control the physical layout and design to achieve the:

1. Compatibility of land uses, buildings, and structures.
2. Protection and enhancement of community character.
3. Efficient use of land.
4. Minimization of traffic and safety hazards and efficient parking layout.
5. Minimization of adverse impacts on the environment, including the incorporation of sustainable design and green architecture techniques.

### 4.7.2 | INITIATION

Applications for Site Plan and Design Review approval may be filed by an owner of any property in the City, or their authorized agent.

### 4.7.3 | AUTHORITY AND EXECUTION

1. Site Plan and Design Review approval is required for the following:
  - A. The construction of all new buildings and structures, principal and accessory, including additions, with the exception of single-family dwellings and their accessory buildings constructed in an approved subdivision (as opposed to a Horizontal Property Regime) and temporary structures as regulated by [Chapter 10.6](#) (Temporary Uses and Structures).
  - B. The occupancy of land (with or without a building or structure) for any activity except single-family dwellings and temporary uses as regulated by [Chapter 10.6](#) (Temporary Uses and Structures).
  - C. Construction or establishment of a parking lot or enlargement of an existing lot.
  - D. Construction of a residential subdivision or multi-family development entry way.

- E. Any development utilizing a Horizontal Property Regime (HPR).
2. Design Review (but not Site Plan) approval to confirm compliance with [Chapter 12](#) (Building Design Standards) is required for the following, excluding single-family dwellings:
- A. Any external modification where the estimated cost of the modifications and improvements exceeds 20% of the total appraised value of the structures to be improved, as set forth in the most current Sumner County tax records.
  - B. The following shall be subject to design review but for the proposed modification only:
    - 1. Changing the color of more than (25% of the exterior of the building.
    - 2. Adding or replacing awnings, except replacing with the same size, style and color.
    - 3. Modifying the roof, except replacing with the same roof type.
    - 4. Adding or changing any dormer, cupola, pergola, or other architectural feature.
  - C. Placing neon tubing and strings of LED and similar lighting on a site or building or within the windows or doors of a building if visible from outside the building.

*Exception: Traditional holiday lighting displayed for not more than two 30-day periods per calendar year, which periods may run consecutively.*

- D. Any other external modification which the Planning Department determines to possess design characteristics which merits review to achieve the purpose of this Ordinance. Reasons for the Planning Department's determination shall be clearly stated in writing. Appeals from the Department's determination shall be filed with the Planning Commission within 15 days thereof and resolved by the Planning Commission within 45 days of the filing of the appeal.

#### 4.7.4 | PROCEDURE

Applications for Site Plan and Design Review shall be filed with the Planning Department in accordance with the requirements in [Chapter 3.2](#) (Application). Once it is determined that the application is complete, the application shall be forwarded to the Planning Commission, unless such application is eligible for Staff Level Site Plan and Design Review.

#### 4.7.4.1 | APPLICATIONS FOR STAFF LEVEL SITE PLAN AND DESIGN REVIEW

##### A | APPLICATIONS ELIGIBLE FOR STAFF LEVEL SITE PLAN AND DESIGN REVIEW

The following activities require Site Plan and Design Review approval by the Planning Department only. The Planning Department has the authority to require that the Planning Commission review an application intended for Staff Level Site Plan review if the Planning Department determines such is appropriate because of the nature of the request.

1. New construction and modifications to existing ham radio antennas and equipment, subject to [Chapter 10.4.3](#) (Amateur HAM Radio Equipment).
2. Modifications to existing cell towers and antenna support structures.
3. Addition to an existing building or structure which measures up to 25% of the area of the existing building.
4. Addition of accessory building(s) measuring up to 25% of the area of the existing principal building(s) on the site. The addition of solar panel canopies is not eligible for Staff Level approval.
5. Construction or establishment of a new parking lot with not more than 25 parking spaces.
6. The addition of up to 25 parking spaces or less than 25% additional parking spaces to an existing parking lot, whichever is greater.
7. Any decrease in square footage for structures, parking or paved areas.
8. External modifications as stated in [Chapter 4.7.3.2.B, 4.7.3.2.C and 4.7.3.2.D](#).
9. Residential subdivision or multi-family development entry way.
10. Site Plan for Change of Use in which applicants agree to needed changes and/or site upgrades.

##### B | PROCEDURE FOR STAFF LEVEL SITE PLAN AND DESIGN REVIEW

1. A decision on a Staff Level Site Plan and Design Review application shall be rendered by the Planning Department within 45 days of receipt of a complete application submitted by the deadline specified in the Submittal Guide published annually by the Planning Department.

2. If, in the Planning Department’s judgement, the Site Plan and Design Review application does not contain sufficient information to enable the Planning Department to properly discharge its responsibilities, the Planning Department may request additional information from the applicant. In that event, the 45-day period shall be suspended pending receipt of all requested information.
3. The Planning Department may approve, approve with conditions, or reject the Site Plan and Design Review application. Within 15 days of the decision, the Planning Department shall notify the applicant of the action taken. The Planning Department shall evaluate the Site Plan and Design Review application pursuant to the standards in [Chapter 4.7.5](#) (Standards for Site Plan and Design Review).
4. If the Planning Department rejects a Site Plan and Design Review application, the applicant may resubmit the application to the Planning Commission, in accordance with the procedures in [Chapter 4.7.4.2](#) (Planning Commission Site Plan and Design Review) below.

#### 4.7.4.2 | PLANNING COMMISSION SITE PLAN AND DESIGN REVIEW

##### A. | APPLICATIONS REQUIRING SITE PLAN AND DESIGN REVIEW BY PLANNING COMMISSION

All activities requiring Site Plan and Design Review, except those set forth in [Chapter 4.7.4.1.A](#) (Applications Eligible for Staff Level Site Plan and Design Review), shall be reviewed by the Planning Commission.

##### B. | PROCEDURE FOR SITE PLAN AND DESIGN REVIEW BY PLANNING COMMISSION

1. A decision on a completed application for Site Plan and Design Review by the Planning Commission shall be rendered within 60 days of the date the complete application is received by the Planning Department.
2. If, in the Planning Commission’s judgment, the Site Plan and Design Review application does not contain sufficient information to enable the Commission to properly discharge its responsibilities, the Commission may request additional information from the applicant. In that event, the 60-day period shall be suspended pending receipt of all requested information.
3. The Planning Commission shall approve, approve with conditions or deny the Site Plan within 60 days. The vote on every decision of the Planning Commission, with respect to Site Plan and Design Review shall be included in the Commission's minutes. The Planning Commission shall evaluate the Site Plan and Design Review application pursuant to the applicable standards in [Chapter 4.7.5](#) (Standards for Site Plan and Design Review) below. Planning Commission approval or denial of a Site Plan shall be considered a final administrative decision.

#### 4.7.5 | STANDARDS FOR SITE PLAN AND DESIGN REVIEW

Each Site Plan and Design Review application submitted for review shall include the following details: the location of principal and accessory structures, infrastructure, open space, landscaping, exterior lighting, traffic movement and flow, number of parking spaces, design of parking lots, and location of landscaping and screening and all other elements of the site and building as regulated by [Chapter 11](#) (Site Development Standards) and [Chapter 12](#) (Building Design Standards) and as specified on the Site Plan and Design Review Checklist as prepared by the Planning Department.

In reviewing Site Plans, the relationship of the Site Plan to the following shall be considered:

1. Compatibility with the goals and objectives of the Land Use and Transportation Plan.
2. Conformity with this Ordinance, including in particular the following tables and sections:
  - A. [Table 4](#) (Residential Districts Lot and Building Bulk Standards) as contained in [Chapter 6.3](#) (Lot and Building Bulk Standards).
  - B. [Table 6](#) (Commercial Districts Lot and Building Bulk Standards) as contained in [Chapter 7.4](#) (Lot and Building Bulk Standards).
  - C. Any applicable use-specific standards as contained in [Chapter 10.3](#) (Use-Specific Standards).
  - D. [Chapter 11](#) (Site Development Standards) which includes standards for off-street parking and loading, outdoor lighting, landscaping, screening and tree preservation, residential subdivision and multi-family development entry ways, walls and fencing, street and other required improvements, and utility service.
  - E. [Chapter 12](#) (Building Design Standards) which includes building design standards for residential, commercial and industrial buildings.
  - F. [Chapter 13](#) (Sign Standards).
3. Conformity with the Hendersonville Subdivision Regulations. In particular, if land is to be subdivided in conjunction with the proposed site development, the lot involved shall first be approved in accordance with the subdivision regulations. The lot as shown on the submitted Site Plan shall be identical to the lot as shown on the recorded subdivision plat in regard to size, dimensions, adjacent road right-of-way, easements and all other matters. If additional right-of-way and/or easements must be dedicated as per [Chapter 11.7](#) (Street and Other Required Improvements), such will require the submittal, approval and recording of a revised subdivision plat unless other methods of dedication are approved by the Planning Department.

4. Degree of conformity with all other applicable City codes and regulations.

#### 4.7.6 | AMENDMENTS TO APPROVED SITE PLAN REVIEWS

Any amendments to approved Site Plan and Design Review shall conform to requirements in [Chapter 4.7](#).

#### 4.7.7 | MODIFICATIONS PROHIBITED

Building and site improvements, the design of which is regulated by this Ordinance or the Hendersonville Design Review manual adopted November 27, 1990, shall not be modified except in conformance with this Chapter. The design of said improvements and all features thereof shall be maintained as originally approved.

#### 4.7.8 | EXPIRATION AND EXTENSIONS

Site Plan and Design Review approval is valid for a period of three years from the date of Planning Commission approval. No time extensions will be granted prior to the three-year expiration.

## 4.8 ZONING AMENDMENT

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### 4.8.1 | PURPOSE

The regulations imposed and the districts created by this Ordinance may be amended from time to time in accordance with this Chapter. This process for amending the Zoning Ordinance Text or the [Zoning Map](#) is intended to permit modifications in response to changed conditions or changes in City policy. Amendments are not intended to relieve particular hardships or confer special privileges or rights upon any person or party.

### 4.8.2 | INITIATION

Applications for zoning amendments (text or map amendments) may be filed by the City or by an owner of any property that is in the City, or by their authorized agent.

### 4.8.3 | PROCEDURE

Applications shall be filed with the Planning Department, in accordance with the requirements of [Chapter 3.2](#) (Application). Upon receiving a complete application, the Planning Department shall schedule the application for consideration by the Planning Commission. Amendments initiated by the City also require an application but are exempt from fees. (See [Appendix A](#): Annexation, Rezoning/Preliminary Development Plan, Final Development Plan, Subdivision Review, Site Plan Process).

#### 4.8.3.1 | ACTION BY THE PLANNING COMMISSION

##### A | ZONING MAP AMENDMENT

1. The Planning Commission shall conduct a public hearing on a proposed Zoning Map amendment, in accordance with [Chapter 3.4](#) (Public Hearing) no more than sixty (60) days after receipt of a complete application. Notice for the public hearing shall be in accordance with [Chapter 3.3](#) (Notice). If, in the Planning Commission's judgment, the application does not contain sufficient information to enable the Commission to properly discharge its responsibilities, the Commission may request additional information from the applicant. In that event, the 60-day period shall be suspended pending receipt of all requested information.
2. For Zoning Map amendments, the Planning Commission shall make findings of fact, based upon the evidence presented at the public hearing, pursuant to each of the applicable standards in [Chapter 4.8.4](#) (Findings of Fact for Zoning Amendments) below.
3. Within 45 days of the close of the public hearing for Zoning Map amendments.–The Planning Commission shall forward to the Board of Mayor and Aldermen its recommendation via the General Committee, together with the Commission's findings of fact. The Commission recommendation may take the form of approval or denial.

##### B | ZONING TEXT AMENDMENT

1. The Planning Commission shall conduct a public hearing on proposed Zoning Text Amendments, in accordance with [Chapter 3.4](#) (Public Hearing) no more than 60 days after receipt of a complete application. Notice for the public hearing shall be in accordance with [Chapter 3.3.2](#) (Published Notice).
2. Within 45 days of the close of the meeting for Zoning Text Amendments, the Planning Commission shall forward to the Board of Mayor and Aldermen its recommendation via the General Committee. The Planning Commission recommendation may take the form of approval or denial. The requested text amendment shall include the Planning Commission's proposed language.

#### 4.8.3.2 | ACTION BY THE BOARD OF MAYOR AND ALDERMEN

- A. Within 30 days of receiving of the Planning Commission's report and recommendation to the Board of Mayor and Aldermen via General Committee, the Board of Mayor and Aldermen shall review and act upon the Zoning Text or Zoning Map amendment. The Board of Mayor and Aldermen may take action in the form of approval or denial. In the case of Zoning Text Amendments, the Board of Mayor and Aldermen shall not be bound by the precise language of the Commission recommendations. The Board of Mayor and

Aldermen may also refer the application back to the Commission for further consideration.

- B. Amendments to both the zoning text and Zoning Map require the approval of the Board of Mayor and Aldermen at two separate readings by a simple majority vote. The Board of Mayor and Aldermen shall conduct a public hearing prior to final approval.

#### 4.8.4 | FINDINGS OF FACT FOR ZONING MAP AMENDMENT

- 1. The Planning Commission in its review and recommendation and the Board of Mayor and Aldermen in its deliberations shall make specific findings with regard to the following grounds for a Zoning Map amendment:
  - A. The amendment is in agreement with the Land Use Plan.
  - B. There will be no significant adverse effect upon adjoining property owners, unless such effect can be justified by the overwhelming public good or welfare.
  - C. Conditions affecting the area have changed to a sufficient extent to warrant an amendment to the area's Land Use Plan, if required, and subsequently, the Zoning Map.

*Note: If rezoning is associated with Planned Development, refer to [Chapter 8.8.3.2.B](#).*

## 4.9 ZONING PERMIT (PLANNING DEPARTMENT VERIFICATION)

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### 4.9.1 | PURPOSE

The purpose of this Section is to verify that a proposed development activity conforms to this Ordinance and other related City codes and ordinances before building and other construction related activity occurs.

### 4.9.2 | APPLICABILITY

The requirements of this Section apply to the construction or placement of any building or structure, including residential, institutional, commercial, or otherwise. This section also applies to accessory buildings and structures.

### 4.9.3 | ZONING PERMIT/VERIFICATION REQUIRED

Before any building permit is issued by the Hendersonville Codes Department, and before construction or placement commences even if a building permit is not required, written verification from the Planning Department shall be secured in the form of a Zoning Permit to

confirm that the proposed activity (with the exception of interior residential renovations that do not involve the addition of a second kitchen) conforms to this Ordinance.

#### 4.9.4 | EXPIRATION OF ZONING PERMIT/VERIFICATION

Zoning Permits/Verifications shall expire one year after the date of issuance, unless a building permit has been issued.

### 4.10 USE AND OCCUPANCY PERMIT

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#### 4.10.1 | PURPOSE

The purpose of a Use and Occupancy Permit is to promote Ordinance compliance by establishing a procedure for the City to certify that the proposed Use and Occupancy of building or land complies with all standards of the Ordinance. This is not the same as a “Certificate of Occupancy” issued by the Codes Department.

#### 4.10.2 | APPLICABILITY

No new building or structure, other than one-family dwellings and their accessory structures, shall be occupied, nor shall any existing building or structure, other than single-family and townhome dwellings and their accessory structures, be re-occupied even by a new user for the prior use, nor shall any land be occupied for purposes regulated by this Ordinance unless the Planning Department has issued a Use and Occupancy Permit certifying that the proposed structure(s) or use(s) complies with all the provisions of this Ordinance.

#### 4.10.3 | PROCEDURE

The Planning Department shall be responsible for issuing Use and Occupancy Permits. All applications for Major and Minor Use and Occupancy Permits shall be made to the Planning Department.

Once the Major or Minor Use and Occupancy Permit has been approved and issued by the Planning Department, the applicant is able to proceed to the business license office to secure a business license.

#### A | MAJOR USE AND OCCUPANCY PERMIT

A Major Use and Occupancy Permit application shall be distributed accordingly to the appropriate departments by the Planning Department based on improvements and/or changes made to the location. The Planning Department shall be the final approval after all other appropriate departments have signed off in the Major Use and Occupancy Permit procedure.

A Major Use and Occupancy Permit will be required for the following circumstances:

1. Change in use from a previous use.
2. Occupancy of any new building, with exception of one-family dwellings. A final Site Plan review must be conducted and be found in full compliance.
3. Occupancy of any new detached accessory dwelling.
4. Occupancy of land.

*Example: parking, semi-truck storage, Christmas tree lots, etc.*

*Note: A Major Use and Occupancy involving a change of use, particularly for more intensive uses of the property, will be evaluated by Planning and Public Works staff to determine any necessary site improvements. Those improvements may include but are not limited to: installation of public sidewalks, curb, gutter; limitations on curb cuts/access; landscaping; striped parking; alternative parking layout; site lighting, and similar requirements.*

## B | MINOR USE AND OCCUPANCY PERMIT

A Minor Use and Occupancy Permit application shall document the change in ownership and/or in business within the previously approved use. The Planning Department shall determine if the proposed use may be permitted at the proposed location.

A Minor Use and Occupancy Permit will be required for a change in ownership and/or change in business within the previously approved use.

*Example: Apartment complex changing ownership, new restaurant in an existing restaurant location, etc.*

### 4.10.4 | CERTIFICATION

Any application for Use and Occupancy Permit involving any development for which Site Plan and/or Design Review approval is required by the provisions of [Chapter 4.7](#) (Site Plan and Design Review), except staff approved projects, shall be accompanied by a completed final site certification prepared by a licensed engineer engaged in the practice of civil engineering and a licensed landscape architect, certifying the development is in substantial compliance with the plan approved by the Hendersonville Planning Commission.

To be included are all aspects of the development project to include, but not be limited to:

1. Location and dimensions of all buildings, parking areas, and other site features;
2. Location and sizes of all utilities and storm drainage facilities as established on the site;  
and

3. Location and material (to include plant names and height where specified) of all landscaping and site plantings.

#### 4.10.5 | TEMPORARY USE AND OCCUPANCY PERMITS

A Temporary Use and Occupancy may be issued prior to completion of all construction and prior to completion of all requirements of this Ordinance, and all other municipal requirements, provided the Planning Department, construction codes inspectors, fire marshal and utility district have inspected the premises and determined that the project is sufficiently complete to allow for occupancy of the premises and have authorized such occupancy in writing in a manner set forth by the Planning Department.

Reasonable terms may be imposed as a condition of allowing occupancy. For example:

1. A time limit shall be imposed for completion of the remaining improvements.
  - A. The Temporary Use and Occupancy Permit shall expire upon expiration of the time limit, which will be set by the City based on the amount of time the City determines necessary and appropriate.
  - B. In the case of the time allowed to complete landscaping, sufficient time shall be given to avoid planting during dry, hot, or freezing weather.
  - C. The time limit shall not exceed six months for a Temporary Use and Occupancy Permit. Up to three six-month extensions may be granted for Temporary Use and Occupancy Permits.
2. A surety may be required to guarantee the completion of all remaining required improvements such as, but not limited to, landscaping, irrigation, final grading, and drainage.
  - A. The surety shall be in the amount specified by the Planning Department and City Engineer.
  - B. The surety shall be in the form of a letter of credit as included in [Appendix B](#) (Letter of Credit). A cashiers' check or certified check will also be accepted and shall be deposited immediately into the City's bank account.
  - C. The Planning Director and City Engineer may agree to a reduction in the surety amount as portions of the work are completed. This surety shall be returned to the issuer upon the issuance of a permanent Use and Occupancy Permit.
  - D. Where surety has been posted, and required improvements have not been installed within the terms of the surety and Temporary Use and Occupancy, then the Planning Director and/or Mayor may declare the surety to be in default and authorize the

calling of the surety and the completion of the improvements under the supervision of the City departments.

#### 4.10.6 | EXPIRATION OF USE AND OCCUPANCY PERMITS

Once the permanent Use and Occupancy Permit is issued, the business or entity has one year from the date issued to occupy the approved location. If the business or entity fails to occupy the approved location within one year, the permit is void and will require a new application for the Use and Occupancy Permit.

### 4.11 SIGN PERMIT

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Reference [13.1.3](#) for Sign Permit requirements.

### 4.12 TREE REMOVAL PERMIT

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#### 4.12.1 | APPLICABILITY

No tree that is 10" DBH and larger and within a commercial or industrial zoning shall be removed without first obtaining a Tree Removal Permit. Application for the permit shall be in accordance with [Chapter 3.2](#) (Application). Trees identified for removal shall be replaced at half the DBH value of the removed tree. For example, an existing 20" DBH tree would be replaced with new trees equaling 10 caliper inches.

Lots or parcels with an approved and current Site Plan are not required to obtain the tree removal permit, however, are required to maintain the site in accordance with the approved landscape plan as required in [Chapter 11.4.3.4](#) (Maintenance).

A Tree Removal Permit shall not be required for the removal of trees where:

1. There is the danger of a tree falling or damaging a structure.
2. A tree is a detriment to vehicular or pedestrian access as determined by the City Planning, Public Works, Codes, or Fire Department.
3. Damage will result to utilities or structures from tree roots.
4. Vehicular and sight distance will be affected.
5. Written verification from a qualified specialist that a tree is dead or dying.
6. Removal is required by the Public Works Department for Stormwater Management activities.

Application for a Tree Removal Permit is not a substitute for a Land Disturbance Permit.

#### 4.12.2 | AUTHORITY AND EXECUTION

The Planning Department shall be responsible for determining compliance with this Ordinance. The Planning Department shall be responsible for issuing tree removal permits.

#### 4.12.3 | PERMIT ISSUANCE

An application for a tree removal permit shall be accompanied by a tree survey. The type of tree survey shall be one of the following:

1. A survey stamped by a licensed surveyor. The location, size, and species of trees to be removed shall be shown on the survey.
2. At the discretion of the Planning Department, in lieu of a tree survey in subsection (1) above, a tree sample may be conducted, the results of which are reflected on a plan stamped by a licensed landscape architect. The sample size and quantity shall be as determined by Planning Department staff based on the size of the lot or parcel and the consistency of tree cover types across the lot or parcel, but at a minimum there shall be at least one 50' x 50' sample area. The location(s) of sample areas shall be selected in consultation with the Planning Department. Within each sample area, tree sizes 10" DBH and larger shall be recorded. The average of the sample(s) shall then be applied on a square foot basis to the portion of the site under tree cover being removed.
3. If 10 or fewer trees are proposed to be removed, the survey may be a plan drawn based on a visual inspection of the site. Trees shall be plotted based on visual reference to property lines and other landmarks.

Trees identified for replacement shall be paid into the tree bank or planted on public property in accordance with [Chapter 11.4.12.6](#). As an alternative, the applicant may choose to provide a performance agreement guaranteeing that the trees will be replaced at such time that the site is developed (i.e., prior to a building permit being issued). This option is not available to any lot or parcel on which development has already occurred. The agreement shall be recorded with the Registered of Deeds.

Upon approval of the tree survey by Planning Department staff, payment into the tree bank, and/or recording of a performance agreement (if applicable), a tree removal permit may be issued.

#### 4.12.4 | FAILURE TO OBTAIN TREE REMOVAL PERMIT

In the event trees are removed without first obtaining a tree removal permit, determination of the number of tree inches to be paid into the tree bank shall be made by the Planning Department staff based on available evidence of the type and size of tree cover that existed prior to removal, including but not limited to: felled trees remaining on the site, existing trees remaining on the site or on adjacent sites, and/or the latest available aerial photos. Alternative methods for replacement of trees outlined in [Chapter 4.12.3](#) above will not be

considered. If the available evidence is not sufficient to make a determination, then the assumed tree density shall be 160 tree inches per acre.

## **4.13 VIOLATIONS**

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Any violation of the provisions of this Ordinance or failure to comply with its requirements shall constitute a misdemeanor. Each violation shall be punishable by a fine of \$50.00 and may be subject to additional daily penalties as provided by law. Each day that a violation persists shall be considered a separate offense.

The Planning Department or other authorize City staff may remove, discard, or destroy temporary signs found to be in violation of this Ordinance.



# CHAPTER 5 | ZONING DISTRICTS - GENERAL

- 5.1 | PURPOSE
- 5.2 | DISTRICTS
- 5.3 | ZONING MAP
- 5.4 | ANNEXED LAND
- 5.5 | PUBLICLY OWNED FACILITIES AND ESSENTIAL UTILITY EQUIPMENT

## 5.1 PURPOSE

---

The purpose of this Chapter is to outline the different zoning districts within this Zoning Ordinance and introduce the official [Zoning Map](#).

## 5.2 DISTRICTS

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In order to carry out the purpose and intent of this Ordinance, the City of Hendersonville shall be divided into the following zoning districts:

### 5.2.1 | RESIDENTIAL DISTRICTS

<b>RR</b>	<b>Rural Residential</b>
<b>ER</b>	<b>Estate Residential</b>
<b>SR-1</b>	<b>Suburban Residential, Low Density</b>
<b>SR-2</b>	<b>Suburban Residential, Medium Density</b>
<b>SR-3</b>	<b>Suburban Residential, Preservation District</b>
<b>THR</b>	<b>Townhome Residential</b>
<b>WR</b>	<b>Waterfront Residential</b>
<b>MXR</b>	<b>Mixed Residential</b>
<b>DN</b>	<b>Dockside Neighborhood</b>
<b>MFR</b>	<b>Multi-Family Residential</b>

### 5.2.2 | COMMERCIAL DISTRICTS

NC	Neighborhood Commercial
O	Office
DN	Dockside Neighborhood
MXC	Mixed Commercial
GC	General Commercial
HC	Heavy Commercial

### 5.2.3 | INDUSTRIAL DISTRICTS

I	Industrial
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### 5.2.4 | SPECIAL PURPOSE DISTRICTS

PD	Planned Developments
H	Historic and Landmarks

## 5.3 ZONING MAP

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### 5.3.1 | LOCATION OF DISTRICTS

The location and boundaries of the zoning districts established by this Ordinance are set forth in the official [Zoning Map](#), as periodically amended. The official [Zoning Map](#) is incorporated into, and made an integral part of, this Ordinance.

It is the intent of this Ordinance that the entire area of the City, including all land and water areas, be included in the zoning districts established by this Ordinance. Any land lying within the City, but not shown on the official [Zoning Map](#) as being included within a district, shall be classified as Suburban Residential, low density (SR-1).

### 5.3.2 | INTERPRETATION OF BOUNDARY LINES

#### 5.3.2.1 | RIGHT-OF-WAY LINES

Where zoning district boundary lines coincide with streets, alleys, highways, easements, or right-of-way lines of railroads, toll roads, or expressways, the boundary line shall be construed to be the centerline of the right-of-way.

#### 5.3.2.2 | PROPERTY LINES

Where zoning district boundary lines do not coincide with a recorded property line, the property line shall be construed to be the boundary line of the district.

#### 5.3.2.3 | SCALED LINES

Where the district boundary lines do not coincide with a right-of-way line or recorded property line, the district boundary shall be determined by measuring such boundary line(s) by using the map scale as provided on the official [Zoning Map](#).

#### 5.3.2.4 | CLARIFICATION OF BOUNDARY LINES

The Planning Department shall decide all interpretations of zoning district boundary lines, where the application of [Chapter 5.3.2.1 through 5.3.2.3](#) (Interpretation of Boundary Lines) above leave doubt as to the boundary between zoning districts.

### 5.4 ANNEXED LAND

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Any territory annexed into the City, unless already zoned by the City shall automatically, upon annexation, be classified as the City zoning district which most closely resembles its county zoning classification until the territory is zoned.

*NOTE: It is the practice of the City to establish the zoning of annexed property simultaneously with annexation. In such case, said approved zoning classification shall apply.*

### 5.5 PUBLICLY OWNED FACILITIES AND ESSENTIAL UTILITY EQUIPMENT

---

1. Public Buildings, structures, and uses and facilities owned and maintained by the City or private lease thereof, as well as, and public utility districts shall be permitted in any zoning district subject to T.C.A., Section 13-4-104. Furthermore, essential privately-owned utility transmission equipment, such as electric transmission lines, natural gas lines, trunk sewer lines, and similar structures, shall likewise be permitted, subject to all applicable state statutes and City ordinances and regulations.
2. Privately-owned utility buildings and structures, indicated as a permitted or conditional use under the regulations of the applicable zoning district, shall not be permitted except in compliance with the provisions of this Ordinance.
3. The regulation of public buildings, structures, and facilities, and essential privately-owned utility transmission equipment are subject to the limitations of T.C.A., Section 13-4-104.



# CHAPTER 6 | RESIDENTIAL DISTRICTS

- 6.1 | RESIDENTIAL DISTRICTS PURPOSE
- 6.2 | PERMITTED AND CONDITIONAL USES
- 6.3 | LOT AND BUILDING BULK REGULATIONS
- 6.4 | GENERAL STANDARDS OF APPLICABILITY

## 6.1 RESIDENTIAL DISTRICTS PURPOSE

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### 6.1.1 | **RR** *RURAL RESIDENTIAL*

The Rural Residential District (RR) coincides with the “Rural Living” character area in Chapter 3 of the Hendersonville Land Use and Transportation Plan and is intended to accommodate very low density detached residential development, conservations abundant open space, and a high degree of separation between buildings, except in the case of conservation subdivisions. While principal use of the land is detached single-family homes and agricultural uses, complimentary institutional uses, parks, and open space are also appropriate. Additionally, this zone may serve as a temporary holding zone until infrastructure, services, and utilities may support a more dense residential zoning classification.

### 6.1.2 | **ER** *ESTATE RESIDENTIAL*

The Estate Residential District (ER) coincides with the “Rural Living” and “Suburban Living” character areas in Chapter 3 of the Hendersonville Land Use and Transportation Plan and is intended to accommodate low density, large lot residential subdivisions and conservative subdivisions. While the principal use of the land is detached single-family homes, complimentary institutional uses, parks, and open space are also appropriate. Additionally, this zone may serve as a temporary holding zone until Infrastructure, services, and utilities may support a more dense residential zoning classification.

### 6.1.3 | **SR-1** *SUBURBAN RESIDENTIAL*

The Suburban Residential Low-Density District (SR-1) coincides with the “Suburban Living” character areas in Chapter 3 of the Hendersonville Land Use and Transportation Plan and is intended to accommodate primarily low density detached residential development along with complimentary institutional uses that would not be detrimental to the residential character of the district. These areas are characterized by primarily detached residential subdivisions which are traditionally auto dependent and separated from other uses to protect the residential nature.

### 6.1.4 | **SR-2** *SUBURBAN RESIDENTIAL*

The Suburban Residential Medium Density District (SR-2) coincides with the “Suburban Living” character areas in Chapter 3 of Hendersonville Land Use and Transportation Plan

and is intended to accommodate primarily medium density detached and attached residential development along with complementary institutional uses that would not be detrimental to the residential character of the district. These areas are characterized by developments that are either entirely detached residential or a combination of detached residential and attached residential designed in such a manner to blend in with the surrounding developments.

#### 6.1.5 | **SR-3** *SUBURBAN RESIDENTIAL PRESERVATION DISTRICT*

The Suburban Residential Preservation District (SR-3) coincides with the “Residential Preservation” character area in the Westlake at Hendersonville Land Use Plan and with the “Suburban Living” character areas in Chapter 3 of Hendersonville Land Use and Transportation Plan. It is intended to encourage replacement or re-use of single-family detached and other existing dwellings. The district is designed to maintain the existing residential areas while allowing new construction with limited density.

#### 6.1.6 | **THR** *TOWNHOME RESIDENTIAL*

The Townhome Residential District (THR) coincides with the “Suburban Living”, “Mixed-Use Neighborhood”, and “Regional Activity Center” character areas in Chapter 3 of the Hendersonville Land Use and Transportation Plan and is intended to accommodate medium to high density attached Townhomes and Villa residential development along with complimentary institutional uses that would not be detrimental to the residential character of the district. This district can serve as a transitional district between SR-1 and SR-2 districts and more intensive use districts. This district is permitted only with a Planned Development overlay Plan as per Chapter 8 (Planned Development Districts).

#### 6.1.7 | **WR** *WATERFRONT RESIDENTIAL*

The Waterfront Residential District (WR) coincides with the “Waterfront Living” character area of Chapter 3 in the Hendersonville Land Use and Transportation Plan and is intended to accommodate a mixture of residential housing types along with certain water dependent non-residential uses. Developments in this district should maximize being contiguous to the lake by preserving scenic views and lake access for use by the entire development. This district is permitted only with a Planned Development overlay Plan as per Chapter 8 (Planned Development Districts).

#### 6.1.8 | **MXR** *MIXED RESIDENTIAL*

The Mixed Residential District (MXR) coincides with the “Mixed-Use Neighborhood” character area in Chapter 3 of the Hendersonville Land Use and Transportation Plan and is intended to accommodate developments that are master planned to include a variety of residential dwelling types along with commercial uses that serve the neighborhood. Complimentary institutional uses are also allowed. The uses in these districts should be integrated in such a way that all types of uses work together to create a cohesive development. This district is permitted only with a Planned Development overlay Plan as per [Chapter 8](#) (Planned Development Districts).

### 6.1.9 | **MFR** MULTI-FAMILY RESIDENTIAL

The Multi-Family Residential District (MFR) coincides with the “Suburban Living and Regional Activity Center” character area in Chapter 3 of the Hendersonville Land Use and Transportation Plan, as well as the “Multi-family Residential” character area in the Westlake at Hendersonville Land Use and Framework Plan and is intended to accommodate high density attached and multi-family residential development along with complimentary institutional uses that would not be detrimental to the residential character of the district. This district can serve as a transitional district between SR-1, SR-2, and SR-3 districts and more intensive use districts.

### 6.1.10 | **DN** DOCKSIDE NEIGHBORHOOD

The Dockside Neighborhood District (DN) coincides with the “Mixed-Use Neighborhood” and “Residential Preservation” character areas in the Westlake at Hendersonville Land Use and Framework Plan and is intended to accommodate low to medium intensity uses that provide a mix of uses, including offices, limited services, and single-family residential housing. This includes professional offices, general business services, office parks, hospitals and medical clinics, hotels, as well as restaurants and retail development with upper story office encouraged. Enhanced walkability and streetscaping will be a focus for new structures, reuse, and expansion. This district allows structures up to two stories and up to four units per acre.

## 6.2 PERMITTED AND CONDITIONAL USES

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Table 3: Residential Districts: Permitted and Conditional Uses lists permitted and conditional uses for the residential districts. A “P” indicates that a use is permitted within that district. A “C” indicates that a use is a conditional use in that district and must obtain a conditional use permit as required in [Chapter 4.5](#) (Conditional Use). No letter (i.e., a blank space), or the absence of the use from the table, indicates that use is not permitted within that district. See [Chapter 7.3](#) (Interpretation of Unlisted Uses) for uses that are not specifically listed in [Table 3](#).

TABLE 3: RESIDENTIAL DISTRICTS: PERMITTED AND CONDITIONAL USES

TABLE 3   RESIDENTIAL DISTRICTS   PERMITTED AND CONDITIONAL USES												
USE TYPES <sup>1</sup>	RR	ER	SR-1	SR-2	SR-3	THR <sup>2</sup>	WR	MXR <sup>2</sup>	MFR	MXC <sup>2</sup>	DN <sup>3</sup>	USE STANDARDS
"P" = PERMITTED // "C" = CONDITIONAL												
<b>RESIDENTIAL USES</b>												
Accessory Dwelling (Detached)	C <sup>10</sup>	C <sup>10</sup>	C <sup>10</sup>					C <sup>10</sup>				10.4.2.3
Assisted Living Facility			C	C				P	P	P		10.3.1
Bed and Breakfast	C <sup>6</sup>	C <sup>6</sup>	C <sup>6</sup>	C <sup>6</sup>			C <sup>6</sup>	C <sup>6</sup>	P	P		
Community Residence, Large (More than 8 persons)									P			10.3.3
Community Residence, Small (8 persons or less)	C <sup>6</sup>	C	C	C	C		C	C	P			10.3.3
Dwelling Manufactured	P	C										
Dwelling, Multi-Family							P <sup>4</sup>	P <sup>4</sup>	P	P <sup>4</sup>		
Dwelling, Single-Family	P	P	P	P	P	P <sup>4</sup>	P	P	P	P	P	
Dwelling, Townhome			P <sup>4</sup>	P <sup>4</sup>		P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	P	P <sup>4</sup>		
Home for the Aged			C	C				C	P			10.3.1
Independent Living Facility			C	C			C	P	P	C		10.3.1
Nursing Home								P	C	C		10.3.1
<b>GOVERNMENT &amp; EDUCATIONAL USES</b>												
Educational Facility, Primary/Secondary	C	C	C	C	C		C	P	P	P	C	
Educational Facility, College/University								P	C	P	C	
Educational Facility, Vocational School								C	C	P	C	
Government Facility & Offices	P	P	P	P	P		P	P	P	P	P	
Public Safety Facility	P	P	P	P	P		P	P	P	P	P	
Public Works Facility & Utility	P	P	P	P	P		P	P	P	P	P	
<b>RELIGIOUS USES</b>												
Place of Worship	C	C	C	C	C		C	P	P	P	C	
<b>ENTERTAINMENT USES</b>												
Art Gallery								P		P	P	
Community Garden	P	P	C	C	C		C	P	C	P	P	
Cultural Facility								P		P	P	
Firing Range, Indoor										C	C	
Firing Range, Outdoor		C										
Golf Course	P	P	P	P				P	P			
Health/Fitness Center								P		P	P	
Indoor Entertainment Facility								C		P	P	10.3.6
Indoor Recreation Facility								C		P	P	10.3.6
Live Entertainment								P		P	C	
Marina	C	C	C	C			C	C	C	C		
Outdoor Entertainment Facility										C	C	10.3.6
Outdoor Recreation Facility								C		C	C	10.3.6
Race Tracks												
Recreational Training School								P		P	P	
Social Club or Lodge	C	C	C	C			C	C	C	P	C	10.3.16

**TABLE 3 | RESIDENTIAL DISTRICTS | PERMITTED AND CONDITIONAL USES**

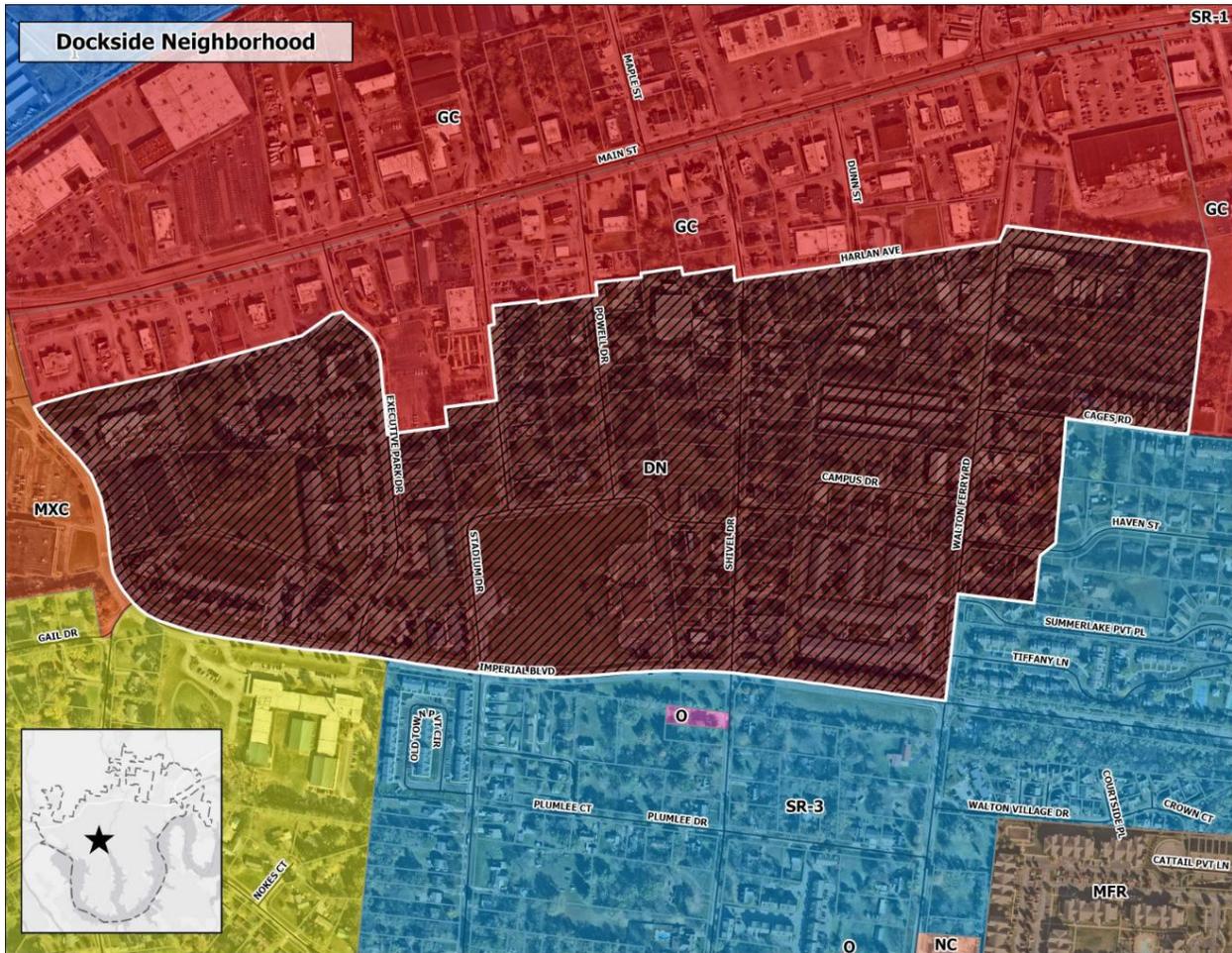
USE TYPES <sup>1</sup>	RR	ER	SR-1	SR-2	SR-3	THR <sup>2</sup>	WR	MXR <sup>2</sup>	MFR	MXC <sup>2</sup>	DN <sup>3</sup>	USE STANDARD
"P" = PERMITTED // "C" = CONDITIONAL												
<b>OFFICE USES</b>												
Call Center								P <sup>7</sup>		P		
Office								P <sup>7</sup>		P	P	
<b>RETAIL USES</b>												
Brewery Tap Room and Retail Sales										C	P	
Motor Vehicle Dealership										P <sup>8</sup>		10.3.9
Retail Goods Establishment								P <sup>7</sup>		P	P	
<b>SERVICE USES</b>												
Animal Hospital								P		P	P	
Banquet Hall										P	C	
Car Wash										C		
Caterer								P		P	P	
Day Care Center, Adult or Child			C	C	C		C	C	C	P	C	10.3.4
Day Care Home, Adult or Child	C	C	C	C	C		C	C	C	C	C	10.3.5
Equipment Repair										C		
Financial Institution								P		P	P	
Funeral Home										P	P	
General Business Services								P <sup>7</sup>		P	P	
Helistop										C		
Hospital										C	C	
Hotel / Motel										P		
Kennel											C	10.3.7
Medical / Dental Clinic								P <sup>7</sup>		P	P	
Medical / Dental Laboratory										P	P	
Medical Rehabilitation Facility, Residential								P		P	C	
Meeting / Event Center								C		P	C	
Motor Vehicle Rental Establishment										C		
Motor Vehicle Service Station / Fuel Center								C		C	P	
Motor Vehicle Service & Repair, Major												
Motor Vehicle Service & Repair, Minor										C		
Parking Lot (Principal Use)										P	P <sup>12</sup>	
Parking Structure (Principal Use)										P	P <sup>12</sup>	
Payday / Title Loan Agency												
Personal Services Establishment								P <sup>7</sup>		P	P	
Printing Shop											P <sup>7</sup>	
Research and Development Facility										P	P	
Restaurant, Full Service & Carry Out								C		P	P	
Restaurant, Quick Service										C	P	
Smoke Shop <sup>15</sup>												
Taxidermy										P	P	
Utility, Private								P		P	P	

TABLE 3   RESIDENTIAL DISTRICTS   PERMITTED AND CONDITIONAL USES												
USE TYPES <sup>1</sup>	RR	ER	SR-1	SR-2	SR-3	THR <sup>2</sup>	WR	MXR <sup>2</sup>	MFR	MXC <sup>2</sup>	DN <sup>3</sup>	USE STANDARDS
"P" = PERMITTED // "C" = CONDITIONAL												
<b>HEAVY RETAIL &amp; SERVICE USES</b>												
Contractor Office & Storage Yard												P <sup>14</sup>
Food Service Contractor												C <sup>7</sup>
Heavy Retail, Rental, & Service Establishment											C	
Machine Shop												
Motor Vehicle Operations Facility											C	
Reupholstery / Custom Home Textiles												P <sup>7</sup>
Self-Service Storage Facility												
Welding Shop												
<b>INDUSTRIAL USES</b>												
Concrete or Asphalt Plant												
Manufacturing, Heavy												
Manufacturing, Light												
Outdoor Storage												
Scrap Operations												10.3.14
Sign Manufacturing / Fabricating												P
Trucking Company / Terminal												
Warehouse / Distribution												
<b>OTHER USES</b>												
Adult-Oriented Establishment												10.3.2
Cemetery & Mausoleum	C	C	C	C	C							
Data Center												C
Farm <sup>5</sup>	P	P										
High Impact Facilities												
Media Production Facility, Major										P	C	
Mining & Quarrying	C	C										
Plant Nursery	C	C										
Radio & Television Towers & Transmission Facilities	C	C										C 10.3.12
Recycling Drop-Off Center												
Riding Stables	C	C										
Solar Farms, Wind Turbine Farm & Similar <sup>9</sup>	C											
Vacation Rental <sup>13</sup>												P <sup>11</sup>
Wireless Telecommunications Tower	C	C	C	C	C					C		C 10.3.18

**NOTES:**

1. The terms in this column ("Use") are defined in [Chapter 16](#) (Definitions).
2. Rezoning to this district shall require a Planned Development overlay plan-as per Chapter 8.
3. Properties with DN Zoning (see Dockside Neighborhood map below) are limited to two stories. Rooftop dining may be considered for approval by the Planning Commission. Properties with DN Zoning shall not have a residential dwelling and a Vacation Rental on the same property.

4. Permitted only in Planned Developments. See [Chapter 8.8.5.A](#) for Density Guidelines including restriction on maximum number/percent.
5. Ten acres minimum lot size. However, a farm as defined by state law, is exempt from the terms of this Ordinance.
6. Maximum of five bedrooms.
7. The gross building area used for each tenant may not exceed 10,000 square feet.
8. New car dealerships only (with accessory used car sales and service).
9. See also [10.4.24](#) (Solar Panels) for solar panels allowed as an accessory use.
10. Accessory Dwelling (Detached) limited to lots greater than 30,000 square feet in size with a Conditional Use Permit. Lots smaller than 30,000 square feet shall not allow Accessory Dwelling (Detached).
11. In multi-story buildings, Vacation Rental is only permitted above commercial and non-residential uses.
12. This use is not allowed on the first floor of multi-story buildings unless part of approved Planned Development.
13. Maximum one Vacation Rental per building, with a maximum of one per lot.
14. Outside material storage shall be in accordance with Chapter 10.4.16 (Outdoor Storage). Heavy equipment such as back hoes, bulldozers, dump trucks, trailers, graders, scrapers, and the like shall be screened from view from all streets by landscaping and/or fencing. See Chapter 11.4.
15. Smoke Shops shall be measured as along the street(s).



Dockside Neighborhood (DN) Zoning. See City of Hendersonville official Zoning Map for Current Zoning.

## 6.3 LOT AND BUILDING BULK STANDARDS

[Table 4](#) (Lot and Building Bulk Standards Residential Districts) establishes minimum lot area and width, maximum lot coverage, maximum building height, and minimum yards/building setback for the residential districts. Horizontal Property Regimes (HPR) shall also comply with all of these standards. Each HPR dwelling unit with such Regime shall be provided with sufficient open space around each unit to provide the area, width, lot coverage, and yard specified in Table 4. These regulations apply to the base districts only. See [Chapter 8](#), [Table 9](#) for lot and building bulk standards in a residential planned development overlay district. The minimum lot size and width applicable to the re-subdivision of existing platted subdivision lots shall conform to the Hendersonville Subdivision Regulations, Section 3-102.4 (Lot Re-Subdivision Compatibility). See [Chapter 10.5](#) (Permitted Encroachments and Height Exceptions) for allowed encroachments into the yards required by [Table 4](#).

Variances to the Lot and Building Bulk Standards specified by this section may be granted. See [Chapter 4.4](#) (Variances) for procedure and criteria.

TABLE 4: RESIDENTIAL DISTRICTS: LOT AND BUILDING BULK STANDARDS

TABLE 4   RESIDENTIAL DISTRICTS   LOT AND BUILDING BULK STANDARDS							
(See Table 9 for Residential Planned Development Bulk Standards)							
BULK REGULATIONS <sup>7</sup>	RR	ER	SR-1	SR-2	SR-3	MFR <sup>1</sup>	DN
Min. Lot Area/ D.U. (sq ft) <sup>4</sup>	3 acres 130,680 sqft	1 acre 43,560 sqft	20,000	10,000	8,000	SF: 7,500 TH <sup>8</sup> : 4,000 TH <sup>9</sup> : 2,000 MF: 20,000 <sup>8</sup>	SF: 8,000
Min. Lot Width (ft) <sup>4</sup>	100	100	90	70	60	SF: 60 TH <sup>8</sup> : 60 TH <sup>9</sup> : 20 MF: 70	SF: 60
Max. Lot Coverage	15%	20%	25%	30%	30%	40%	50%
Max. Building Height (ft)	35	35	35	35	35	45	25
Min. Front Yard (ft)	50	40	30	25	25	SF: 20 <sup>2</sup> TH, MF: 10	SF: 25
Min. Side Street Yard (ft)	40	35	20	20	20	20	20
Min. Side Yard (ft)	25	20	10	8	8	SF: 8 TH, MF: 8 <sup>3</sup>	SF: 8
Min. Rear Yard (ft)	40	35	20 <sup>5</sup>	20 <sup>5</sup>	20 <sup>5</sup>	20 <sup>5,6</sup>	20 <sup>5,6</sup>

SF - Single-Family, TH - Townhome, MF - Multi-Family, D.U. - Dwelling Unit

### NOTES:

1. The maximum density shall be 15 units per acre.
2. Ten feet with rear alley with no driveway in the front.

3. A side yard of at least eight feet in width is required on each end of a group of townhomes and multi-family dwellings. Zero-foot side yard is required on the interior sides of each townhome and multi-family dwelling (shared wall).
4. The minimum lot size and width applicable to the re-subdivision of existing platted subdivision lots shall conform to the Hendersonville Subdivision Regulations, Section 3.2.4 (Lot Re-Subdivision Compatibility).
5. Ten feet adjacent to U.S. Army Corps of Engineers; property on Old Hickory Lake.
6. With alley loaded garages (attached or detached) shall be a minimum of five feet from the alley. If it is more than five feet from the alley and the garage opens directly onto the alley (as opposed to side-loaded) then it shall be at least 20 feet so that a car parked in the driveway will not block alley.
7. Horizontal Property Regime (HPR) shall observe all setback, lot widths, and standards listed in this chart and [Chapter 10.2.2](#).
8. Applies to the development lot as a whole rather than individual lots under individual units.
9. Applies to individual lots under individual units. For Horizontal Property Regime (HPR), each unit shall meet the minimum individual lot width and lot area requirements.

## 6.4 GENERAL STANDARDS OF APPLICABILITY

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### 6.4.1 | SUPPLEMENTAL STANDARDS

See [Chapter 10](#) (Supplemental Standards) for standards governing use of land and buildings; specific uses, accessory uses, buildings and structures, encroachments, and temporary uses and structures.

### 6.4.2 | SITE DEVELOPMENT STANDARDS

See [Chapter 11](#) (Site Development Standards) for standards governing off-street parking and loading, outdoor lighting, landscaping, screening and tree preservations, residential subdivision and multi-family development entry ways, walls and fencing, utility service, and street and other required improvements.

### 6.4.3 | BUILDING DESIGN STANDARDS

See [Chapter 12](#) (Building Design Standards).

### 6.4.4 | SIGNS

See [Chapter 13](#) (Sign Standards) for standards governing signs.

### 6.4.5 | LANDSCAPE STANDARDS

Street trees shall be provided within Residential Subdivision of 10 lots or more. A minimum of one canopy tree shall be provided for each lot. Tree spacing shall generally be equal to the minimum lot width for the residential zone. Trees shall be located a minimum of six feet behind the street sidewalk. Trees shall comply with the tree standards found in Appendix D, Sections [AD.2](#), [AD.3](#), and [AD.4](#).



# CHAPTER 7 | COMMERCIAL DISTRICTS

- 7.1 | COMMERCIAL DISTRICTS PURPOSE
- 7.2 | PERMITTED AND CONDITIONAL USES
- 7.3 | INTERPRETATION OF UNLISTED USES
- 7.4 | LOT AND BUILDING BULK REGULATIONS
- 7.5 | GENERAL STANDARDS OF APPLICABILITY

## 7.1 COMMERCIAL DISTRICTS PURPOSE

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### 7.1.1 | NEIGHBORHOOD COMMERCIAL

The Neighborhood Commercial District (NC) coincides with the “Suburban Center”, “Waterfront Living,” and “Mixed-Use Neighborhood” character areas in Chapter 3 of the Hendersonville Land Use and Transportation Plan, as well as the “Residential Preservation” character area in the Westlake at Hendersonville Land Use and Framework Plan and is intended to accommodate the recurring household needs and personal service requirements of nearby residential areas. This includes convenience retail and service establishments. These districts would typically be located at major intersections and would be well screened from neighboring homes and would conform architecturally to those homes.

### 7.1.2 | OFFICE

The Office District (O) coincides with portions of the “Employment Center, Suburban Center, and Regional Activity Center” character area in Chapter 3 of the Hendersonville Land Use and Transportation Plan as well as the “Dockside and Dockside Lakefront Focus Area,” “Community Retail,” “Retail Corridor,” and “Free Hill Focus Area” character areas in the Westlake at Hendersonville Land Use and Framework Plan and is intended to accommodate low intensity uses that provide daytime jobs and employment including professional offices, general business services, office parks, hospital, and medical clinics. Uses that support and serve these uses are also encouraged to locate in these districts.

### 7.1.3 | MIXED COMMERCIAL

The Mixed Commercial District (MXC) coincides with the “Regional Activity Center and Suburban Center” character area in Chapter 3 of the Hendersonville Land Use and Transportation Plan, as well as the “Dockside and Dockside Lakefront Focus Area,” “Community Retail,” “Retail Corridor,” “Destination Recreational Opportunity Site,” and “Free Hill Focus Area” character areas in the Westlake at Hendersonville Land Use and Framework Plan and is intended to accommodate a wide variety of uses including retail and office, as well as residential. This district is intended to accommodate large scale developments that are generally located near major transportation corridors and draw people from outside the city for shopping and employment. This district is permitted only with a Planned Development overlay Plan as per [Chapter 8](#) (Planned Development Districts).

7.1.4 |  *GENERAL COMMERCIAL*

The General Commercial District (GC) coincides with the “Suburban Center” character area in Chapter 3 of the Hendersonville Land Use and Transportation Plan as well as the “Dockside and Dockside Lakefront Focus Area,” “Community Retail,” “Retail Corridor,” and “Free Hill Focus Area” character areas in the Westlake at Hendersonville Land Use and Framework Plan and is intended to accommodate professional office uses, retail uses, restaurants, hotels, and other general commercial uses. Complimentary institutional uses are also allowed.

7.1.5 |  *HEAVY COMMERCIAL*

The Heavy Commercial District (HC) coincides with the “Suburban Center” and portions of the “Employment Center” character area in Chapter 3 of the Hendersonville Land Use and Transportation Plan and is intended to provide appropriate locations for specialized general commercial uses, including contractor storage yards and a variety of business services, which are oriented toward supporting other retail goods and personal service establishments, and not necessarily focused upon the shopping public. Areas within this district should have direct access to major streets and be generally situated in locations removed or buffered from residential uses.

7.1.6 |  *INDUSTRIAL*

The Industrial District (I) coincides with portions of the “Employment Center” character area in Chapter 3 of the Hendersonville Land Use and Transportation Plan, as well as the “Industrial Flex” character area in the Westlake at Hendersonville Land Use and Framework Plan and is intended to accommodate manufacturing, warehouse and distribution, and other employment-creating economic activities.

7.1.7 |  *MIXED RESIDENTIAL*

The Mixed Residential District (MXR) coincides with the “Mixed-Use Neighborhood” character area in Chapter 3 of the Hendersonville Land Use and Transportation Plan and is intended to accommodate developments that are master planned to include a variety of residential dwelling types along with commercial uses that serve the neighborhood. Complimentary institutional uses are also allowed. The uses in these districts should be integrated in such a way that all types of uses work together to create a cohesive development. This district is permitted only with a Planned Development overlay as per [Chapter 8](#) (Planned Development Districts).

7.1.8 |  *DOCKSIDE NEIGHBORHOOD*

The Dockside Neighborhood District (DN) coincides with the “Mixed-Use Neighborhood” character area in the Westlake at Hendersonville Land Use and Framework Plan and is intended to accommodate low to medium intensity uses that provide a mix of uses, including offices, limited services, and single-family residential housing. This includes professional offices, general business services, office parks, hospitals and medical clinics,

hotels, as well as restaurants and retail development with upper story office encouraged. Enhanced walkability and streetscaping will be a focus for new structures, reuse, and expansion. This district allows structures up to two stories and up to four units per acre.

## 7.2 PERMITTED AND CONDITIONAL USES

Table 5: Commercial Districts: Permitted and Conditional Uses lists permitted and conditional uses for the commercial districts. Within the table, a “P” indicates that a use is permitted within that district and a “C” indicates that a use is a conditional use in that district and must obtain conditional use approval as required in [Chapter 4.5](#) (Conditional Use). If the table does not note a letter (i.e., a blank space) or a particular use is not listed within the table, this indicates that use is not an allowable use and cannot be permitted within that zone district. For unlisted uses, see [Chapter 7.3](#) (Interpretation of Unlisted Uses).

TABLE 5: COMMERCIAL DISTRICTS: PERMITTED AND CONDITIONAL USES

TABLE 5   COMMERCIAL DISTRICTS   PERMITTED AND CONDITIONAL USES									
USE TYPES <sup>1</sup> "P" = PERMITTED // "C" = CONDITIONAL	MXR <sup>2</sup>	NC	O	MXC <sup>2</sup>	GC <sup>20,21,22,24</sup>	HC	DN <sup>23</sup>	I	USE STANDARDS
	<b>RESIDENTIAL USES</b>								
Accessory Dwelling (Detached)	C								
Assisted Living Facility	P	C	C	P	P	C			10.3.1
Bed and Breakfast	C <sup>16</sup>			P		C <sup>16</sup>			
Community Residence, Large (More than 8 persons)									
Community Residence, Small (8 or less persons)	C								
Dwelling, Manufactured									
Dwelling, Multi-Family	P			P					
Dwelling, Single-Family	P			P			P		
Dwelling, Townhome	P			P					
Home for the Aged	C								
Independent Living Facility	P	P	P	C	P	C			10.3.1
Nursing Home	P	P	P	C	P	C			10.3.1
<b>GOVERNMENT &amp; EDUCATIONAL FACILITIES</b>									
Educational Facility, Primary /Secondary	P		C	P	C	C	C	C	
Educational Facility, College / University	P		P	P	P	C	C	P	
Educational Facility, Vocational School	C		P	P	P	C	C	C	
Government Facility & Offices	P	P	P	P	P	P	P	P	
Public Safety Facility	P	P	P	P	P	P	P	P	
Public Works Facility & Utility	P	P	P	P	P	P	P	P	

**TABLE 5 | COMMERCIAL DISTRICTS | PERMITTED AND CONDITIONAL USES**

USE TYPES <sup>1</sup>	MXR <sup>2</sup>	NC	O	MXC <sup>2</sup>	GC <sup>20,21,22,24</sup>	HC	DN <sup>23</sup>	I	USE STANDARDS
<b>RELIGIOUS USES</b>									
Place of Worship	P	C	C	P	P	P	C	C	
<b>ENTERTAINMENT USES</b>									
Art Gallery	P	P		P	P		P		
Community Garden	P			P			P		
Cultural Facility	P	P		P	P		P		
Fire Range, Indoor				C	P	P	C	C	
Fire Range, Outdoor									
Golf Course	P								
Health / Fitness Center	P	P	P	P	P		P		
Indoor Entertainment Facility	C	C		P	P		P		10.3.6
Indoor Recreation Facility	C	C		P	P	C	P	C	10.3.6
Live Entertainment	P			P	P		C		
Marina	C	C		C	C				
Outdoor Entertainment Facility				C	C		C		10.3.6
Outdoor Recreation Facility	C	C		C	P		C		10.3.6
Race Tracks					C	C			
Recreational Training School	P	P	C	P	P	C	P	C	
Social Club or Lodge	C	C	C	P	C		C		10.3.16
<b>OFFICE USES</b>									
Call Center	P <sup>4</sup>	P <sup>4</sup>	P	P	P	P			
Office	P <sup>4</sup>	P <sup>4</sup>	P	P	P	P	P	P	
<b>RETAIL USES</b>									
Brewery Tap Room and Retail Sales <sup>15</sup>		C <sup>13</sup>		C	P	P	P	P	
Motor Vehicle Dealership				P <sup>5</sup>	P <sup>6</sup>	P <sup>6</sup>			10.3.9
Retail Goods Establishment	P <sup>4</sup>	P <sup>4</sup>	P <sup>7</sup>	P	P		P		
<b>SERVICE USES</b>									
Animal Hospital	P	C		P	P	P	P		
Banquet Hall			P	P	P		C		
Car Wash		C		C	P	P			
Caterer	P	P		P	P	P	P		
Day Care Center, Adult or Child	C	P	P	P	P	C	C	C	10.3.4
Day Care Home, Adult or Child	C			C			C		10.3.5

**TABLE 5 | COMMERCIAL DISTRICTS | PERMITTED AND CONDITIONAL USES**

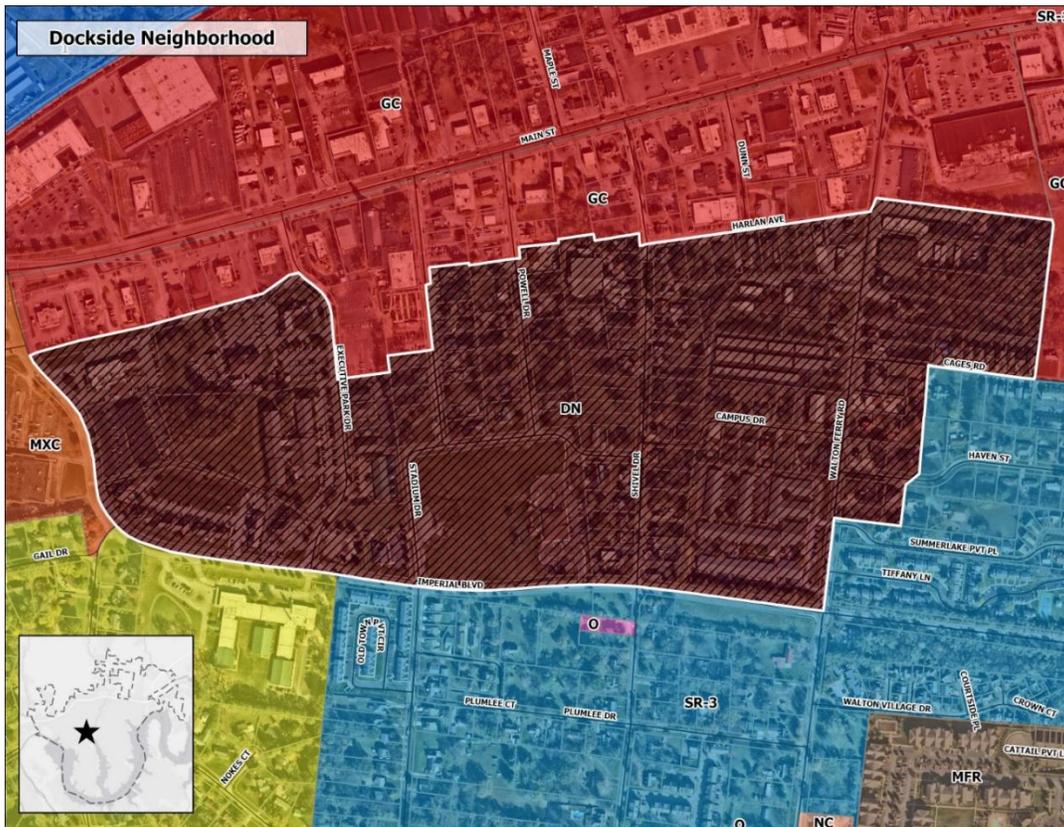
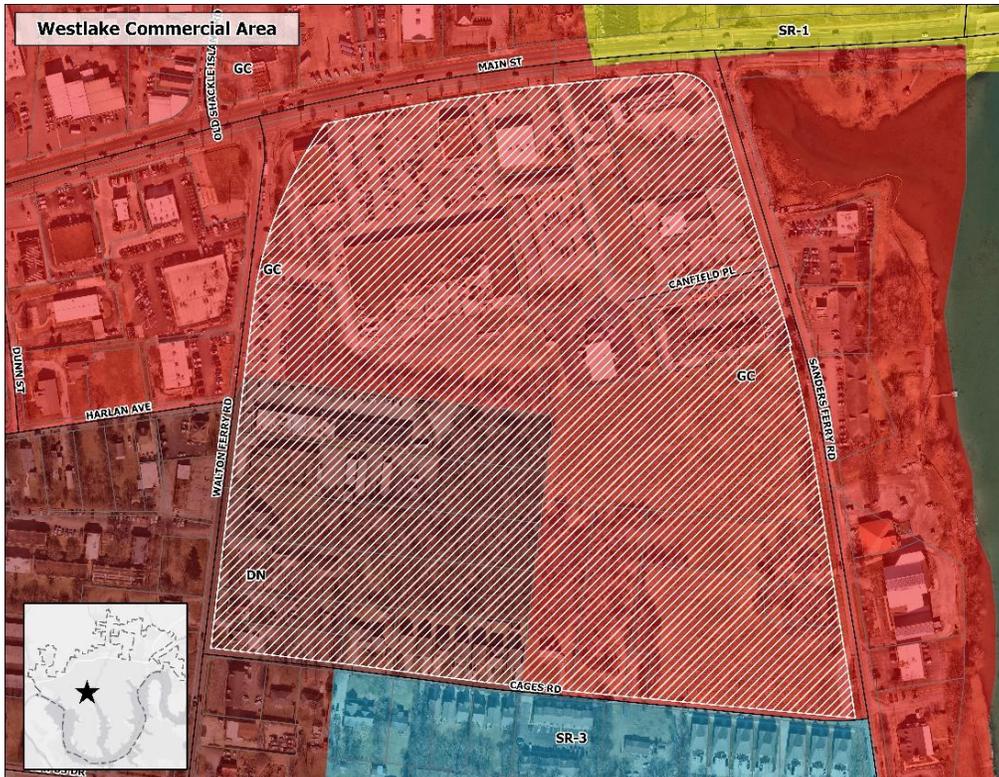
USE TYPES <sup>1</sup>	MXR <sup>2</sup>	NC	O	MXC <sup>2</sup>	GC <sup>20,21,22,24</sup>	HC	DN <sup>23</sup>	I	USE STANDARDS
<b>SERVICE USES</b>									
Equipment Repair		C		C	P	P			
Financial Institution	P	P	P	P	P		P		
Funeral Home		C		P	P		P		
General Business Services	P <sup>4</sup>	P <sup>4</sup>	P	P	P	P	P		
Helistop			C	C	C	C		P	
Hospital			C	C	P	C	C		
Hotel / Motel			P	P	P				
Kennel					P	P	C		10.3.7
Medical / Dental Clinic	P <sup>4</sup>	P <sup>4</sup>	P	P	P		P		
Medical / Dental Laboratory			C	P	P	P	P	P	
Medical Rehabilitation Facility, Residential	P	P	P	P	P		C		
Meeting / Event Center	C		P	P	P		C		
Motor Vehicle Rental Establishment				C	P	P			
Motor Vehicle Service Station / Fuel Center	C	C		C	P	P	P		10.3.8
Motor Vehicle Service & Repair, Major					C	P		C	10.3.11
Motor Vehicle Service & Repair, Minor				C	P	P			10.3.11
Parking Lot (Principal Use)			P	P	P	P	P <sup>25</sup>	P	
Parking Structure (Principal Use)			P	P	P	P	P <sup>25</sup>	P	
Payday / Title Loan Agency					C	P			
Personal Services Establishment	P <sup>4</sup>	P <sup>4</sup>	P	P	P		P		
Printing Shop			P <sup>7</sup>		P <sup>8</sup>	P <sup>9</sup>	P <sup>8</sup>	P	
Research and Development Facility			P	P	P	P	P	P	
Restaurant, Full Service & Carry Out	C	P <sup>13</sup>	P <sup>7,13</sup>	P	P		P		
Restaurant, Quick Service				C	P		P		
Smoke Shop <sup>3</sup>					C	C			10.3.16
Taxidermy				P	P	P	P		
Utility, Private	P	P	P	P	P	P	P	P	

**TABLE 5 | COMMERCIAL DISTRICTS | PERMITTED AND CONDITIONAL USES**

USE TYPES <sup>1</sup>  "P" = PERMITTED // "C" = CONDITIONAL	MXR <sup>2</sup>	NC	O	MXC <sup>2</sup>	GC <sup>20,21,22,24</sup>	HC	DN <sup>23</sup>	I	USE STANDARDS
<b>HEAVY RETAIL &amp; SERVICE USES</b>									
Contractor Office & Storage Yard					P <sup>10</sup>	P	P <sup>10</sup>	P	
Food Service Contractor					C <sup>4</sup>	P	C <sup>4</sup>	P	
Heavy Retail, Rental & Service Establishment				C	P	P		P	
Machine Shop						P		P	
Motor Vehicle Operations Facility				C	P	P			10.3.10
Reupholstery / Custom Home Textiles					P <sup>4</sup>	P	P <sup>4</sup>		
Self-Service Storage Facility					C	P		P	
Welding Shop					C	P		P	
<b>INDUSTRIAL USES</b>									
Concrete or Asphalt Plant						C		C	
Manufacturing, Heavy								C	
Manufacturing, Light					C <sup>4</sup>	P <sup>8</sup>		P	
Outdoor Storage						P		P	
Scrap Operations								C	10.3.14
Sign Manufacturing / Fabricating					P	P	P	P	
Trucking Company / Terminal					C <sup>11</sup>	P		P	
Warehouse / Distribution					C <sup>8</sup>	P <sup>9,12</sup>		P <sup>12</sup>	
<b>OTHER USES</b>									
Adult-Oriented Establishment						C			10.3.2
Cemetary & Mausoleum								C	
Data Center			C		P	P	C	P	
Farm									
High Impact Facilities					C	C		C	
Media Production Facility, Major				P	C	P	C	P	
Mining & Quarrying									
Plant Nursery									
Radio & Television Towers & Transmission Facilities					C	C	C	P	10.3.12
Recycling Drop-Off Center					C	P		P	10.3.13
Riding Stable									
Solar Farm, Wind Turbine Farm, Simular <sup>14</sup>						C		C	
Vacation Rental <sup>19</sup>					P <sup>18</sup>		P <sup>18</sup>		
Wireless Telecommunications Tower					C	C	C	P	10.3.18

## NOTES:

1. The terms in this column (“Use”) are defined in [Chapter 16](#) (Definitions).
2. Rezoning to this district requires a Planned Development overlay plan as per [Chapter 8](#).
3. Smoke Shops shall be as measured along the street(s).
4. The gross building area used for each tenant may not exceed 10,000 square feet.
5. New car dealerships only (with accessory used car sales and service).
6. Used car lots must be at least 1,000 feet away from all other used car lots, as measured along the street(s).
7. Retail, Printing, and Restaurant (except drive-through) uses are permitted within the O district within office buildings and in separate buildings within office parks provided the total area of such uses does not exceed 15% of the total constructed and occupied area within the office building or park.
8. The gross building area used for this use may not exceed 10,000 square feet, except that the Board of Zoning Appeals may grant a conditional use permit to allow up to 25,000 square feet.
9. The gross building area used for this use may not exceed 35,000 square feet.
10. Outside material storage shall be in accordance with [Chapter 10.4.16](#) (Outdoor Storage). Heavy equipment such as back hoes, bulldozers, dump trucks, trailers, graders, scrapers, and the like shall be screened from view from all streets by landscaping and/or fencing. See [Chapter 11.4](#).
11. Not exceeding one acre.
12. The storage and warehousing of chemicals, petroleum products, explosives, and other hazardous materials in quantities such that Hendersonville’s building code classifies said storage and warehousing as “hazardous” shall only be allowed with the approval of a Conditional Use Permit.
13. Closed between 10:00 PM and 6:00 AM.
14. See also [Chapter 10.4.24](#) (Solar Panels) for solar panels allowed as an accessory use.
15. See Ordinance 2014-20 for restrictions.
16. Maximum of five bedrooms.
17. Ten acres minimum lot size. However, a farm as defined by state law, is exempt from the terms of this Ordinance.
18. In multi-story buildings, Vacation Rental is only permitted above commercial and non-residential uses.
19. Maximum one Vacation Rental per building, with a maximum of one per lot.
20. Lakefront properties along Sanders Ferry Road are limited to one story. Rooftop dining may be considered for approval by the Planning Commission.
21. Used Motor Vehicle Sales, Hotels/Motels, Motor Vehicle Rental Establishment, Heavy Retail, Rental, and Service Establishment, Payday/Title Loan Agency and Motor Vehicle Operations Facility not permitted in GC zoning in the area south of West Main Street, west of and fronting Sanders Ferry, north of Cages Road, and east of Walton Ferry Roads (see Westlake Commercial Area map below). However, the use of Hotel/Motel is a permitted use at 179 West Main Street (Relax Inn), Parcel 160M C 024.00.
22. Properties with GC zoning in the area south of West Main Street, west of and fronting Sanders Ferry, north of Cages Road, and east of Walton Ferry Roads are limited to two stories in height. Rooftop dining may be considered for approval by the Planning Commission (see Westlake Commercial Area map below).
23. Properties with DN zoning (see Dockside Neighborhood map below) are limited to two stories. Rooftop dining may be considered for approval by the Planning Commission. Properties with DN Zoning shall not have a residential dwelling and a Vacation Rental on the same property.
24. Properties with GC zoning in the area south of West Main Street, west of and fronting Sanders Ferry, north of Cages Road, and east of Walton Ferry Road shall have reduced setbacks of 20 feet front and 10-foot rear unless an increased landscape buffer is required.
25. This use is not allowed on the first floor of multi-story buildings unless part of approved Planned Development.



Dockside Neighborhood (DN) Zoning as of 11/7/2023. See City of Hendersonville official Zoning Map for Current Zoning.

## 7.3 INTERPRETATION OF UNLISTED USES

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### 7.3.1 | PROCEDURE FOR APPROVING UNLISTED USES

Where a particular use is not specifically listed in a Use Table, the Planning Director may permit the use upon a finding that the standards of [Chapter 7.3.2](#) (Standards for Approving Unlisted Uses) are met. The Planning Director shall give due consideration to the purpose and intent statements in this Ordinance concerning the base zoning district involved, the character of the uses specifically identified, and the character of the use in question.

### 7.3.2 | STANDARDS FOR APPROVING UNLISTED USES

The Planning Director is authorized to declare an unlisted use as a permitted or conditional use if the Planning Director determines that the unlisted use has an impact that is similar in nature, function, and duration to the other uses allowed in a specific zoning district. To make this determination, the Planning Director shall assess all relevant characteristics of the proposed use, including but not limited to the following:

1. The volume and type of sales, retail, wholesale, etc.;
2. The size and type of items sold and nature of inventory on the premises;
3. Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, and distribution;
4. Any dangerous, hazardous, toxic, or explosive materials used in the processing;
5. The nature and location of storage and outdoor display of merchandise, whether enclosed, open, inside or outside the principal building, predominant types of items stored (such as business vehicles, work-in process, inventory, merchandise, construction materials, scrap and junk, and raw materials, including liquids and powders);
6. The type, size, and nature of buildings and structures;
7. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;
8. Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site;
9. Trip purposes and whether trip purposes can be shared by the other uses on the site;
10. Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other uses;

11. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes;
12. Any special public utility requirements for serving the proposed use, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and
13. The impact on adjacent lands created by the proposed uses, which should not be greater than that of other uses in the zoning district.

### 7.3.3 | EFFECTS OF FINDING BY PLANNING DEPARTMENT

In making the determination described in [Chapter 7.3.1](#) (Procedure for Approving Unlisted Uses), the Planning Director shall report the determination to the Planning Commission within 60 days for ratification or rejection, and if it is determined the particular use is likely to be common or to recur frequently, or that omission of specific inclusion and reference in the Use Table is like to lead to public uncertainty and confusion, the Planning Commission shall, within one year, proceed to amend [Table 3](#) and/or Table 5, accordingly. Until ratification or rejection by the Planning Commission, the interpretation of the Planning Director shall be binding, and permits may be issued, and shall remain valid even if the action by the Planning Department is reversed. Aggrieved parties may apply for a Zoning Amendment in accordance with [Chapter 4.8](#) (Zoning Amendment).

## 7.4 LOT AND BUILDING BULK STANDARDS

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### 7.4.1 | LOT AND BUILDING BULK STANDARDS

Table 6 (Lot and Building Bulk Standards Commercial Districts) establishes minimum lot area, maximum building height, maximum lot coverage, minimum pervious areas, and minimum yards/building setback standards for the commercial and industrial districts. Horizontal Property Regimes (HPR) shall also comply with all of these standards. Each HPR unit with such Regime shall be provided with sufficient open space around each unit to provide the area, width, lot coverage, and yard specified in [Table 5](#). These standards apply to the base districts only. See [Chapter 8](#), [Table 10](#) for lot and building bulk standards in a commercial planned development overlay district. See [Chapter 10.5](#) (Permitted Encroachments and Height Exceptions) for allowed yard encroachments and height exceptions.

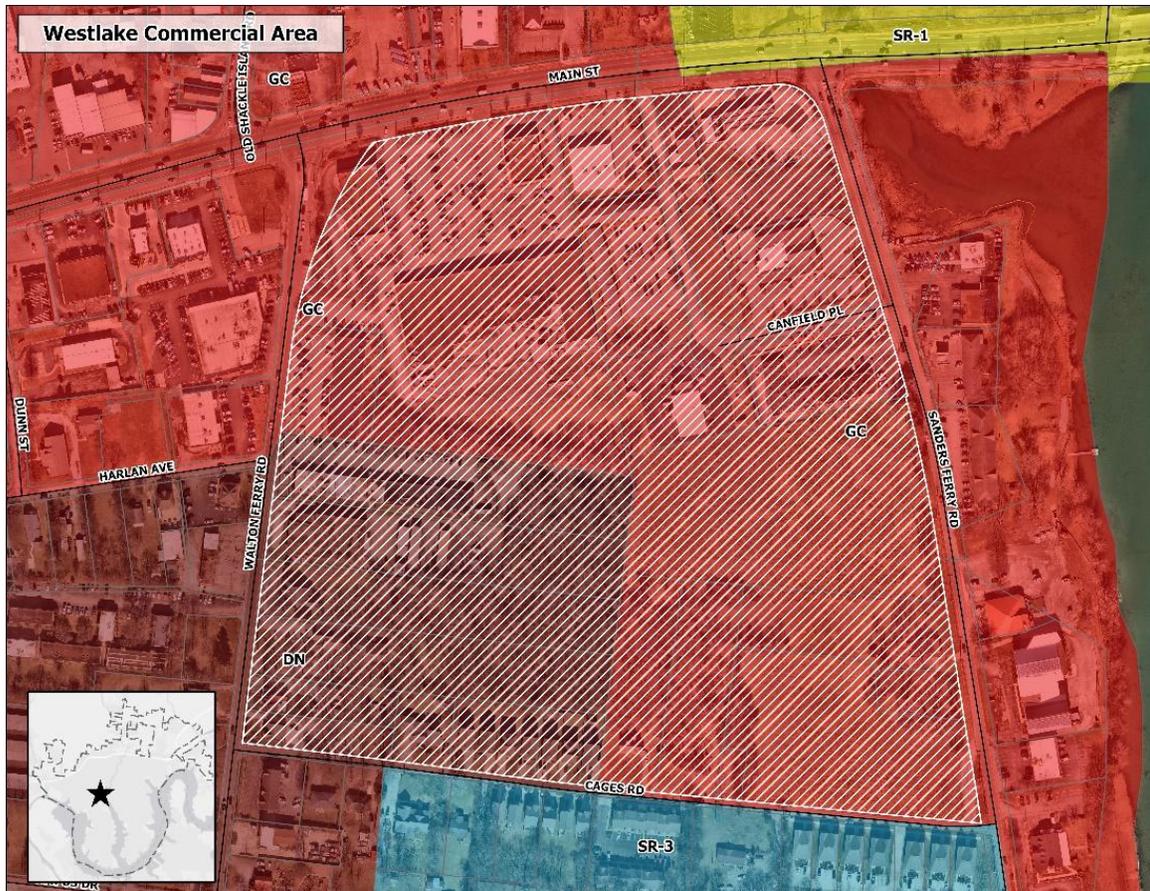
Variances may be granted to the Lot and Building Standards specified by this section. See [Chapter 4.4](#) (Variances) for procedures and criteria.

TABLE 6: COMMERCIAL DISTRICTS: LOT AND BUILDING BULK STANDARDS

TABLE 6   COMMERCIAL DISTRICTS   LOT AND BUILDING BULK STANDARDS						
(See Table 10 for Commercial Planned Development Bulk Standards)						
BULK REGULATIONS <sup>7</sup>	NC	O	GC	HC	DZ	-
Min. Lot Area (sq ft)	5,000	5,000	10,000	10,000	8000	10,000
Max. Lot Coverage	30%	35%	50%	50%	50%	70%
Max. Building Height (ft)	25	45 <sup>3</sup>	45 <sup>3</sup>	45 <sup>3</sup>	25	80 <sup>3</sup>
Min. Pervious	30%	25%	20%	15%	0	15%
Min. Front Yard (ft)	30	30	30	30	25	30
Min. Side Street Yard (ft)	30	30	30	30	20	30
Min. Side Yard (ft)	0 <sup>5,6</sup>	0 <sup>5,6</sup>	0 <sup>5,6</sup>	0 <sup>5,6</sup>	8	0 <sup>5,6</sup>
Min. Rear Yard (ft)	20 <sup>6</sup>	20 <sup>6</sup>	20 <sup>6</sup>	20 <sup>6</sup>	20 <sup>6</sup>	20 <sup>6</sup>

**NOTES:**

1. Development Plan required for MXC and MXR.
2. This table does not apply to residential uses allowed in this zone “above commercial uses.” Refer to [Chapter 6, Table 4](#).
3. Where bordering a residential district, [Chapter 7.4.2](#) shall apply.
4. *\*This space is reserved for future use.\**
5. Must conform to City’s Building Code and Fire Code.
6. Where non-residential is bordering a residential zone or area, provide buffer/screen as specified by [Chapter 11.4.10](#) (Buffer Yards).
7. Horizontal Property Regime (HPR) shall observe all setback, lot widths, and standards listed in this chart and [Chapter 10.2.2](#).
8. Properties with GC zoning in the area south of West Main Street, west of and fronting Sanders Ferry Road, north of Cages Road, and east of Walton Ferry Road shall have reduced setbacks of 20 feet front and 10-foot rear unless an increased landscape buffer is required.



#### 7.4.2 | SPECIAL HEIGHT STANDARDS

Along any residential district boundary adjoining any non-residential district which permits greater height, no building with the non-residential district shall project through imaginary planes leaning inward from district boundaries at an angle representing an increase of 1/2 of a foot in height for each foot of horizontal distance perpendicular to the boundary.

### 7.5 GENERAL STANDARDS OF APPLICABILITY

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#### 7.5.1 | SUPPLEMENTAL STANDARDS

See [Chapter 10](#) (Supplemental Standards) for standards governing use of land and buildings, specific uses, accessory uses, buildings and structures, encroachments (setback and height), and temporary uses and structures.

#### 7.5.2 | SITE DEVELOPMENT STANDARDS

See [Chapter 11](#) (Site Development Standards) for standards governing off-street parking and loading, outdoor lighting, landscaping, screening and tree preservation, residential

subdivision and multi-family development entry ways, walls and fencing, utility service, and street and other required improvements.

#### 7.5.3 | *BUILDING DESIGN STANDARDS*

See [Chapter 12](#) (Building Design Standards) for standards governing building design.

#### 7.5.4 | *SIGNS*

See [Chapter 13](#) (Signs) for standards governing signs.



# CHAPTER 8 | PLANNING DEVELOPMENT DISTRICTS

- 8.1 | PURPOSE
- 8.2 | INITIATION
- 8.3 | AUTHORIZATION
- 8.4 | GENERAL STANDARDS FOR PLANNED DEVELOPMENTS
- 8.5 | EXCEPTIONS FROM DISTRICT STANDARDS
- 8.6 | RESIDENTIAL PLANNED DEVELOPMENTS
- 8.7 | COMMERCIAL PLANNED DEVELOPMENTS
- 8.8 | PROCEDURE
- 8.9 | CHANGES TO PLANNED DEVELOPMENTS
- 8.10 | REVOCATION
- 8.11 | CONDITIONS AND GUARANTEES
- 8.12 | ISSUANCE OF PERMITS
- 8.13 | ENFORCEMENT OF PLANNED DEVELOPMENT

## 8.1 PURPOSE

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The purpose of these planned development regulations is to:

1. Encourage flexibility in the development of land and in the design of structures.
2. Encourage planned diversification in the location of structures.
3. Encourage a creative approach to the use of land that results in better development and design than might otherwise be accomplished under the strict application of other Chapters in this Ordinance.
4. Provide for the efficient use of land to facilitate a more effective arrangement of land uses, buildings, circulation systems, and utilities.
5. Provide for more useable and suitably located open space and recreation areas than might not otherwise be provided under the application of other Chapters of this Ordinance.
6. Encourage the construction of appropriate aesthetic amenities which will enhance the character of the site.
7. Guarantee quality construction commensurate with other developments within the community, and compatible with the character of the surrounding area and adjoining properties.
8. Facilitate the implementation of the Land Use and Transportation Plan.

9. Provide for the development of unique land areas and sites that would not be possible under the strict application of the other Chapters of this Ordinance.
10. Encourage quality construction and design through an efficient application procedure which is sensitive to the need for expeditious development review.

## 8.2 INITIATION

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Applications for planned developments may be filled in accordance with [Chapter 3.2](#) (Application) and the provisions of [Chapter 8.3](#) (Authorization).

## 8.3 AUTHORIZATION

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A planned development may be authorized in all zoning districts. A planned development shall be granted in accordance with the procedures and standards of this Chapter. The Ordinance granting or amending the planned development may depart from the normal procedures, standards, and other requirements of this Ordinance to the extent, and only to the extent, set forth herein.

## 8.4 GENERAL STANDARDS FOR PLANNED DEVELOPMENTS

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In accordance with the requirements of the City of Hendersonville Zoning Ordinance, in order to approve a proposed planned development, all the following findings of fact must be made:

1. The site of the planned development shall be under common ownership and/or unified control. If there are two or more owners, the application for the planned development shall be jointly filed by all such owners.
2. The Ordinance authorizing the planned development may grant exceptions to lot and building bulk regulations as may be desirable to achieve the objectives of the proposed planned development, provided that such exceptions are fully consistent with and authorized by [Chapter 8.5](#) (Exceptions from District Standards).
3. Planned developments shall be compatible with the purpose and intent of this Ordinance and the City's Land Use and Transportation Plan. A planned development shall not, in the opinion of the City, substantially diminish the market value of surrounding properties, and it shall cause no substantial impairment of the use of those properties.
4. Planned developments shall not adversely affect the natural environment of the community as a whole. Natural assets and features, such as existing trees, rock outcroppings, and native vegetation, shall be protected and preserved to the greatest extent practical.

5. The site shall be accessible to public streets that are adequate to carry the traffic that will be generated by the proposed development. The applicant shall be responsible for the cost and installation of additional traffic controls and regulating devices that are required. A traffic study may be required by the City Engineer.
6. All proposed streets, alleys, and driveways shall be adequate to serve the residents, occupants, visitors, or other anticipated traffic. Access points to public streets, and the location of private streets, alleys, and driveways shall be subject to the approval of the Planning Commission.
7. The pedestrian circulation system and its related walkways shall be located to provide for separation of pedestrian and vehicular movement and for maximum pedestrian safety.
8. All planned developments shall provide for underground installation of utilities, including electricity, cable, and telephone. Provisions shall be made for acceptable design and construction of storm sewer facilities and appropriate storm retention and maintenance of all utilities, roadways, parking facilities, and other site improvements shall be in accordance with the requirements of this Ordinance and other regulations of the City.
9. Planned Developments shall provide a specific phasing plan for all amenities (*for example when a neighborhood pool or walking trail is to be constructed*).

## 8.5 EXCEPTIONS FROM DISTRICT STANDARDS

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1. Within Planning Developments, the Planning Commission may recommend, and the Board of Mayor and Aldermen may grant, exceptions to the district lot and building bulk standards as contained in [Chapter 6](#) (Residential Districts) and [Chapter 7](#) (Commercial Districts) provided the exceptions conform to [Chapter 8.6](#) (Residential Planned Developments) and [Chapter 8.7](#) (Commercial Planned Developments). The planned development is subject to the underlying district regulations unless such exception is granted. Such exceptions from district regulations may be granted for planned developments if the Board of Mayor and Aldermen finds that allowing such exceptions:
  1. Enhances the overall merit of the planned development.
  2. Promotes the objectives of both the City and the development.
  3. Enhances the quality of the design of the structures and the site.
  4. Will not cause such an adverse impact on neighboring properties so as to outweigh the benefits of the development.
  5. Is compatible with the land use policies of the City's Land Use and Transportation Plan.
  6. Provides a public benefit to the City, as described in [Chapter 8.5.3](#) below.

2. The planned development may allow all uses allowed in the underlying district. However, the City may determine that the uses should be further restricted by not allowing certain uses which are otherwise allowed in the underlying district and which would not be compatible with the intended character of the planned development.
3. The underlying zoning district requirements shall apply, unless an exception is granted as allowed by [Chapter 8.5.1](#) as part of the approved planned development. Said exceptions may be granted where it is determined that such modifications shall not negatively affect the value and enjoyment of surrounding property, the provision of municipal services, or the flow of traffic. To be granted such exceptions, the planned development applicant must demonstrate superior design and enhanced amenities. In no case shall an exception to district regulations within a planned development be granted unless the applicant demonstrates a substantial benefit to the City. Design characteristics and amenities to be considered in this determination shall include, but are not limited to the following:
  - A. Landscaping, buffering, or screening within or around the perimeter of the planned development that is in addition to the minimum required by this Ordinance.
  - B. The provision of additional landscaping and screening of parking lots and structures in addition to the minimum required by this Ordinance.
  - C. Reduced use of impervious surface materials, including use of semi-pervious material such as grasscrete.
  - D. Design characteristics including, but not limited to, mixed use development circulation systems that utilize alleys or traffic-calming techniques, and pedestrian-oriented environment.
  - E. Use of sustainable design and green architecture such as: green roofs and other energy efficient design concepts, water conservation, environmental sensitivity, new building technologies, Leadership in Energy and Environmental Design (LEED) techniques, and xeriscaping (water conservation landscaping).
  - F. Community amenities including plazas, malls, formal gardens, places to congregate, outdoor seating, public art, and pedestrian and transit facilities.
  - G. Preservation of environmental features such as wetlands, conservation areas, hillsides, streams, or other unique features.
  - H. Preservation of historic or other culturally significant features.
  - I. Recreational amenities such as:
    - A. Swimming Pools

- B. Outdoor rooms, arbors, gazebos, seating areas, and other hardscape
  - C. Clubhouse with meeting and fitness facilities
  - D. Jogging trails and fitness courses
  - E. Playgrounds and dog parks
  - F. Lakes and natural water features
  - G. Retention ponds and detention areas which are accessible to occupants or the public via nature trails, boardwalks, and/or perimeter walkways, but only if they are designed as natural water features and are landscaped with native vegetation.
  - J. Additional public infrastructure improvements in addition to the minimum required by this Ordinance, such as ornamental streetlights, street name signs, stop signs, and mailboxes.
  - K. Provision of sign standards which exceed the minimum required by this Ordinance.
  - L. Provision of a Design Guide with design standards which exceed the minimum required by this Ordinance. For residential planned developments, the developer is required to provide elevations of the homes which are to be built.
  - M. Restrictive covenants which prohibit, limit, or provide standards for utility buildings, fences, and similar structures.
4. Common open space (pervious area) should be provided as follows for Planned Developments:

TABLE 7: PLANNED DEVELOPMENT: COMMON OPEN SPACE

TABLE 7   PLANNED DEVELOPMENT   COMMON OPEN SPACE	
ZONING DISTRICT	PERCENTAGE
RR-PD	40%
ER-PD	35%
SR-1-PD	25%
SR-2-PD	20%
SR-3	20%
THR-PD	30%
DN	20%
WR-PD	20%
Residential part of MXR-PD	20%
Residential part of MXC-PD	20%
MFR-PD	35%

The above amounts are expressed in terms of minimum percentage of the gross acreage of land within each development. The Planning Commission may agree to a lesser amount proportionate to lesser density and/or greater design characteristics and amenities as listed above.

Floodway, steep slopes (over 20%) easements for major utilities, detention/retention ponds, areas with outcropping of rock, and other similar unusable areas shall not count for more than 25% of the above amounts of open space. Only common open space that is readily accessible by all residents and users of the development should be counted toward the percentage requirement.

Open space is also beneficial to commercial planned developments. Such space could be passive or improved with amenities such as landscaping, sitting areas, fountains, walking paths, dog parks, plazas, and court yards.

5. For Single-Family, Townhome, and Multi-Family Dwelling maximum restricted allowances for Planned Development:
  - A. Single-Family, Townhome, and Multi-Family dwellings may be approved to be located in Planned Developments. Of any proposed residential units, the unit shall be restricted based on the following percentages:

TABLE 8: PLANNED DEVELOPMENT: DWELLING MAXIMUM RESTRICTED ALLOWANCES

TABLE 8   PLANNED DEVELOPMENT   DWELLING MAXIMUM RESTRICTED ALLOWANCES			
ZONE DISTRICTS	SF <sup>1</sup>	TH <sup>1</sup>	MF <sup>1</sup>
SR-1-PD	100%	25%	0%
SR-2-PD	100%	30%	0%
SR-3-PD	100%	0%	0%
THR-PD	25%	100%	0%
WFR-PD	100%	25%	15%
MXR-PD	100%	25%	25%
DN-PD	100%	0%	0%
MFR-PD	100%	100%	100%
MXC-PD <sup>2</sup>	Note 2	Note 2	Note 2

SF – Single-Family, TH – Townhome, MF – Multi-Family

**NOTES:**

1. These restricted allowances do not apply to the base zones where single-family, townhome, and multi-family dwellings are allowed. These restricted allowances are not guaranteed allotments of a specific dwelling type, but rather a guide to consider with a well-planned development application.
2. The mix of allowable percentage of dwelling units by type is dependent on overall quality of mixed development of commercial and/or office uses. It is expected that such a mixed-use development within MXC zones have an appropriate amount of commercial and/or office building square footage to be a valid high-quality mixed-use development.
  - B. Any unused allowance for multi-family dwellings within a Planned Development may be utilized for townhomes within the same Planned Development.
  - C. See [Chapter 11](#) (Site Development Standards) and [Chapter 12](#) (Building Design Standards).
  - D. Single-Family, Townhome, and Multi-Family developments shall comply with the applicable Lot and Building Bulk Standards Table ([Table 9](#) or [Table 10](#)).
6. All storm water detention and retention areas shall be constructed and maintained in accordance with [Chapter 11.4.4.12](#) (Detention and Retention Ponds).
7. Common open space, as shown on the approved Final Planned Development Plan, shall be shown as common open space on all subdivision plats and site plans required by this Ordinance and other laws and in accordance with the Phasing Plan (See [Chapter 8.8.4.1.G](#)) approved by the City.

*For example, if the Development Plan for a residential development includes open space with a gazebo in Phase 3, said open space and gazebo shall be shown on the Phase 3 plat. Adequate surety shall be provided prior to recording the Phase 3 plat to cover the cost of the gazebo.*

Adequate provision shall be made for the establishment of an association such as a homeowners association, property owners association, business owners association, community association, or other legal entity with direct responsibility to, and control by, the property owners involved to provide for the ownership, operation, and maintenance of all common open space and amenities, including any private streets and sidewalks. The applicant shall submit a legal instrument, such as a declaration of covenants and restrictions, establishing provisions for the use and permanent maintenance of the common areas and amenities and demonstrating that the association is self-perpetuating and adequately funded to accomplish its purposes. The provisions of this instrument shall include, but not be limited to, the following:

- A. The association must be established and operational before any property is sold.
- B. Membership must be mandatory for each property owner and must run with the land so that any successive purchaser will automatically become a member.
- C. The restrictions covering the use, etc. of the common areas must be permanent, not just for a period of years.
- D. The association must be responsible for liability insurance, taxes, and the maintenance of the common areas and amenities.
- E. Property owners must pay their pro rata share of the cost assessed by the association and said assessment can become a lien on the property for failure to pay.
- F. The association must be able to adjust the assessment of fees to meet changing needs.

In the event that the association, or any successor, shall at any time fail to maintain the common areas and amenities in reasonable order and condition in accordance with the Development Plan, the Planning Department may serve written notice upon such association and/or the owners and hold a public hearing. After 30 days when deficiencies or maintenance are not corrected, the Planning Department shall call upon any public or private agency to maintain the common areas and amenities for a period of one year. When the Planning Department determines that the association is not prepared to maintain the common areas and amenities, such agency shall continue maintenance for yearly periods. The cost of such maintenance shall be assessed proportionately against the properties within the development. Said cost shall become a lien on said properties.

## 8.6 RESIDENTIAL PLANNED DEVELOPMENTS

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### 8.6.1 | *MINIMUM SIZE*

The minimum size of a residential planned development shall be three (3) acres.

### 8.6.2 | *PERMITTED USES*

Permitted Uses shall adhere to the applicable base zone of the planning development listed in [Table 3](#) (Residential Districts: Permitted and Conditional Uses). Uses which are listed as Conditional Uses in [Table 3](#) may, at the discretion of the City, be allowed as Permitted Uses. No use shall be allowed unless allowed as a Permitted or Conditional Use in the base zone of the planned development as listed in [Table 3](#). Uses listed in [Table 3](#) which are not compatible with the proposed planned development should not be allowed. Accessory and Temporary Uses shall be allowed under the same terms and conditions of the base district unless specifically stated to the contrary on the Development Plan.

### 8.6.3 | *LOT AND BUILDING BULK STANDARDS*

[Table 9](#) (Residential Planned Developments Lot and Building Bulk Standards) establishes minimum lot area, width, and yards and maximum lot coverage, density and building height for residential planned developments.

Maximum density, as shown on [Table 9](#), shall not be exceeded under any terms even if lots must be larger than the minimum allowed by [Table 9](#). Likewise, lots shall not be smaller than specified by [Table 9](#) even if the maximum density as specified in [Table 9](#) may not be achieved. Horizontal Property Regimes (HPR) shall also comply with all of these standards. Each HPR dwelling unit with such Regime shall be provided with sufficient open space around each unit to provide the area, width, lot coverage, and yard specified in [Table 9](#).

Greater standards than specified in [Table 9](#) may be imposed and specified on the Development Plan.

Unless otherwise specified on the Development Plan, the yard encroachments and height exceptions as stated in [Chapter 10.5](#) (Permitted Encroachments and Height Exceptions) shall be allowed.

### 8.6.4 | *BUILDING DESIGN STANDARDS*

See [Chapter 12.2](#) (Residential Building Design Standards).

TABLE 9: RESIDENTIAL PLANNED DEVELOPMENT: LOT AND BUILDING BULK STANDARDS

TABLE 9   RESIDENTIAL PLANNED DEVELOPMENTS   LOT AND BUILDING BULK STANDARDS											
BULK REGULATIONS <sup>11</sup>	RR	ER	SR-1	SR-2	SR-3	THR	WR	MXR <sup>1</sup>	DN	MFR	MXG <sup>1</sup>
Max. Density (units/ac) <sup>2</sup>	0.6	1.3	3	4	4	8	4	4	4	15	15
Min. Lot Area <sup>3,12</sup> (sq ft)	1 acre 43,560 sq ft	20,000	SF:10,000 TH:2,400	SF: 6,500 TH:2,400	SF: 7,500	SF: 4,000 TH:2,600	SF: 6,500 TH,MF: 2,400	SF: 6,500 TH,MF: 2,400	SF: 7,500	SF: 4,000 TH,MF: 2,000	SF: 4,000 TH,MF: 2,200
Min. Lot Width <sup>3</sup> (ft)	75	60	SF: 75 TH:24	SF: 55 TH:24	SF: 55	SF: 40 TH:26	SF: 55 TH: 24 MF <sup>13</sup>	SF: 55 TH: 24 MF <sup>13</sup>	SF: 55	SF: 40 TH: 20 MF: <sup>13</sup>	SF: 40 TH: 22 MF: <sup>13</sup>
Max. Lot Coverage	25%	30%	SF: 30% TH: 65%	SF: 35% TH: 70%	30%	SF: 50% TH: 75%	SF: 40% TH: 70% MF:40%	SF: 50% TH: 75% MF:40%	SF: 50%	SF: 50% TH: 75% MF:40%	SF: 50% TH: 75% MF:40%
Max. Building Height (ft)	35	35	35	35	35	35	35	35	25	45	45
Min. Front Yard <sup>3,4</sup> (ft)	30	25	SF: 20 TH: 20 <sup>5</sup>	SF: 20 TH: 20 <sup>5</sup>	SF: 25	SF: 20 TH: 20 <sup>5</sup>	SF: 20 TH: 20 <sup>5</sup> MF:20 <sup>5</sup>	SF: 20 TH: 20 <sup>5</sup> MF:20 <sup>5</sup>	25 <sup>6</sup>	SF: 20 TH: 20 <sup>5</sup> MF:20 <sup>5</sup>	SF: 20 TH: 20 <sup>5</sup> MF:20 <sup>5</sup>
Min. Side Street <sup>3</sup> (ft)	20	20	SF: 20 TH: 10	SF: 20 TH: 10	SF: 20	SF: 20 TH: 10	SF: 20 TH: 10 MF: 10	SF: 12 TH: 10 MF: 10	20 <sup>6</sup>	SF: 20 TH: 10 MF: 10	SF: 12 TH: 10 MF: 10
Min. Side Yard <sup>3</sup> (ft)	10	8	SF: 7 TH: 7 <sup>7</sup>	SF: 6 TH: 6 <sup>7</sup>	SF: 8	SF: 6 TH: 6 <sup>7</sup>	SF: 6 TH: 6 <sup>7</sup> MF: 8 <sup>7</sup>	SF: 6 TH: 6 <sup>7</sup> MF: 8 <sup>7</sup>	8 <sup>6</sup>	SF: 6 TH: 6 <sup>7</sup> MF: 8 <sup>7</sup>	SF: 6 TH: 6 <sup>7</sup> MF: 8 <sup>7</sup>
Min. Rear Yard <sup>3</sup> (ft)	25	20	20 <sup>8,9</sup>	20 <sup>8,9</sup>	20 <sup>8,9</sup>	20 <sup>8</sup>	20 <sup>8,9</sup>	20 <sup>8,9</sup>	20 <sup>8</sup>	20 <sup>8</sup>	20 <sup>8</sup>
Min. Common Open Space <sup>10</sup>	40%	35%	25%	20%	30%	30%	20%	20%	20%	35%	20%

(Corrected 02/04/2026)

SF – Single-Family, TH – Townhome, MF – Multi-Family

**NOTES:**

1. This table does not apply to commercial and other non-residential uses which are allowed within this mixed residential/commercial zone. See [Table 10](#).
2. Total acreage within the subdivision or development, including right-of-way, common open space, etc., divided by the Maximum Density shown on this line yields the number of dwelling units allowed.
3. The bulk regulations shown on this line apply to residential dwellings. The bulk regulations for all other permitted and conditional uses, i.e., church, school, etc., are twice the amount specified on this line for SF.
4. Garages shall be at least 20 feet from the sidewalk. If no sidewalk, then garages must be at least 23 feet from edge of street.
5. Ten feet with rear alleys and no driveways in the front.
6. In the DN district, a front porch is permitted to encroach up to six feet into the required front yard setback. Such porch shall be limited to eight feet in width and a single story in height.
7. A side yard setback of at least the dimension given in this Table is required on each end of a group of attached townhomes and multi-family dwellings. Zero feet is required on the interior sides of each townhome and multi-family dwelling (shared wall).
8. Homes with alley-loaded garages (attached or detached): the garage shall be a minimum of five feet from the alley. If it is more than five feet from the alley and opens directly to the alley (as opposed to side-loaded), it shall be at least 20 feet so that a car does not overhang into the alley and has adequate turning radius.
9. Ten feet adjacent to U.S. Army Corps of Engineers' property on Old Hickory Lake.

10. Expressed in terms of minimum percentage of the gross acreage of land within each development, See [Chapter 8.5.4](#) (Common Open Space).
11. Horizontal Property Regime (HPR) shall observe all setback, lot widths, and standards listed in this table and [Chapter 10.2.2](#).
12. The minimum size of a residential planned development must be three acres. (See [Chapter 8.6.1](#))
13. To be determined by Planned Development.

### 8.6.5 | ALL RESIDENTIAL PLANNED DEVELOPMENTS

Front-entry garage doors for all types of dwellings permitted in all residential Planned Developments shall conform to design standards as prepared by the developer and approved by the Planning Commission in conjunction with the approval of the Final Development Plan. The guidelines shall include an appropriate combination of the following or equivalent design standards:

- A. Limit the percentage (%) of homes which will have front-entry garages.
- B. Limit the percentage (%) of total home frontage which will be occupied by the garage doors.
- C. Recess garages by at least 10 feet.
- D. Two single-wide carriage style garage doors shall be used rather than double-wide doors.
- E. Provide architectural amenities such as arches, columns, porticos, and decorative/ornamental lighting.

## 8.7 COMMERCIAL PLANNED DEVELOPMENT

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### 8.7.1 | MINIMUM SIZE

The minimum size of a commercial planned development must be two (2) acres.

### 8.7.2 | PERMITTED USES

Permitted Uses shall adhere to the applicable base zone of the planned development as listed in [Table 5](#) (Commercial Districts: Permitted and Conditional Uses). Uses which are listed as Conditional Uses in [Table 5](#) may, at the discretion of the City, be allowed as Permitted Uses. No use shall be allowed unless allowed as a Permitted or Conditional Use in the base zone of the Planned Development as listed in [Table 5](#). Uses listed in [Table 5](#) which are not compatible with the proposed Planned Development should not be allowed. Accessory and Temporary Uses shall be allowed under the same terms and conditions of the base district unless specifically stated to the contrary on the Development Plan.

### 8.7.3 | LOT AND BUILDING BULK STANDARDS

[Table 10](#) (Commercial Planned Developments: Lot and Building Bulk Standards) establishes minimum lot pervious and yard areas, maximum building height, and floor-area ratio for commercial and industrial planned developments. Greater standards may be imposed and specified on the Development Plan in order to conform to the Land Use Plan and other similar plans and to be consistent with the neighborhood. Horizontal Property Regime (HPR) shall also comply with all of these standards. Each HPR unit with such Regime shall be provided with sufficient open space around each unit to provide the area, width, lot coverage, and yard specified in [Table 10](#). Unless otherwise specified on the Development Plan, the yard encroachments and height exceptions authorized by [Chapter 10.5](#) (Permitted Encroachments and Height Exceptions) shall be allowed.

TABLE 10: COMMERCIAL PLANNED DEVELOPMENTS: LOT AND BUILDING BULK STANDARDS

TABLE 10   COMMERCIAL PLANNED DEVELOPMENTS   LOT AND BUILDING BULK STANDARDS								
BULK REGULATIONS <sup>8</sup>	MXR <sup>1,2</sup>	NC	O	MXC <sup>1,2</sup>	GC	HC	DN	—
Min. Lot Area (sq ft)	3,000	3,000	3,000	3,500	5,000	7,500	7,500	7,500
Max. Floor to Area Ratio	0.50	0.50	1.50	1.00	1.00	0.50	1.00	0.50
Max. Building Height (ft)	35	25	75 <sup>4</sup>	75 <sup>4</sup>	75 <sup>4</sup>	45 <sup>4</sup>	25	80 <sup>4</sup>
Min. Pervious Area	30%	30%	25%	25%	25%	20%	25 <sup>5</sup>	20%
Min. Front Yard (ft)	20	20	20	20	20	30	25 <sup>5</sup>	30
Min. Side Street (ft)	20	20	20	20	20	30	20 <sup>5</sup>	30
Min. Side Yard (ft)	10 <sup>6,7</sup>	10 <sup>6,7</sup>	10 <sup>6,7</sup>	10 <sup>6,7</sup>	10 <sup>6,7</sup>	10 <sup>6,7</sup>	8 <sup>5,7</sup>	10 <sup>6,7</sup>
Min. Rear Yard (ft)	20 <sup>7</sup>	20 <sup>7</sup>	20 <sup>7</sup>	20 <sup>7</sup>	20 <sup>7</sup>	20 <sup>7</sup>	20 <sup>5,7</sup>	30 <sup>7</sup>

**NOTES:**

1. This table does not apply to residential uses which are allowed in this mixed commercial/residential zone. See [Table 9](#).
2. Planned Development Plan required.
3. This table does not apply to residential uses allowed in this zone “above commercial uses.” Refer to [Chapter 8, Table 9](#).
4. Where bordering a district with greater restrictions, see [Chapter 7.4.2](#), Special Height Standards.
5. *\*This space is reserved for future use.\**
6. Zero with party wall conforming to the City’s Building Code.
7. Where non-residential is bordering a residential zone or area, provide buffer/screen as specified by [Chapter 11.4.10](#) (Buffer Yards).
8. Horizontal Property Regime (HPR) shall observe all setback, lot widths, and standards listed in this table and [Chapter 10.2.2](#).

**8.7.4 | MARKET ANALYSIS**

The Planning Commission or Board of Mayor and Aldermen may require a market analysis for any proposed commercial planned development. The analysis will be utilized, among other things, to determine the impact of the proposed development on the long-term development of commercial land use in the Hendersonville area, to determine the timing of

any proposed development, to ascertain the effects of a proposed development upon lands used or zoned for commercial purposes, to form a basis for evaluating the estimate effects on traffic, and other purposes which assist in an understanding of the public interest pertinent in the evaluation of a proposed development. The market analysis, if required, shall be provided by the developer and the developer shall provide any other economic data or analysis as may be reasonably requested by the Planning Commission or Board of Mayor and Aldermen.

#### 8.7.5 | *SITE DEVELOPMENT STANDARDS*

See [Chapter 11](#) (Site Development Standards) for standards pertaining to parking and loading, lighting, landscaping, screening, and tree preservation.

#### 8.7.6 | *BUILDING DESIGN STANDARDS*

See [Chapter 12.3](#) (Commercial Building Design Standards).

#### 8.7.7 | *SIGN STANDARDS*

See [Chapter 13](#) (Sign Standards).

## 8.8 PLANNED DEVELOPMENT APPROVAL PROCEDURE

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Approval of a planned development may be a four-step process:

- (1) Pre-application consultation;
- (2) Concept plan (optional);
- (3) Approval of a Preliminary Development Plan; and
- (4) Approval of a Final Development Plan (see [Chapter 8.8.5](#) for Comprehensive Development Plan (Preliminary/Final Development Plan Combination Option)). No plat shall be recorded and no building permit shall be issued until a Final Development Plan has been approved. (See [Appendix A](#) for Annexation, Rezoning/Preliminary Development Plan, Final Development Plan, Subdivision Review, and Site Plan Review Process).

#### 8.8.1 | *PRE-APPLICATION CONSULTATION*

Prior to the filing of an application for a planned development, the applicant shall consult with the City staff regarding the proposed development. At the pre-application meeting the applicant shall provide information regarding the location of the proposed planned development, the proposed uses, proposed public and private improvements, a list of any known exceptions to this Ordinance or other regulations of the City, and any other

information necessary to clearly explain the planned development. The purpose of such pre-application presentation and conference is to assist the applicant in determining:

1. Whether the proposed planned development appears to be in general compliance with the provisions of this Ordinance and other regulations.
2. Whether any proposed zoning exceptions are within the limits authorized by [Chapter 8.5](#) (Exceptions from Districts Standards).
3. Whether the proposed planned development will be in conformity with the Land Use and Transportation Plan, and the goals and policies of the City for development. The pre-application conference does not require formal application, fee, or filing of a planned development.

#### 8.8.2 | *PLANNED DEVELOPMENT CONCEPT PLAN (OPTIONAL)*

1. Before submitting a formal application for a planned development, the applicant may present a concept plan to the Planning Commission. The purpose of this submission is to obtain information and guidance prior to entering into binding commitments or incurring substantial expense. There shall be no formal vote on this concept plan. At minimum, such a concept presentation shall consist of the following:
  - A. A map or maps in general form containing the proposed land uses, the natural features of the development site, the character and approximate location of all roadways and access drives proposed within the planned development, the location of all adjacent public streets, thoroughfares and public utilities, and schematic drawings showing the size, character, and location of buildings on the site.
  - B. A written statement containing a general explanation of the planned development, including a statement of the present ownership of all the land within the development and the expected schedule of construction.
2. Planning staff and other relevant City staff shall review the concept plan and may provide such information and guidance as it deems appropriate. Any opinions or advice provided shall in no way be binding with respect to any official action the City may take on the subsequent formal application. This does not require an application form or fee.

#### 8.8.3 | *APPLICATION FOR A PRELIMINARY DEVELOPMENT PLAN*

Applications for planned developments shall be filed with the Planning Department, in accordance with the requirements of [Chapter 3.2](#) (Application) and shall contain a Preliminary Development Plan. Upon receiving a complete application, the Planning Department shall forward the application and Preliminary Development Plan to the Planning Commission.

##### 8.8.3.1 | *MINIMUM SUBSTANTIVE REQUIREMENTS FOR PRELIMINARY DEVELOPMENT PLAN*

Every application for a planned development and review of the Preliminary Development Plan shall contain the following:

- A. A plat of the survey of the parcel or parcels of land comprising the zoning lot. The plat shall be drawn to scale showing the actual dimensions of the zoning lot, including all parcels or lots within the zoning lot. The plat shall be drawn in accordance with the recorded plat of such land, if such exists.
- B. Proof of ownership.
- C. A site location map drawn to an appropriate scale showing the streets and all property uses located within 300 feet in all directions of the development site. The map shall indicate the location, height or number of stories, and use of all existing buildings and structures on properties immediately adjacent to the development site and within 300 feet.
- D. A preliminary plan stamped by a design professional and drawn to an appropriate scale showing:
  - 1. The location, ground area, height, and bulk of all existing and proposed buildings and structures within the planned development.
  - 2. The use or uses to be made of such existing and proposed buildings and structures.
  - 3. Minimum building setback/yard requirements.
  - 4. The location and dimensions of all pedestrian walkways, driveways, streets, parking, and loading facilities, including the number of parking spaces serving each building or land use type and all parking related screening and landscaping.
  - 5. The location and dimensions of any areas proposed to be conveyed, dedicated or reserved for parks, parkways, playgrounds, places of worship, school sites, public buildings, or for any other public or quasi-public use.
- E. Typical building elevations and schematic design presentations indicating the general architectural character of all proposed buildings and structures. The drawings need not be the result of final architectural decisions and need not be in detail.
- F. A traffic circulation plan indicating the proposed movement of vehicles, goods, and pedestrians within the planned development and to and from adjacent streets. The plan shall address the impact of the proposed planned development upon existing traffic patterns. Such plan shall also include an examination of adequacy of on-site parking facilities, vehicular circulation patterns, and pedestrian access and safety. A traffic study may also be required by the City Engineer or the Planning Commission for developments which generate more than 500 trips per day.

- G. A drainage plan indicating the manner in which surface drainage will be controlled and managed.
- H. A utilities study prepared by a qualified professional indicating the adequacy of the utility systems serving the proposed planned development, including water distribution lines, sanitary sewers, storm water drainage facilities, and electricity.
- I. A preliminary landscape plan prepared by a qualified professional indicating the general character of all proposed landscaping, screening, and fencing, including all open space areas around buildings and structures. The landscape plan need not be the result of final decisions and need not be in detail.
- J. A separate schedule setting forth any proposed exceptions to any City regulations. The schedule shall include, but not necessarily be limited to, the regulations governing density, area, bulk, and off-street parking and loading as they apply to the zoning district or districts within which the planned development is to be located. This schedule shall cite by chapter number each and every regulation from which an exception is sought.
- K. A rough draft of covenants and restrictions outlining minimum house size, building materials, restrictions on fencing, accessory buildings, and the like, require.
- L. Such other documentation as the Planning Commission may, by general rule, require.

#### 8.8.3.2 | PROCEDURAL REQUIREMENTS FOR PRELIMINARY DEVELOPMENT PLAN

The procedure for approval of the Preliminary Development Plan shall be:

- A. The Planning Commission shall conduct a public hearing to consider recommending approval or disapproval of the Preliminary Development Plan to the Board of Mayor and Aldermen, in accordance with [Chapter 3.4](#) (Public Hearings) no more than 60 days after receipt of a complete application. Notice for the public hearing shall be in accordance with [Chapter 3.3](#) (Notice). If, in the Planning Commission’s judgement, the application does not contain sufficient information to enable the Commission to properly discharge its responsibilities, the Commission may request additional information from the applicant. In that event, the 60-day period shall be suspended pending receipt of all requested information.
- B. The Planning Commission shall determine if the planned development is or is not in the public interest based on the following:
  1. Is the site or zoning lot upon which the planned development is to be located adaptable to the unified development proposed?
  2. Will the proposed planned development be detrimental to or endanger the public health, safety, comfort, or general welfare of any portion of the community?

3. Will the proposed planned development be injurious to the use and enjoyment of other property in the vicinity for the purposes already permitted?
  4. Will the proposed planned development impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district?
  5. Is there provision for adequate utilities, drainage, off street parking and loading, pedestrian access and all other necessary facilities?
  6. Is there provision for adequate vehicular ingress and egress designed to minimize traffic congestion upon public streets?
  7. Are the location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities, compatible with the surrounding neighborhood and adjacent land uses?
  8. Is there suitable landscaping for the portions of the proposed planned development which are not to be used for structures, parking and loading areas, or access ways?
  9. Is the planned development, in the specific location proposed consistent with the spirit and intent of this Ordinance and the Land Use and Transportation Plan?
- C. Following the public hearing or within 45 days of the close of the public hearing, the Planning Commission shall take one of the following actions:
1. Advise the applicant in writing of any recommendation changes, additions, or corrections to the Preliminary Development Plan. If such advice is given, the applicant may, within 30 days, submit a revised Preliminary Development Plan for Planning Commission consideration at a new public hearing. The applicant may do so without paying the additional filing fee. The Planning Commission shall then recommend approval or denial of the Planned Development and submit its written recommendation to the Board of Mayor and Aldermen via General Committee; or
  2. Recommend denial of the application for the Planned Development. The Commission shall set forth, in writing, the reasons for its decision and submit its written recommendation to the Board of Mayor and Aldermen via General Committee; or
  3. Recommendation approval of the planned development and submit its written recommendation to the Board of Mayor and Aldermen via General Committee.

#### 8.8.3.3 | BOARD OF MAYOR AND ALDERMEN ACTION FOR PRELIMINARY DEVELOPMENT PLAN

The Board of Mayor and Aldermen, after receipt of the recommendations from the Planning Commission, shall approve, modify, or deny the Preliminary Development Plan within 60 days following the receipt of the written recommendations of the Planning Commission. However, the Board of Mayor and Aldermen may, by motion, extend the 60-day period. The Board of Mayor and Aldermen action shall be according to the procedure for a Zoning Map amendment (rezoning) as specified in [Chapter 4.8](#) (Zoning Amendment), which may include a recommendation from the General Committee, a public hearing advertised in accordance with state law and passage of an ordinance on two readings at two separate board meetings.

#### 8.8.3.4 | LIMITATIONS ON DENIALS

If an application for a planned development has been denied, by either the Board of Mayor and Aldermen or Planning Commission, no application for substantially the same planned development may be filed for a period of one year from that date of denial. Whether the application is for “substantially the same planned development” shall be within the discretion of the Planning Director.

#### 8.8.3.5 | SUBMITTAL OF NEW PLAN

Should ownership of an approved Preliminary Development Plan change or market conditions or other conditions change, the owner may submit a new Preliminary Development Plan for review and approval. All procedures must be repeated. Should the City deny the new Plan, the previously approved Plan shall remain in effect. This process applies to Preliminary Development Plans which have not yet received Final Development Plan approval. The process for amending an existing Final Development Plan is contained in [Chapter 8.9](#) (Changes to Planned Developments).

#### 8.8.3.6 | REVOCATION OF APPROVED PRELIMINARY DEVELOPMENT PLAN

The owner may request revocation of an approved Preliminary Development Plan. Revocation, regardless if initiated by the owner or the City, shall be according to the process for a map amendment. The Board of Mayor and Aldermen may elect to revoke the Preliminary Development Plan and leave the base zoning as is, or, if the original action to approve the Preliminary Development Plan included rezoning from a different classification type, the Board of Mayor and Aldermen may elect to return the zoning to the original classification prior to the Preliminary Development Plan / rezoning approval.

*NOTE: A Preliminary Development Plan shall stay in effect on a property until it has been revoked as stated above. If the City takes action to revoke an approved Preliminary Development Plan, it will be revoked in its entirety and revert back to the appropriate straight zoning classification as stated above.*

#### 8.8.4 | APPLICATION FOR FINAL DEVELOPMENT PLAN

Applications for a Final Development Plan shall be filed with the Planning Department, in accordance with the requirements of [Chapter 3.2](#) (Application) and shall contain an

approved Preliminary Development Plan and a proposed Final Development Plan. Upon receiving a complete application, the Planning Department shall forward the Final Development Plan to the Planning Commission.

#### 8.8.4.1 | MINIMUM SUBSTANTIVE REQUIREMENTS FOR FINAL DEVELOPMENT PLAN

Every application for a Final Development Plan shall contain the following information and documentation:

- A. In final form, all of the information required for the Preliminary Development Plan.
- B. A final plan stamped by a design professional and drawn to an appropriate scale which includes the following information:
  - 1. Final designation of the location, ground area, height, and bulk of all existing and proposed buildings and structures within the planned development.
  - 2. A detailed tabulation of each separate land use area, including land and building areas, and where applicable, the total number of residential dwelling units and the residential density.
  - 3. The use or uses to be made of existing and proposed buildings or structures.
  - 4. The minimum building setbacks/yard requirements.
  - 5. The location and dimensions of all pedestrian walkways, driveways, streets, parking and loading facilities, including the number of parking spaces serving each building or land use type and all parking related screening and landscaping.
  - 6. The location, dimensions, and details of any areas to be conveyed, dedicated or reserved parks, parkways, playgrounds, amenities, place of worship, school sites, public buildings, or for any other public, or quasi-public use.
- C. All covenants, easements, agreements, and other provisions required to govern the use, maintenance and continued protection of the planned development, along with an agreement assuring that the applicant, any subsequent owner or, where applicable, a condominium or owners' association shall be responsible for refuse disposal, all street, utility, and common area and open space maintenance within the development.
- D. A landscaping plan prepared by a qualified professional indicating the general character of all proposed landscaping, screening and fencing, including all open space areas around buildings and structures. Also include the location, height, design, and illumination characteristics of all external lighting fixtures within the development.

- E. A final utilities and drainage plan indicating the size and location of all water distribution lines, sanitary sewers and storm drainage facilities required to serve the planned development and the manner in which surface drainage will be controlled and managed.
- F. Typical building elevations and schematic design presentations indicating the architectural character of all proposed buildings and structures.
- G. A development and construction schedule indicating the following:
  1. The date when construction of the planned development will begin or, if developed in phases, the date when construction of the initial phase will begin.
  2. If the planned development is to be developed in phases, a map indicating the phases in which the planned development will be built, the dates with the Final Development Plans for all but the initial phase will be filed, and the approximate dates when construction of each subsequent phase will begin.
  3. The date when construction of the planned development will be completed, and the date when a specific use or uses will be established, or if developed in phases, the date when construction of each phase will be completed, and the date when a specific use or uses will be established for each phase.

#### 8.8.4.2 | PROCEDURAL REQUIREMENTS FOR FINAL DEVELOPMENT PLAN

Within three years following the approval the Preliminary Development Plan, the applicant shall file with the Planning Department for review by the Planning Commission a Final Development Plan, or the applicant may submit a letter to the Planning Department to be presented to the Planning Commission to request a one-year extension of the approval of the Preliminary Development Plan. Such one-year extension request may be repeated for multiple years, as long as the Planning Commission approves the request.

Failure to apply for the extension does not void the approved Preliminary Development Plan. However, the Planning Commission may recommend to the Board of Mayor and Aldermen the revocation of the approved Preliminary Development Plan and the Board of Mayor and Aldermen may revoke.

If the Preliminary Development Plan is to be developed in phases, the applicant need only to file a Final Development Plan for the first phase of development, as indicated in the development and construction schedule prescribed below. The Final Development Plan for the remaining phases shall be filed in accordance with the development and construction schedule.

#### A | REVIEW OF FINAL DEVELOPMENT PLAN BY THE PLANNING DEPARTMENT

The Final Development Plan shall be in substantial compliance with the approved Preliminary Development Plan. Specifically:

1. The number of residences shall not increase by more than five percent.
2. The square feet of non-residential building area (all floors) shall not increase by more than 15%.
3. Other lot and building bulk standards shall not be made less restrictive.
4. Building types and mix shall be substantially the same.
5. Land uses (permitted uses) shall be substantially the same.
6. The street system shall be substantially the same or better.
7. Grading and infrastructure shall be substantially the same or better.
8. Open space, amenities, and overall quality shall be substantially the same or better.
9. The phasing plan and schedule shall be substantially the same.
10. For mixed use developments, the mix of commercial and residential shall be substantially the same.

*NOTE: "Substantially the same" or better shall be determined by the Planning Director.*

## B | REVIEW OF FINAL DEVELOPMENT PLAN BY THE PLANNING COMMISSION

The Planning Commission shall review the Final Development Plan within 30 days of certification by the Planning Department that the application is complete and in substantial compliance with the approved Preliminary Development Plan. The review shall be for the purpose of determining whether the Final Development Plan is in conformity with [Chapter 8.6](#) (Residential Planned Developments) and/or [Chapter 8.7](#) (Commercial Planned Developments) and the approved planned development. Although comments may be taken from those in attendance, at the discretion of the Planning Commission, such review shall not be a public hearing.

## C | FINAL DEVELOPMENT PLAN PROCEDURE AFTER PLANNING COMMISSION REVIEW

1. If the Planning Commission finds that the Final Development Plan is in substantial compliance and conformity with the approved Preliminary Development Plan and all other City regulations, then the Planning Commission shall so report to the Board of Mayor and Aldermen via General Committee. If the Final Development Plan is found not to be in conformity with the approved Preliminary Development Plan or other City regulations, the Planning Commission shall inform the applicant with regard to specific areas found not to be in compliance. The applicant may resubmit the Final Development Plan with changes to those areas found not to be in compliance.

2. Within 30 days of receipt of the Planning Commission’s report via General Committee, the Board of Mayor and Aldermen shall review and act upon the Final Development Plan. The Board of Mayor and Aldermen may accept the report of the Planning Commission or may conduct its own review of the Final Development Plan. Approval or denial shall be in the form of a resolution.

#### D | AFTER FINAL DEVELOPMENT PLAN APPROVAL

1. Within two years from the approval of the Final Development Plan, the owner/developer shall submit a subdivision application or Site Plan for at least a portion of the site, or, the applicant may submit a letter to the Planning Department to be presented to the Planning Commission to request a one-year extension of the approval for the Final Development Plan. Such one-year extension request may be repeated for multiple years as long as the Planning Commission approves the request. Failure to apply for an extension does not void the Planned Development, however, the Planning Commission may recommend to the Board of Mayor and Aldermen the revocation of the approved Final Development Plan and the Board of Mayor and Aldermen may revoke in conformance with State vesting laws.
2. After the approval of the Final Development Plan, the use of the land and the construction, modification, or alteration of any buildings or structures within the planned development will be governed by the approved Final Development Plan and all other City regulations. If there is a conflict between the Final Development Plan and other regulations, the Final Development Plan shall prevail.

#### 8.8.5 | *COMPREHENSIVE DEVELOPMENT PLAN OPTION (COMBINED PRELIMINARY DEVELOPMENT PLAN & FINAL DEVELOPMENT PLAN)*

1. The Preliminary Development Plan may be combined with the Final Development Plan if all the following requirements are met:
  - A. The submission procedures and process stated in [Chapter 8.8.3.2](#) for the Preliminary Development Plan and minimum application submission requirements stated in [Chapter 8.8.3.1](#) for the Preliminary Development Plan shall be followed.
  - B. The minimum application submission requirements stated in [Chapter 8.8.4.1.A-G](#) for the Final Development Plan shall be followed.
  - C. The applicant must have a pre-application consultation with Planning Staff in conformance with [Chapter 8.8.1.1](#).
  - D. The Planning Director has determined the overall scope, detail, and size of the proposed Preliminary/Final Development Plan would be best served by combining both processes into one highly detailed submission.

## 8.9 CHANGES TO APPROVED PRELIMINARY OR FINAL DEVELOPMENT PLANS

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### 8.9.1 | PRELIMINARY DEVELOPMENT PLAN

Changes to an approved Preliminary Development Plan which exceed the changes listed in [Chapter 8.8.4.2.A](#) shall require re-approval by the Planning Commission and the Board of Mayor and Aldermen as an amended plan following the same procedure as for an original Preliminary Development Plan approval.

Changes that do not exceed the limits in [Chapter 8.8.4.2.A](#) may be approved by the Planning Department. For such lesser revisions to a Preliminary Development Plan, the Planning Department may require the submittal of a revised/corrected Preliminary Development Plan or may allow such revisions to be reflected in the subdivision plat or Site Plan.

### 8.9.2 | FINAL DEVELOPMENT PLAN

Changes to an approved Final Development Plan which exceed the changes listed in [Chapter 8.8.4.2.A](#) (Review of Final Development Plan by the Planning Department) shall require re-approval by the Planning Commission and Board of Mayor and Aldermen at a public hearing prior to taking action. Notice of the public hearing shall be in accordance with [Chapter 3.3.C](#) (Mailed Notice).

Changes that do not exceed the limits in [Chapter 8.8.4.2.A](#) may be approved by the Planning Department. For such lesser revisions to a Preliminary Development Plan, the Planning Department may require the submittal of a revised/corrected Final Development Plan or may allow such revisions to be reflected in the subdivision plat or Site Plan.

### 8.9.3 | PRELIMINARY OR FINAL DEVELOPMENT PLAN ADD USE

The request for an Add-Use to an approved Preliminary or Final Development Plan shall require approval of Planning Commission, but not the Board of Mayor and Aldermen. The Planning Commission shall conduct a public hearing prior to taking action. Notice of the public hearing shall be in accordance with [Chapter 3.3.3](#) (Mailed Notice). Under no circumstances shall a use be approved which is not permitted in the base zone.

Should the Planning Commission deny a request for a change, the owner may elect to appeal and pursue approval with the Board of Mayor and Aldermen.

## 8.10 REVOCATION

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If construction work on the proposed planned development has not begun within five years from the date of the Board of Mayor and Aldermen's vote to approve the Preliminary Development Plan, the approval of the planned development may be declared null and void

and all rights shall lapse. Revocation shall be according to the process and terms of [Chapter 8.8.3.6](#) (Preliminary Development Plan Procedure).

## **8.11 CONDITIONS AND GUARANTEES**

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Prior to granting approval of any planned development, the Planning Commission may recommend, and the Board of Mayor and Aldermen may stipulate, such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the planned development as deemed necessary to guarantee performance of all conditions.

## **8.12 ISSUANCE OF BUILDING PERMIT**

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Building permits may only be issued if the construction work in question is in conformity with the approved Final Development Plan and with all other applicable ordinances and regulations.

## **8.13 ENFORCEMENT OF PLANNED DEVELOPMENT**

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The Planned Department shall periodically review all permits issued for the planned development in conjunction with the construction that has taken place on the planned development site, and compare actual development with the approved development and construction schedule, and require any corrective action necessary to assure compliance with the approved Final Development Plan and this Ordinance.

# CHAPTER 9 | HISTORIC AND LANDMARK DISTRICT REGULATIONS

- 9.1 | PURPOSE AND INTENT
- 9.2 | CREATION, ORGANIZATION, AND APPOINTMENT OF HISTORIC ZONING COMMISSION
- 9.3 | POWERS, FUNCTIONS, AND DUTIES
- 9.4 | CREATION OF HISTORIC AND LANDMARK DISTRICTS
- 9.5 | CERTIFICATE OF APPROPRIATENESS
- 9.6 | ECONOMIC HARDSHIP
- 9.7 | PREVENTION OF DEMOLITION BY NEGLECT
- 9.8 | APPEALS FROM DECISION OF THE HISTORIC ZONING COMMISSION

## 9.1 PURPOSE AND INTENT

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This historic and landmark district provisions are established pursuant to the authority contained in T.C.A., Sections 13-7-401 through 13-7-410, to promote the educational, cultural, economic, and general welfare of this community by:

1. Providing a mechanism to identify and preserve the distinctive historic and architectural characteristics of Hendersonville which represent elements of the City’s cultural, social, economic, political, and architectural history;
2. Fostering civic pride in the beauty and noble accomplishments of the past as represented in Hendersonville’s historic structures and sites;
3. Protecting and enhancing the attractiveness of the City to home buyers, tourists, visitors and shoppers, and thereby supporting and promoting business, commerce, industry, and providing economic benefit to the City; and
4. Fostering and encouraging preservation, restoration, and rehabilitation of structures, land areas and neighborhoods and thereby preventing futures urban blight.

## 9.2 CREATION, ORGANIZATION, AND APPOINTMENT OF HISTORIC ZONING COMMISSION

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### 9.2.1 | CREATION

A Historic Zoning Commission is hereby created for Hendersonville, Tennessee, and it shall consist of seven members who shall have been residents of the area of jurisdiction of the City of Hendersonville for not less than three years immediately prior to the appointment and who shall continue to be so eligible as long as they serve.

### 9.2.2 | MEMBERSHIP

Membership on the Historic Zoning Commission shall be composed of the following members:

1. One member of the Hendersonville Planning Commission.
2. One member representing a local historic or patriotic organization.
3. One architect who is a member, or meets membership requirements, of the American Institute of Architects, if available; if such a qualified architect is unavailable, this position will be filled by another member selected from the community in general.
4. Four members as selected from the community in general.

### 9.2.3 | APPOINTMENT TO THE HISTORIC ZONING COMMISSION

Members of the Historic Zoning Commission shall be appointed by the Mayor, subject to confirmation by the Board of Aldermen. Except as herein provided, the members of the Historic Zoning Commission shall serve for a five-year term. The members first appointed, shall serve respectively as follows:

One member for one year, one member for two years, one member for three years, two members for four years, and two members for five years.

The term of the member nominated from the Planning Commission shall be concurrent with the term on the Planning Commission, and in the event that any other member shall also be a member of the Board of Mayor and Aldermen, the term of such member shall be concurrent with the term of the elected office of the member. All members shall serve without compensation and may be removed from membership by the Mayor. Vacancies on the Historic Zoning Commission shall be filled for the unexpired term of those members whose position has become vacant in the manner herein provided for the appointment of such member; vacancies shall be filled within 60 days.

### 9.2.4 | ELECTION OF OFFICERS, RULES, AND MEETINGS

The Historic Zoning Commission shall elect from its members its own chairman and other officers deemed appropriate to carry out its purpose. The commission shall adopt rules of order and establish regular meeting dates. At least four members of the commission shall constitute a quorum for the transaction of its business. The concurring vote of a majority of the commission shall constitute final action of the commission on any matter before it.

### 9.2.5 | CONFLICT OF INTEREST

Any member of the Historic Zoning Commission who shall have a direct or indirect interest in any property which is subject matter of or is affected by a decision of said commission shall be governed by the provisions of T.C.A., Section 12-4-101.

## 9.3 POWERS, FUNCTIONS, AND DUTIES

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Subject to state law and the procedures prescribed hereunder, the Hendersonville Historic Zoning Commission shall have and may exercise the following powers, functions, and duties:

1. To create and to recommend the adoption of legislation which will facilitate establishment of special historic and landmark districts wherein the demolition of any building or other structure now located or to be located will be subject to special provisions as set forth herein and as further specified in T.C.A., Section 13-7-402.
2. To conduct a survey of buildings, places, or areas within the City of Hendersonville for the purpose of identifying those of historic or cultural significance.
3. To develop or adopt, prior to the establishment of any historic or landmark district, review guidelines as specified in [Subchapter 9.4.6](#) (Voluntary Design Guidelines) which the Historic Zoning Commission will apply in ruling upon the granting or denial of a Certificate of Appropriateness.
4. To submit and review all applications designating historic sites or buildings as special historic or landmark districts.
5. To review and make decisions on any application for a Certificate of Appropriateness.
6. To determine an appropriate system of markers for designation of historic landmark districts.
7. To prepare and publish maps, brochures, and other descriptive material about Hendersonville's Historic Landmarks and Districts.
8. To cooperate with and enlist the assistance of persons, organizations, corporations, foundations, and public agencies in matters involving historic preservation, renovation, rehabilitation, and property reuse.
9. To advise and assist owners of landmarks or historic structures on physical and financial aspects of preservation, renovation, rehabilitation, and reuse.
10. To accept gifts, grants, and money as may be appropriate for the purposes of this article.
11. To adopt, publish, and make available By-Laws for the conduct of commission meetings.
12. To exercise such powers as may be delegated it by the Tennessee Historical Commission under the certified Local Government's Historic Preservation Program to include participation in the review of nominations to National Register of Historic Places, and enforcement of appropriate state and local legislation for designation and protection of historic properties.

13. To review proposed zoning amendments, applications for conditional use permits or zoning variances and applications for subdivision(s) that affect proposed or designated landmarks and historic districts.
14. To retain such specialists or consultants or to appoint such citizen advisory committees as may from time to time be required.
15. To testify before all boards and commissions, including the Planning Commission and the Board of Zoning Appeals, on any matter affecting historically and architecturally significant property, structures, areas.
16. To confer recognition upon the owners of landmarks, property, or structures within historic districts.
17. To develop a preservation component in the General Plan of the City and to recommend it to the Planning Commission.
18. To periodically review the Zoning Ordinance and to recommend to the Planning Commission and the Board of Mayor and Aldermen any amendments appropriate for the protection of landmarks or property and structures located within historic districts.
19. To establish incentives for an owner to voluntarily comply with historic preservation design guidelines in modifying historic buildings.
20. To negotiate, subject to Board of Mayor and Aldermen approval, a “First Right of Refusal” to purchase any Landmark site or any other historic site which the Commission believes to be necessary to carry out the purposes of this Ordinance.
21. To undertake any other action or activity necessary or appropriate to the implementation of its power and duties or to implementation of the purposes of this article.

## **9.4 CREATION OF HISTORIC AND LANDMARK DISTRICTS**

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### **9.4.1 | DISTRICT CLASSIFICATIONS**

There are hereby created historic and landmark districts within the corporate limits of the city as a part of this Ordinance:

1. The Historic District whose boundaries shall be shown on the [official Zoning Map](#) or special overlays thereto which are made a part of this Ordinance and noted by name on said maps, within which no structure shall be demolished unless the action complies with the requirements set forth in this Ordinance.
2. The Historic Landmark whose boundaries shall be shown on the [official Zoning Map](#) or special overlays thereto which are made a part of this Ordinance and noted by name on

said maps, within which no structure shall be demolished unless the action complies with the requirements set forth in this Ordinance.

#### 9.4.2 | *SURVEYS AND RESEARCH*

The Historic Zoning Commission shall undertake an ongoing survey within the corporate limits of the City of Hendersonville to identify neighborhoods, areas, sites, structures, and objects that have historic, community, architectural, or aesthetic importance, interest, or value. Before the Historic Zoning Commission shall accept any nomination of any historic district or landmark, it shall develop a plan for completion of a survey of the entire City.

#### 9.4.3 | *CRITERIA FOR DESIGNATION OF HISTORIC AND LANDMARK DISTRICTS*

In order for a building, structure, area, site, or neighborhood to be considered for nomination as an historic district or landmark such shall be found to meet one or more of the following criteria:

1. That it is associated with an event which has made a significant contribution to local, state, or national history;
2. That it includes structures associated with the lives of persons significant in local, state, or national history;
3. That it contains structures or groups of structures which embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that poses high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;
4. That it has yielded or may be likely to yield archaeological information important in history or prehistory; or
5. That it is listed in the National Register of Historic Places.

#### 9.4.4 | *NOMINATION OF HISTORIC DISTRICTS*

Nominations for designation of an historic or landmark district shall be made to the Historic Zoning Commission on a form prepared by it and may be submitted by a member of the Board of Mayor and Aldermen, or by the owner(s) of record on the nominated property or structures. In the event that two or more properties are located within the nominated district, a petition signed by 51% of the property owners shall be required for nomination.

#### 9.4.5 | *REVIEW AND RECOMMENDATION*

The Historic Zoning Commission shall within 60 days from receipt of a completed nomination in proper form adopt by resolution a recommendation that the nominated historic or landmark district does or does not meet the criteria for nomination set out in [Chapter 9.4.3](#) (Criteria for Designation of Historic and Landmark Districts). The resolution

accompanied by a written report shall be forwarded to the Hendersonville Planning Commission for review as specified in [Chapter 9.4.9](#) (Planning Commission Review) and to the Board of Mayor and Aldermen for final action. The report shall contain the following information:

1. Explanation of the significance or lack of significance of the nominated historic or landmark district as it relates to the criteria for designation.
2. Explanation of the integrity or lack of integrity of the nominated district.
3. In the case of a nominated landmark district found to meet the criteria for designation:
  - A. The significant exterior architectural features of the nominated landmark that should be protected;
  - B. The types of construction, alteration, demolition, and removal, other than those requiring a building or demolition permit that should be reviewed for appropriateness pursuant to the provisions of [Chapter 9.5](#) (Certificate of Appropriateness).
4. In the Case of a nominated historic district found to meet the criteria for designation:
  - A. The types of significant exterior architectural features of the structure within the nominated historic district that should be protected.
  - B. The types of alterations and demolitions that should be reviewed for appropriateness pursuant to the provisions of [Chapter 9.5](#).
5. Proposed design guidelines required by [Chapter 9.4.6](#) (Voluntary Design Guidelines) for applying the criteria for review of Certificates of Appropriateness to the nominated landmark or historic district.
6. The relationship of the nominated historic or landmark district to the ongoing effort of the Historic Zoning Commission to identify and nominate all potential areas and structures that meet the criteria for designation.
7. Recommendation as to appropriate permitted uses, special uses, height and area regulations, minimum dwelling size, floor area, sign regulations, and parking regulations necessary or appropriate to the preservation of the nominated historic or landmark district.
8. A map showing the location of the nominated historic or landmark district.

#### 9.4.6 | VOLUNTARY DESIGN GUIDELINES

Prior to the establishment of a historic or landmark district, the Historic Zoning Commission shall adopt for each such proposed district a set of voluntary design guidelines, which it will apply in ruling upon the granting or denial of a Certificate of Appropriateness, in order to

qualify for incentives as provided for in this Chapter. Such guidelines shall be consistent with this Ordinance and with the requirements for such as established and provided for by T.C.A., Section 13-7-406. The Historic Zoning Commission shall to the maximum feasible extent secure the involvement and participation of owners of property proposed for location within any historic district or landmark in developing such guidelines. These guidelines shall accompany the request for historic district designation and shall be considered conjunctively with such request. These design guidelines shall, at a minimum, consider the following criteria:

#### 9.4.6.1 | HEIGHT

The height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures in an historic district.

#### 9.4.6.2 | PROPORTIONS OF WINDOWS AND DOORS

The proportions and relationships between doors and windows should be compatible with the architectural style and character of the landmark and with surrounding structures within an historic district.

#### 9.4.6.3 | RELATIONSHIP OF BUILDING MASSES AND SPACES

The relationship of a structure within a historic district to the open space between it and adjoining structures should be compatible.

#### 9.4.6.4 | ROOF SHAPE

The design of the roof should be compatible with the architectural style and character of the landmark and surrounding structures in an historic district.

#### 9.4.6.5 | LANDSCAPING

Landscaping should be compatible with the architectural character and appearance of the landmark and of surrounding structures and landscapes in historic districts.

#### 9.4.6.6 | SCALE

The scale of the structure after alteration, construction, or partial demolition should be compatible with its architectural style and character and with surrounding structures in an historic district.

#### 9.4.6.7 | DIRECTIONAL EXPRESSION

Facades in historic districts should blend with other structures with regard to directional expression. Structures in a historic district should be compatible with the dominant horizontal or vertical expression of surrounding structures. The directional expression of a

landmark after alteration, construction, or partial demolition should be compatible with its original architectural style and character.

#### 9.4.6.8 | ARCHITECTURAL DETAILS

Architectural details including materials, color, and textures should be treated so as to make a landmark compatible with its original architectural style and character and to preserve and enhance the architectural style or character of an historic or landmark district.

#### 9.4.7 | NOTIFICATION OF NOMINATION

The Board of Mayor and Aldermen shall schedule a public hearing on the nomination within 30 days following receipt of a report and recommendation from the Historic Zoning Commission that a nominated historic or landmark district does or does not meet the criteria for designation. Notice the date, time, place, and purpose of the public hearing and a copy of the completed nomination form shall be sent by regular mail to the owner(s) of record and to the nominators, as well as to property owners adjoining the nominated historic or landmark district at least 15 days prior to the date of the hearing. Notice shall also be published in a newspaper having general circulation in the City of Hendersonville. The notice shall state the street address and legal description of the boundaries of a nominated district.

#### 9.4.8 | PUBLIC HEARING

Oral or written testimony concerning the significance of the nominated historic or landmark district shall be taken at the public hearing from any person concerning the nomination. The Historic Zoning Commission may present expert testimony or present its own evidence regarding the compliance of the nominated district with the criteria for consideration of a nomination set forth in [Chapter 9.4.3](#) (Criteria of Designation of Historic and Landmark Districts).

The owner or owners of a nominated preservation district shall be allowed reasonable opportunity to present evidence in support of his position and shall be afforded the right of representation by counsel and reasonable opportunity to cross-examine expert witnesses. The hearing shall be closed upon completion of testimony.

#### 9.4.9 | PLANNING COMMISSION REVIEW

Upon receipt of a report prepared by the Historic Zoning Commission in accordance with [Chapter 9.4.5](#) (Review and Recommendation), the Planning Commission shall conduct a review as provided herein. The Commission shall conduct a review as provided herein. The Planning Commission shall review such plan relative to the following:

1. The adopted Major Thoroughfare Plan.
2. Any redevelopment or restoration plans.

3. Utility plans (including need for easements).
4. Impact on or possible modification required in base district zoning.
5. All other matters normally considered in recommending a zoning change, excepting those aspects of the report which pertain specifically and solely to the historic district and as otherwise specified in [Chapter 9.4.5](#).

#### 9.4.10 | ACTION BY BOARD OF MAYOR AND ALDERMEN

The Board of Mayor and Aldermen shall, within 60 days after receiving the report prepared by the Historic Zoning Commission and the review of the Planning Commission concerning the proposed historic or landmark district, either reject the proposed nomination or designate the district by ordinance. The Board of Mayor and Aldermen shall hold a public hearing and otherwise proceed in the manner specified in [Chapter 4.8](#) (Zoning Amendment).

A minimum of nine votes of Board of Mayor and Aldermen shall be required to create a Historic District or Landmark.

#### 9.4.11 | THE DESIGNATION ORDINANCE

Upon designation, the historic or landmark district shall be classified as a “District H – Historic District”, and the designation ordinance shall prescribe the following:

1. significant exterior architectural features – the types of construction, alterations, demolition, and removal – other than those requiring a building or demolition permit that should be reviewed for appropriateness and
2. the design guidelines for applying the criteria for review of appropriateness, permitted uses, special uses, height and area regulations, minimum dwelling size, floor area, sign regulations, and parking regulations.

The official [Zoning Map](#) of the City of Hendersonville shall be amended to show the location of the “District H – Historic District.”

#### 9.4.12 | INTERIM CONTROL

No building permit shall be issued for demolition, or removal of a nominated landmark or of any property or structure within a nominated historic district from the date of the meeting of the Historic Zoning Commission at which a nomination form is first presented until the final disposition of the nomination by the Board of Mayor and Aldermen unless such removal, or demolition is authorized by formal resolution of the Board of Mayor and Aldermen as necessary for public health, welfare, or safety. In no event, shall the delay be more than 180 days.

#### 9.4.13 | AMENDMENT AND RESCISSION OF DESIGNATION

Designation may be amended or rescinded upon petition to the Historic Zoning Commission and compliance with the same procedure and according to the same criteria set forth herein for designation.

### 9.5 CERTIFICATE OF APPROPRIATENESS

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A Certificate of Appropriateness shall be required before the following actions affecting the exterior architectural appearance of any landmark or other property within a historic district may be undertaken:

- Any removal of a building.
- Any demolition in whole or in part.

To qualify for any incentive which may be provided, a Certificate of Appropriateness may be obtained for the following actions affecting the exterior architectural appearance of any landmark or other property within a historic district:

- Any construction or alteration requiring a building permit.
- Any consideration or alteration affecting a significant exterior architectural feature as specified in the Ordinance designating the historic or landmark district.

#### 9.5.1 | APPLICATION FOR CERTIFICATES OF APPROPRIATENESS

Every application for a demolition permit of a designated landmark or other property within a designated historic district shall be forwarded by the Codes Department to the Historic Zoning Commission within seven days following the receipt of the application by the Codes Department. The Codes Department shall not issue the demolition permit until a Certificate of Appropriateness has been issued by the Historic Zoning Commission.

Any applicant may request a meeting with the Historic Zoning Commission before the application is sent by the Codes Department to the Historic Zoning Commission or during the review of the application. Application for review of demolition or removal shall be made on a form available at the office of the commission. The Historic Zoning Commission shall consider the completed application at its next regular meeting.

The Historic Zoning Commission may establish a subcommittee of its members to review routine applications for a Certificate of Appropriateness when delay to the next regular meeting would create an unnecessary inconvenience to the applicant. A Certificate of Appropriateness may be issued prior to the next regular meeting upon the signatures of four of the members of the subcommittee.

Any demolition of a landmark structure without first securing a Certificate of Appropriateness shall result in the withholding of building permits for the subject property for the period of five years from the date of demolition.

#### 9.5.2 | REVIEW AND DESIGNATION BY HISTORIC ZONING COMMISSION

Upon receipt of an application for a Certificate of Appropriateness which in the judgement of the Historic Zoning Commission is sufficiently complete to enable the Commission to make a decision on the request, the Commission shall set a meeting for initial presentation of the application. The Historic Zoning Commission shall within 30 days following the initial meeting at which the application is presented approve, conditionally approve, or deny the request.

In its review of any application submitted hereinafter the Historic Zoning Commission shall apply all the applicable review guidelines which have been established in accordance with [Chapter 9.4.6](#) (Voluntary Design Guidelines). Any individual or group of property owners from the historic district wherein the use is located for which Certificate of Appropriateness is being requested may appear before the Historic Zoning Commission for purposes of offering evidence or testimony concerning the request and its applicability to the design guidelines established for such district.

In making its decision as to the granting of a Certificate of Appropriateness, the Historic Zoning Commission shall consider:

1. The review guidelines established for the district.
2. The testimony and evidence offered by property owners from the historic district wherein the use is located.
3. The general standards for review set forth in [Chapter 9.4.5](#) (Review and Recommendation).
4. See [Table 2](#) for Public Notice Requirements.

#### 9.5.3 | STANDARDS FOR REVIEW

In considering an application for a building or demolition permit or for a Certificate of Appropriateness, the Historic Zoning Commission shall be guided by the following general standards in addition to any design guidelines in the Ordinance designating the historic or landmark district.

1. Every reasonable effort shall be made to provide a compatible use for a property that requires a minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.

2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature shall be avoided.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.
4. Changes that may have been taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features shall be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

#### 9.5.4 | DENIAL OF A CERTIFICATE OF APPROPRIATENESS

A denial of a Certificate of Appropriateness shall require a minimum of five votes of the Historic Zoning Commission and shall be accompanied by a statement of the reasons for the denial. The Historic Zoning Commission shall make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the commission to reconsider its denial and shall confer with the applicant and attempt to resolve as quickly as possible the differences between the owner and the commission.

The applicant may resubmit an amended application or reapply for a building or demolition permit that takes into consideration the recommendations of the Historic Zoning Commission.

## 9.6 ECONOMIC HARDSHIP

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### 9.6.1 | CERTIFICATE OF ECONOMIC HARDSHIP

Application for a Certificate of Economic Hardship shall be made on a form prepared by the Historic Zoning Commission. The Historic Zoning Commission shall schedule a public hearing concerning the application and provide notice in the same manner as [Chapter 9.4.7](#) (Notification of Nomination) and any person may testify at the hearing concerning economic hardship in the same manner as provided by [Chapter 9.4.8](#) (Public Hearing).

The Historic Zoning Commission may solicit expert testimony or require the applicant for a Certificate of Economic Hardship make submissions concerning any or all the following information before it makes a determination on the application.

1. Estimate of the cost of the proposed construction, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the Historic Zoning Commission for changes necessary for the issuance of a Certificate of Appropriateness.
2. Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition, or removal; after any changes recommended by the Historic Zoning Commission; and in the case of a proposed demolition, after renovation of the existing property for continued use.
3. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
4. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years.
5. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property.
6. Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two years.
7. Assessed value of the property according to the two most recent assessments.
8. Real estate taxes for the previous two years.

Form of ownership or operation of the property, whether sole proprietorship, for-profit, or not-for-profit corporation, limited partnership, joint venture, or other.

### 9.6.2 | DETERMINATION OF ECONOMIC HARDSHIP

The Historic Zoning Commission shall review all the evidence and information required of an applicant for a Certificate of Economic Hardship and make a determination whether the denial of a Certificate of Appropriateness has been deprived, or will deprive, the owner of the property of reasonable use of, or economic return on, the property. Written notice of the determination shall be provided in the same manner as required by [Chapter 9.5.2](#) (Review and Designation by Historic Zoning Commission).

No construction, alteration, repair, rehabilitation, relocation, or demolition of any building structure or other improvement to publicly and privately owned landmarks or to any real estate situated within a historic district, for which the Historic Zoning Commission has been granted the authority to review or to grant or deny a Certificate of Appropriateness, shall be undertaken without first submitting an application for such together with all exterior plans, elevations, and other information necessary to determine the appropriateness of the features to be referred to the Historic Zoning Commission. In the case of applications for demolition, no plans or other information shall be required to be submitted by the applicant.

No permit shall be issued for any of the above noted activities, nor shall any be undertaken whether or not a permit is required until the Historic Zoning Commission shall have issued a Certificate of Appropriateness.

## 9.7 PREVENTION OF DEMOLITION BY NEGLECT

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1. All structures located within a historic or landmark district which contribute architecturally or historically to the character and importance of the district and all landmarks shall be preserved against decay and deterioration and kept free from structural defects by the owner or such other person or persons who may have legal custody and control thereof. The owner or other person having custody and control, in keeping with the City's Housing Code, shall repair any exterior or interior portions of such building, site, structure, or object which is becoming deteriorated, decayed, or damaged and tending to cause the structure to fall into a state of disrepair.
2. The Historic Zoning Commission, on its own initiative, may file a petition with the Building Inspector requesting that he proceed under the City's Housing Code to require correction of defects or repairs to a structure covered under subsection 1 above, so that such structure shall be preserved and protected in accordance with the purposes of this Ordinance.
3. If any structure covered by subsection 1, above, shall have to be demolished as a public safety hazard and the owner of the structure shall have received two or more notices from the Building Inspector of building neglect in violation of this Ordinance and other

City Ordinances, no application for a permit for a project on the property may be considered for a period of two years from the date of demolition of the structure. Additionally, no permit for a curb cut needed for the operation of a surface parking lot shall be granted by any city office during the period.

## **9.8 APPEALS FROM DECISION OF THE HISTORIC ZONING COMMISSION**

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Appeals from any decision of the Historic Zoning Commission may be taken to a court of competent jurisdiction as provided by law.

Nothing in this article shall be interpreted as giving the commission any authority to consider, review, examine, or control the use of property classified as a historic landmark or landmark district. Use shall be controlled solely by the zoning controlling such property prior to its classification as a historic or landmark district or as may be rezoned by subsequent amendments.



# CHAPTER 10 | SUPPLEMENTARY STANDARDS

- 10.1 | PURPOSE
- 10.2 | USE OF LAND AND BUILDINGS
- 10.3 | USE-SPECIFIC STANDARDS
- 10.4 | ACCESSORY USES, BUILDINGS, AND STRUCTURES
- 10.5 | PERMITTED ENCROACHMENTS
- 10.6 | TEMPORARY USES AND STRUCTURES
- 10.7 | AIRPORT HAZARD AREA

## 10.1 PURPOSE

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The purpose of this Chapter is to set forth supplemental standards for the use of land and buildings to ensure that the use is compatible with the surrounding area. This Chapter is also intended to set forth standards for other structures and uses on a lot other than for the principal building and use. This includes accessory buildings, structures and uses, and permitted encroachments. This Chapter also sets forth standards for temporary uses and structures.

## 10.2 USE OF LAND AND BUILDINGS

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### 10.2.1 | USE TO BE IN CONFORMITY

No building, structure, or premises shall be used or occupied except in conformity with regulations for the zoning district in which it is located. No building or structure shall be erected, reconstructed, extended, enlarged, altered, or moved except in conformity with the regulations of the zoning district in which it is located.

### 10.2.2 | NUMBER OF PRINCIPAL DWELLINGS ON A LOT

In the RR, ER, DN, SR-1, SR-2, and SR-3 Districts, there shall be no more than one principal dwelling per lot. In all other districts, more than one building **shall** be erected on a single lot, provided that each building complies with all yard and bulk requirements of a district (see below) as though it were a principal building on an individual lot.

*Note: When constructing a new home on a lot with an existing home, the old home would need to be demolished and removed prior to construction of new home beginning construction. It is not allowed for anyone to retain or live in the existing (old) home while a new home is being constructed on the same lot. (Effective August 1, 2023)*

1. Horizontal Property Regime (HPR) is allowed in all zones by State Law. HPR's shall observe all setback, lot widths, and standards listed in [Table 4](#), [Table 6](#), [Table 9](#), and [Table 10](#).

2. More than one principal dwelling per lot shall only be allowed in the following zones utilizing a Horizontal Property Regime (HPR): MXR, NC, O, MXC, GC, HC, I, THR, WR, and MFR.

*EXAMPLE of how to calculate: Assume you wish to build townhomes within the MFR zone utilizing an HPR and you have a 110' wide x 300' deep lot (33,000 square feet). Within the MFR zone the minimum lot width is 20' and the minimum lot size is 2,000 square feet. Since there is only 110' of lot street frontage, you would be limited to five townhome units that could be constructed on this particular lot due to the minimum lot width requirements that must be met.*

### 10.2.3 | ALL ACTIVITIES WITHIN AN ENCLOSED BUILDING

Within all districts, all activities, including storage, shall be conducted entirely within an enclosed building, with the exception of the following activities and uses:

1. Off-street parking and loading, in accordance with [Chapter 11.2](#) (Off-Street Parking and Loading).
2. Outdoor businesses, and those businesses with an outdoor component, including, but not limited to, outdoor entertainment, outdoor recreation, restaurants, car sales, car washes, kennels, and similar businesses. These businesses may be limited, or outdoor components prohibited, as a condition of a conditional use permit.
3. Outdoor storage, and outdoor sales and display areas, in accordance with [Chapter 10.4.15](#) (Outdoor Display) and [Chapter 10.4.16](#) (Outdoor Storage) below.
4. Temporary uses, in accordance with [Chapter 10.6](#) (Temporary Uses).

### 10.2.4 | FRONTAGE ON A PUBLIC OR PRIVATE STREET

All buildings shall front on a public or private street. Private streets include streets or drives within a recorded easement.

### 10.2.5 | REQUIRED YARDS

No lot shall be reduced in area so that the yards are less than required by this Ordinance. The yards of a building or structure shall not be considered yard space for any other building or structure. All yards allocated to a building or structure shall be located on the same zoning lot as such building or structure. Yards may be used for parking, landscaping, and other accessory uses provided all requirements of this Ordinance are met. Rear yards shall not be required where a building in an industrial zone borders a railroad.

### 10.2.6 | APPLICABILITY OF BULK REQUIREMENTS

All buildings and structures erected after the effective date of this Ordinance shall meet the lot size, yard size, and other bulk regulations for the zoning district in which the building or

structure is located. No existing building shall be enlarged, altered, reconstructed, or relocated in such a manner that conflicts with the regulations of the zoning district in which the building or structure shall be located except as may be allowed by [Chapter 14](#) (Nonconforming Use Standards).

### 10.2.7 | APPLICABILITY OF USE RESTRICTIONS

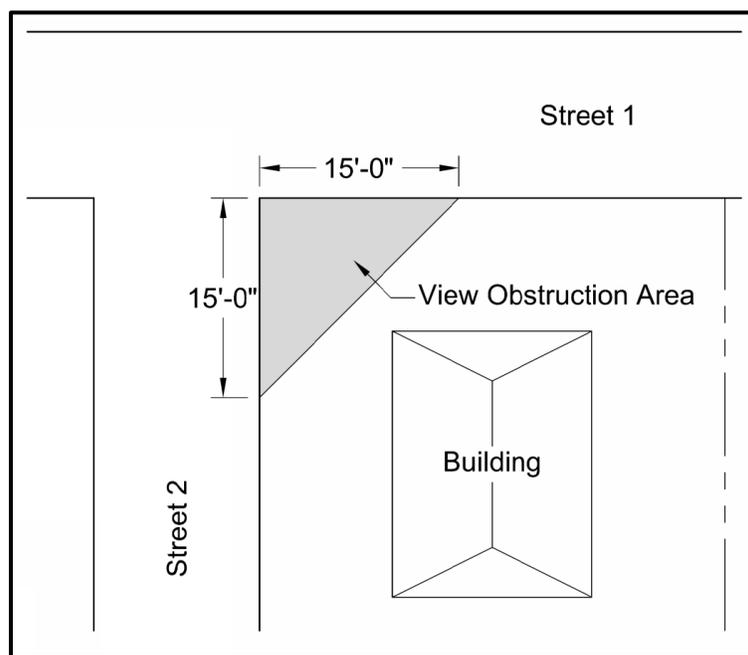
No building, structure, or land shall be used for any use other than one allowed as either a permitted or conditional use in the zoning district in which such building, structure, or land is located. Buildings, structures, or land may also be used for a temporary use or accessory use, in accordance with the requirements of [Chapter 10.6](#) (Temporary Uses and Structures) and [Chapter 10.4](#) (Accessory Uses, Buildings, and Structures).

### 10.2.8 | MOTORIST VIEW OBSTRUCTION IN ALL DISTRICTS

The site clearance area at the intersection of two streets within all districts shall be defined as a triangular area of a corner lot measured 15 feet from the point of intersection of the edges the back of the curb along a street; and shall not be obstructed by any sign, wall, fence, hedge, shrub, or other object which exceeds 24 inches in height. Trees may be maintained within this area as long as there is no foliage within 48 inches as measured from the ground to the lowers foliage.

In the event that the grade of a lot is higher than the street grade, the height of the wall, fence, hedge, or shrub shall be reduced so that the site clearance is not obstructed 24 inches over the grade of the street. See Figure 1: View Obstruction.

FIGURE 2: VIEW OBSTRUCTION



### 10.2.9 | BUILDINGS NOT TO BE ON EASEMENTS

No building, pool, deck, patio, or permanent structure shall be located on an easement except as per [Chapter 10.4.1.4.D](#) regarding accessory buildings without a permanent foundation.

## 10.3 USE-SPECIFIC STANDARDS

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In addition to the use standards below, all uses are required to comply with the provisions of this Ordinance including, but not limited to, [Chapter 11](#) (Site Development Standards), [Chapter 11.2](#) (Off-Street Parking and Loading), [Chapter 11.3](#) (Outdoor Lighting), [Chapter 11.4](#) (Landscaping, Screening, and Tree Preservation), [Chapter 12](#) (Building Design Standards), and [Chapter 13](#) (Sign Standards), and all other City regulations.

### 10.3.1 | ASSISTED LIVING FACILITY, HOME FOR THE AGED, INDEPENDENT LIVING FACILITY, AND NURSING HOME

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Assisted Living facilities, home for the aged, independent living facilities, and nursing homes shall meet all federal, state, and local requirements including, but not limited to, licensing, health, safety, and building code requirements. In addition, the following criteria shall be required:

1. The location, design, and operation of the facility shall be compatible with, and shall not adversely affect, adjacent properties, and the surrounding area.
2. The facility shall be harmonious with surrounding buildings, in respect to scale, architectural design, and building placement. If located within a residential district, the facility shall not alter the residential character of the neighborhood.
3. The surrounding street network shall be capable of accommodating the traffic generated by the facility.
4. Minimum lot size is three acres for Assisted Living Facility, Independent Living Facility, and Nursing Home. Home for the Aged requires a minimum lot size of two acres.
5. Maximum number of living units:
  - A. Assisted Living Units – 20 units/acre
  - B. Home for Aged Living Units – 5 units/acre
  - C. Independent Living Units – 15 units/acre
  - D. Nursing Home Living Units – 25 units/acre

### 10.3.2 | ADULT-ORIENTED ESTABLISHMENT

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Adult-Oriented Establishments shall be subject to the following standards:

- A. No adult-oriented establishment shall be located within 1,000 feet of any other adult-oriented establishment or any residential district, school, place of worship, liquor store, or childcare as measured in a straight line between the nearest parts of the two structures.
- B. The adult-oriented establishment shall be so designed, located, and operated so that the public health, safety, comfort, convenience, and general welfare will be protected.
- C. The adult-oriented establishment shall not cause substantial injury to the value of other property in the neighborhood in which it is located.
- D. The adult-oriented establishment shall not unduly increase traffic congestion in the public streets and highways in the area in which it is located.
- E. The adult-oriented establishment shall not cause additional public expense for fire or police protection.
- F. No adult-oriented establishment shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” from any public way or from any adjacent property. This provision shall apply to any display, decoration, sign, show window, or other opening.

### 10.3.3 | COMMUNITY RESIDENCE

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Community Residences shall meet all federal, state, and local requirements including, but not limited to, licensing, health, safety, and building code requirements. In addition, the following criteria shall be required:

- 1. The location, design, and operation of the facility will not alter the residential character of the neighborhood.
- 2. The facility shall retain a residential character, which shall be compatible with the surrounding neighborhood.
- 3. The operation of the facility shall not adversely impact surrounding properties.
- 4. Adequate parking per resident provided.

#### 10.3.4 | DAY CARE CENTER, ADULT AND CHILD

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Day care centers shall meet all federal, state, and local requirements including, but not limited to, licensing, health, safety, and building code requirements. In addition, the following criteria shall be required:

- A. Adequate sidewalks and exterior lighting shall be provided.
- B. The amount of traffic or noise to be generated shall not be excessive.

Adequate open space and recreational areas shall be provided.

#### 10.3.5 | DAY CARE HOME, ADULT AND CHILD

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1. Day care homes shall meet all federal, state, and local requirements including, but not limited to, licensing, health, safety, and building code requirements. In addition, the following criteria shall be required:
  - A. Adequate sidewalks and exterior lighting shall be provided.
  - B. The amount of traffic or noise to be generated shall not be excessive.
  - C. Adequate open space and recreational areas shall be provided.
  - D. The day care home shall retain a residential character and the effect of the day care home shall not alter the residential character of the neighborhood.
  - E. The operation of the day care home shall not adversely impact surrounding properties.
  - F. Within established residential neighborhoods, the day care center shall retain a residential character.
  - G. The operation of the day care center shall not adversely impact surrounding properties.
2. Services provided in a protective setting for more than four, up to a maximum of 12, children or adults for less than 24 hours per day requires a Conditional Use Permit from the Board of Zoning Appeals in residential zoning districts.
3. The use classification Child Day Care Home does not include facilities which receive four or fewer children.

### 10.3.6 | ENTERTAINMENT AND RECREATION FACILITIES, INDOOR OR OUTDOOR

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Entertainment and recreation facilities shall be designed so that the location of entrances and exits, exterior lighting, service areas, and parking and loading facilities will minimize traffic congestion, pedestrian hazards, and adverse impacts on adjoining properties.

### 10.3.7 | KENNEL

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- A. Exterior enclosures and runs shall provide protection against weather extremes. Floors of runs shall be made of impervious material to permit proper cleaning and disinfecting.
- B. All animal quarters and runs are to be kept in a clean, dry, and sanitary condition.
- C. Fencing surrounding exercise areas and/or runs shall be of a sufficient height to prevent escape and shall be buried as part of installation to prevent escape by digging beneath the fence posts.
- D. Kennel noise shall be mitigated so as not to create a public nuisance for adjoining properties. This shall exclude noise from exercise or training while outdoors during the daytime. Kennels shall comply with all local noise regulations.
- E. All wastewater from cleaning, washing, and disinfection indoor or outdoor facilities shall be discharged to the sanitary sewer. Any discharge of wastewater from kennel facilities to the municipal separate storm sewer system are prohibited.

### 10.3.8 | MOTOR VEHICLE SERVICE STATION

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- A. Motor vehicle service station and fuel center canopies shall be designed with luminaires full recessed into the ceiling of the canopy to minimize light pollution. Light intensity directly under the canopy shall not exceed 30 footcandles at any location. All lighting mounted under the canopy, including auxiliary lighting within signage and panels over pumps, shall be included in the 30 footcandle limit. For service stations and fuel centers adjacent to residential zones, see [Chapter 11.3.3](#) (Light Trespass).
- B. All motor vehicle service station driveways must be located and designed to ensure that they will not adversely affect the safety and efficiency of traffic circulation on adjoining streets.
- C. Motor Vehicle service stations may offer convenience items for sale as secondary activity.
- D. Motor vehicle service stations may also include an automatic car wash with one bay. Stacking spaces shall be in accordance with [Chapter 11.2](#) (Off-Street Parking and Loading). More than one bay constitutes a separate principal use and requires compliance as such.

- E. In addition, Minor Motor Vehicle Repair Shops may be included as part of a Motor Vehicle Service Station. However, they shall be subject to the provisions of this Chapter and the standards of [Chapter 10.3.10](#) (Motor Vehicle Service and Repair, Major or Minor) below.
- F. Motor vehicle service and fuel center canopies and their associated columns and supports shall be removed at such time that the fuel center pumps and tanks are removed. New uses of the property, other than those for motor vehicle service and fuel centers, shall not be allowed to utilize the canopies previously constructed. New uses of the property, other than those for motor vehicle service and fuel centers, shall remove the canopies and their associated support columns and supports previously constructed prior to being allowed to occupy the site with the new use.
- G. All regulated and unregulated wastes from motor vehicle services shall be properly disposed of. Records of proper disposal shall be made available to the City upon request. All wastewater generated at motor vehicle service facilities shall be discharged into the sanitary sewer. Wastewater discharges to the municipal separate storm sewer system are prohibited.

#### 10.3.9 | MOTOR VEHICLE DEALERSHIP

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Newly established used motor vehicle dealerships may be no closer to an existing used car dealership than 1,000 feet. This does not apply to used car sales which are accessory to new car dealerships or dealerships that operate all sales and services entirely within a fully enclosed building and have no outdoor sales or services and no outdoor storage or display of vehicles that are visible to the public. Otherwise, any service and repair facilities, which are open to the public and included as part of the dealership, must also comply with the standards of [Chapter 10.3.10](#) (Motor Vehicle Service and Repair, Major or Minor).

#### 10.3.10 | MOTOR VEHICLE OPERATIONS FACILITY

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All repair operations and service bays shall be fully enclosed.

#### 10.3.11 | MOTOR VEHICLE SERVICE AND REPAIR, MAJOR OR MINOR

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- A. Minor motor vehicle service and repair shops may not store the same vehicles outdoors on the site for longer than 10 days. Major motor vehicle service and repair shops may not store the same vehicles outdoors on the site for longer than 30 days.
- B. All driveways must be located and designed to ensure that they will not adversely affect the safety and efficiency of traffic circulation on adjoining streets.
- C. All repair operations shall be fully enclosed. Wrecked or junked vehicles shall not be stored for longer time periods than those specified above and shall be completely screened from the public road right-of-way and any adjacent property with a solid board

fence and/or evergreen shrubs or equivalent screening approved by the Planning Department.

- D. Minor motor vehicle service and repair shops may also include gas stations as a secondary use. All gas stations which are part of such an establishment must comply with the regulations of [Chapter 10.3.7](#) (Motor Vehicle Service Station).

#### 10.3.12 | RADIO AND TELEVISION TOWERS AND TRANSMISSION FACILITIES

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- 1. Site Plan and Design Review approval is required in accordance with [Chapter 4.7](#) (Site Plan and Design Review).
- 2. All towers shall conform to the definition of Tower as stated in [Chapter 16](#) (Definitions).
- 3. The maximum height is 150 feet unless further restricted by the Board of Zoning Appeals in the granting of a conditional use permit, if required.
- 4. All towers and facilities shall conform to the following provisions contained in [Chapter 15](#) (Wireless Telecommunications Facilities and Towers):
  - A. [15.6 Setbacks](#)
  - B. [15.7 Structural Requirements](#)
  - C. [15.8 Separation of Towers](#)
  - D. [15.10 Illumination](#)
  - E. [15.11 Exterior Finish](#)
  - F. [15.12 Landscaping and Inspections](#)
  - G. [15.15 Certifications and Inspections](#)
  - H. [15.16 Maintenance](#)
  - I. [15.18 Abandonment](#)
  - J. [15.19](#) (Special Conditions for Location of Telecommunications Facilities within Residential Districts), [subchapters 15.19.1](#) (Property Allowed), [15.19.3](#) (Tower Design), [15.19.4](#) (Protection Against Climbing), [15.19.5](#) (Color), [15.19.6](#) (Equipment Enclosure).

#### 10.3.13 | RECYCLING DROP-OFF CENTER

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- 1. All recyclables must be kept in leak-free enclosed bins.

2. All recyclables must be removed from the site no less than every two days.
3. All storage/collection bins and equipment must be screened as per [Chapter 11.4.11.3](#) (Outdoor Storage Area).
4. The site shall be kept odor free (at the property lines) and shall be kept free of rodents, bees, and other types of nuisance insects.
5. Site Plan approval is required, pursuant to [Chapter 4.7](#) (Site Plan and Design Review).
6. See also [Chapter 10.4.7](#) (Donation and Collection Bins) for recycle collection bins as an accessory use.

#### 10.3.14 | SCRAP OPERATIONS

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1. The location, design, and operation of the facility must be compatible with, and shall not adversely affect, adjacent properties and the surrounding area.
2. The surrounding street network must be capable of accommodating the type and quantity of traffic generated by the facility.
3. A minimum 60-foot-wide landscape buffer must be provided adjacent to or across the street from residential zones. Landscaping within the buffer must be twice the quantities given for a Type A Buffer (see [Chapter 11.4.10](#) Buffer Yards).
4. A minimum 40-foot-wide landscape buffer must be provided adjacent to or across the street from commercial zones. Landscaping within the buffer must be twice the quantities given for a Type B Buffer (see [Chapter 11.4.10](#) Buffer Yards).
5. A minimum 20-foot-wide landscape buffer must be provided adjacent to or across the street from other industrial zoned lots or parcels. Landscaping within the buffer must be twice the quantities given for a Type C Buffer (see [Chapter 11.4.10](#) Buffer Yards).
6. Minimum buffer widths and landscape quantities stated above may be reduced by up to one-half if a solid brick or stone fence a minimum eight feet in height is provided.

#### 10.3.15 | SMALL MEDIA PRODUCTION FACILITY

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- A. When located within a residential zone district, the following development standards apply:
  1. Approval of a Major Home Occupancy Permit by the Board of Zoning Appeals is required.
  2. Must be located on a lot with a minimum area of two acres.

3. Additional restrictions may be applied as they relate to traffic, noise, trash, landscape screening, parking, and lighting if the use will be located in a building within 50 feet of one or more adjacent dwellings.
- B. When located within a non-residential zone district, the following development standards apply:
1. The proposed use shall be processed as General Business Services, pursuant to [Table 5](#) in [Chapter 7.2](#) (Permitted and Conditional Uses) of this Ordinance.
  2. Shall not be permitted within the Industrial zone district.

### 10.3.16 | SMOKE SHOPS

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#### 10.3.16.1 | PERMITTED LOCATIONS

Notwithstanding any other provision of this Ordinance, smoke shops shall be permitted by a Conditional Use only in General Commercial (GC) and Heavy Commercial (HC).

#### 10.3.16.2 | ADDITIONAL ZONING AND LAND USE STANDARDS

The following standards shall apply to smoke shops:

##### A. SEPARATION REQUIREMENTS

These uses shall not be located within 1,000 feet, measured property line to property line as measured along the street(s), of any of the following:

- A public or private school,
- A day care center or home (adult or child),
- A youth center,
- A community center,
- A recreational facility,
- A park,
- A church or religious institution,
- A hospital, or
- Any other similar uses where children regularly gather.

##### B. DISTANCE BETWEEN SIMILAR USES

These uses shall not be located within 1,000 feet, measured property line to property line, of another smoke shop or tobacco store.

##### C. MINORS PROHIBITED

It is unlawful to knowingly allow a minor, unaccompanied by a parent or legal guardian, to enter or remain on the premises.

#### **D. SIGNAGE REQUIREMENTS**

These uses shall post clear signage at each public entrance stating that minors are not permitted unless accompanied by a parent or legal guardian. It is unlawful for such businesses to fail to display or maintain this signage.

#### **10.3.16.3 | CONDITIONAL USE STANDARDS**

The following minimum conditions shall apply:

##### **A. NO SMOKING ONSITE**

No smoking shall be permitted on the premises at any time unless otherwise permitted.

##### **B. SALES BY MINORS PROHIBITED**

No sales may be solicited or conducted on the premises by minors.

##### **C. NO SELF-SERVICE DISPLAYS**

No self-service, product, or paraphernalia displays shall be permitted.

##### **D. NO FREE OR DISCOUNTED ITEMS**

No distribution of free or low-cost products or paraphernalia, as well as coupons for said items, shall be permitted.

#### **10.3.16.4 | LEGAL NONCONFORMING USES**

Smoke shops lawfully operating on the effective date of the ordinance codified in this chapter may continue to operate as legal nonconforming uses under [Chapter 14](#) (Nonconforming Uses). These businesses are not required to obtain a Conditional Use permit unless they seek to change or expand their operations, in which case compliance with this chapter and Conditional Use approval may be required.

#### **10.3.17 | SOCIAL CLUB OR LODGE**

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1. Social clubs or lodges must be designed so that the location of entrances and exits, exterior lighting, service areas, and parking and loading facilities will minimize traffic congestion, pedestrian hazards, and adverse impacts on adjoining properties and nearby neighborhoods.

2. Social clubs and lodges are permitted to serve food and meals on premises. There shall be no sleeping facilities or overnight accommodations provided or allowed.

### 10.3.18 | WIRELESS TELECOMMUNICATIONS FACILITIES AND TOWERS

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See [Chapter 15](#) (Wireless Telecommunications Facilities and Towers).

## **10.4 ACCESSORY USES, BUILDINGS, AND STRUCTURES**

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The purpose of this Chapter is to provide development standards for specific types of accessory uses, buildings, and structures that are incidental and customarily subordinate to an allowed principal use. The City's intent in adopting this Chapter is to allow a broad range of accessory uses, buildings, and structures so long as such uses are located on the same lot as the principal use.

### 10.4.1 | GENERAL STANDARDS AND LIMITATIONS

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#### 10.4.1.1 | COMPLIANCE WITH ORDINANCE REQUIREMENTS

All accessory uses and accessory buildings and structures shall conform to the applicable requirements of this Ordinance. The provisions of this Section establish additional standards and restrictions for specific accessory uses and structures. Boat houses, docks, and piers on Old Hickory Lake are subject to Corps of Engineers regulations and thus exempt from all regulations herein. Barns and other farm-related buildings located on property where agricultural uses are permitted are exempt from [Chapter 10.4.1.5 through 10.4.1.9](#).

*NOTE: Agricultural uses are permitted on RR and ER property containing at least 10 acres and on any legally pre-existing/nonconforming farm.*

#### 10.4.1.2 | GENERAL STANDARDS

All accessory uses and accessory structures shall meet all of the following standards:

- A. Directly serve the principal use or structure;
- B. Be customarily accessory and clearly incidental and subordinate to principal use or structure;
- C. Be subordinate in area, extent, and purpose to the principal use or structure;
- D. Be owned or operated by the same person or company as the principal use or structure;
- E. Be located on the same lot as the principal use or structure;

- F. Together with the principal use or structure, shall not violate the bulk, density, parking, landscaping, or open space standards of this Ordinance; except that a variance or conditional use may be granted (whichever is applicable – see [Table 1](#)) from the standards contained in [Chapter 10.4.1.4](#), [Chapter 10.4.1.5](#), and [Chapter 10.4.1.6](#) and from the minimum setback/yard requirements of this Ordinance;
- G. Not to be constructed or established prior to the time the principal use or structure is constructed or established;
- H. Not constitute a combination use, which is the combination of two principal uses. Combination uses will not meet the above standards in terms of being subordinate or providing service to the principal use;
- I. Be a permitted or conditional use in the zone in which it is located or specifically listed as an accessory use in [Chapter 10.4.2-25](#) or as allowed by [Chapter 10.4.1.3.B](#); and
- J. Accessory use shall be limited to 33% of gross floor area of the subject building.
- K. Shall comply with the standards set forth by the National Flood Insurance Program ordinance.
- L. Shall comply with the minimum water quality riparian buffer requirements established in Hendersonville Municipal Code.

#### 10.4.1.3 | PERMITTED ACCESSORY USES

- A. [Chapter 10.4.2 through 10.4.23](#) list permitted accessory uses, including specific standards for these uses are given, including the extent to which each use may encroach into the required yards. [Chapter 10.5](#) (Permitted Encroachments), includes [Table 12](#) which lists additional permitted accessory uses and the extent to which they may encroach into required yards. Together, these two Chapters list all allowable accessory uses.
- B. The Planning Director shall evaluate potential accessory uses that are not identified in [Chapter 10.4.2 through 23](#) and [Table 12](#) (Permitted Encroachments) on a case-by-case basis, as an interpretation. In making the interpretation, the Planning Director shall apply the following standards:
  1. The definition of accessory use (see [Chapter 16](#): Definitions), and the general accessory use standards established in [Chapter 10.4.1.2](#) (General Standards).
  2. The purpose and intent of the zoning district in which the accessory use is located (see [Chapter 6](#) and [Chapter 7](#)).

3. Any potential adverse impacts the accessory use may have on other lands in the area, compared with other accessory uses permitted in the zoning district.
4. The compatibility of the accessory use, including the structure in which it is housed, with other principal and accessory uses permitted in the zoning district.

#### 10.4.1.4 | LOCATION OF ACCESSORY BUILDINGS AND STRUCTURES

- A. Accessory buildings and structures are prohibited within required yards of any lot, unless otherwise permitted by this Ordinance.
- B. Within all residential zones, accessory buildings and structures with a roof are further prohibited from being located in front of the principal building, unless otherwise permitted by this Ordinance, or a Variance is granted for such by the Board of Zoning Appeals. ([Table 1](#))
- C. The following exceptions to A and B above are allowed:
  1. Accessory buildings and structures with a roof located at least 10 feet from the principal building and not exceeding 400 square feet in size are allowed to encroach in the required rear and side yards as follows:

Interior Lots: May encroach to within five feet of the rear and side lot lines. Garage and carports may be within five feet of an alley, but, if greater than five feet, it must be at least 20 feet from the alley.

Double Frontage Lots: May encroach to within five feet on the side line.

Corner Lots: May encroach to within five feet of the interior side line and the rear line. (Corrected 02/04/2026)

2. Arbors, trellises, gazebos, and pergolas which are detached from the principal building and which do not exceed 120 square feet of combined size or 15 feet in height in addition to being allowed the exceptions contained in [Chapter 10.4.1.4.C.1](#) may be located in front of the principal building and may encroach into the required front yard to within 20 feet of the street.





Gazebos



Trellises

- D. Accessory buildings and structures with a roof and a permanent foundation (concrete slabs or piers), and pools (and their aprons and/or decks) shall not be located on an easement. However, accessory building and structures with a roof without a permanent foundation may be located on an easement provided the property owner submits a notarized letter acknowledging that they could be required by any party having a right to the use of the easement to move the building off the easement.

*NOTE: The City's current building code requires a permanent foundation for all buildings 200 square feet and larger.*

#### 10.4.1.5 | MAXIMUM NUMBER AND SIZE OF ACCESSORY BUILDINGS AND STRUCTURES

- A. In all residential zones a maximum of two detached accessory buildings and structures with a roof shall be permitted on a zone lot. Arbors, trellises, gazebos, and pergolas which do not exceed 120 square feet of combined size or 15 feet in height are exempt from this restriction.

*NOTE: Pools (in-ground or above-ground) do not count since they are structures without a roof.*

- B. In all residential zones, the area of all residential accessory buildings and structures with a roof shall not exceed the lesser of the following:

1. 50% of the area of the principal dwelling or 1,000 square feet on lots up to 15,000 square feet in size

*NOTE: Detached accessory dwelling is not allowed.*

2. 50% of the area of the principal dwelling or 1,500 square feet on lots between 15,001 and 29,999 square feet in size

*NOTE: Detached accessory dwelling is not allowed.*

3. 50% of the area of the principal dwelling or 1,800 square feet on lots between 30,000 square feet and 43,559 square feet in size

*NOTE: Detached accessory dwelling may be allowed if granted a Conditional Use Permit and is limited in total size to a maximum of 1,200 square feet with no variance allowed. (See [Chapter 10.4.2.3](#))*

4. 50% of the area of the principal dwelling or 2,000 square feet on lots between 1 acre (43,560 square feet) and 130,679 square feet (1 foot less than 3 acres) in size

*NOTE: Detached accessory dwelling may be allowed if granted a Conditional Use Permit and is limited in total size to a maximum of 1,200 square feet with no variance allowed. (See [Chapter 10.4.2.3](#))*

5. 50% of the area of the principal dwelling or 3,000 square feet on lots over 3 acres (130,680 square feet) in size.

*NOTE: Detached accessory dwelling may be allowed if granted a Conditional Use Permit and is limited in total size to a maximum of 1,200 square feet with no variance allowed. (See [Chapter 10.4.2.3](#))*

Area for calculation of all structures (Principal Dwellings and Accessory buildings) refers to the area in square feet of all floors above grade, including covered porches and patios, attached garage and carport. Refer to [Table 4](#) and [Table 9](#) for maximum lot coverage.

#### 10.4.1.6 | MAXIMUM HEIGHT OF ACCESSORY BUILDING AND STRUCTURES

In all residential zones, the height of the accessory buildings and structures shall not exceed the height of the principal building on the zone lot.

*EXCEPTION: If the principal building is a one-story dwelling, an accessory building or structure may be constructed to a height not exceeding 1 ½ times the height of the principal building. However, the accessory building or structure shall not exceed the height specified by [Table 4](#) (Residential Districts Lot and Building Bulk Standards).*

10.4.1.7 | CONSTRUCTION STANDARDS

A. Accessory buildings and structures with a roof in all residential zones located in any yard other than the rear yard of an interior lot and which exceed 120 square feet shall be constructed of the same materials as the principal building and shall be the same architectural design and quality as the principal residential structure on the property. When the principal structure is predominantly brick or stone, the introduction of wood or fibrous cement siding over a matching brick or stone perimeter foundation wall is appropriate to re-enforce the subordinate nature of the accessory building. This does not preclude the construction of an open carport within the side and corner side yards provided the roof, column, and other components match the house.

*NOTE: (1.) This prohibits metal carport awnings and RV awnings except in the rear yard. (2.) As per [Chapter 10.4.1.4.B](#), Accessory Buildings may not be located in the front yard in residential zones.*

B. The Board of Zoning Appeals may consider a waiver of the building material requirements of this standard based on the surrounding character of the neighborhood and any buffers or screening that may ameliorate the visibility of the proposed structure from adjacent properties.

10.4.1.8 | ZONING PERMIT REQUIRED

A zoning permit must be secured from the Planning Department prior to the construction or placement of an accessory building or structure which has a roof and is or exceeds 200 square feet in size. A Zoning Permit is also required for certain accessory uses listed in [Chapter 10.4.2-10.4.23](#) below.

10.4.1.9 | MAINTENANCE REQUIRED

All accessory buildings shall be maintained in accordance with the City’s property maintenance and related codes.

10.4.2 | ACCESSORY APARTMENTS (ATTACHED TO OR WITHIN) AND DWELLINGS (DETACHED)

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10.4.2.1 | GENERAL

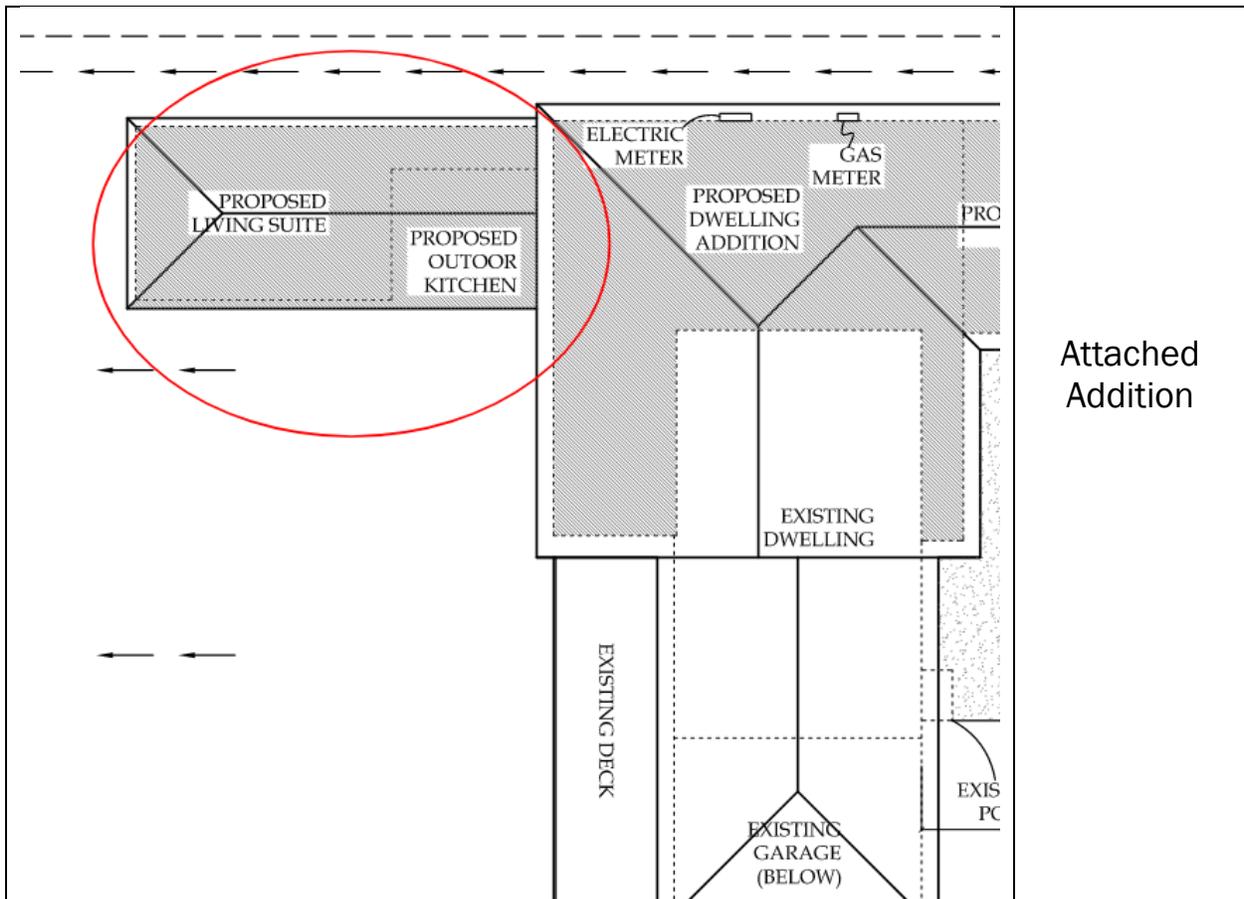
An Accessory Apartment is permitted under the terms of Chapter 10.4.2.2 to [Chapter 10.4.2.4](#) below.

A lot which is zoned to allow a single-family detached dwelling may include an accessory apartment (attached to or within) or accessory dwelling (detached) upon the lot as an accessory use under the following general conditions as well as the conditions listed in [Chapter 10.4.2.2](#) and [10.4.2.3](#) below.

- A. The lot, dwelling, and accessory apartment (attached to or within) or accessory dwelling (detached) shall be under single ownership and shall remain under single ownership. The lot shall not be subdivided except in conformance with the requirements of the Hendersonville Zoning Ordinance, Subdivision Regulations and Construction Codes and all other applicable laws. Neither the principal dwelling nor the accessory apartment (attached to or within) or accessory dwelling (detached) may be conveyed to a separate owner (e.g., as a condominium or by any other means of conveyance).
- B. At least one owner of the premises must reside in either the principal dwelling or the accessory apartment (attached to or within) or dwelling (detached) or both. For purposes of this section, “reside” means that this is the owner’s primary place of residence for at least 75% of the year.
- C. The people residing in the principal dwelling, the accessory apartment, and detached dwelling must be parents, grandparents, great grandparents, children, step-children, in-laws, or niece(s) or nephew(s) of one or more of the people residing in the other dwelling, or they may be a domestic employee of the people residing in the dwelling or a family member of the employee(s).
- D. There shall be only one water and one gas utility meter and connection to serve both the principal dwelling and accessory apartment or dwelling.
- E. The lot shall have only one driveway to serve both the principal dwelling and the accessory apartment or dwelling.
- F. At least four off-street parking spaces must be provided. Garage or carport spaces do not count toward meeting this requirement.
- G. An instrument must be recorded with the Sumner County Registrar’s office covenanting that the property will be used in accordance with the terms of this Ordinance. The covenant shall run with the land and be binding to future property owners.
- H. A Zoning Permit shall be secured for an accessory apartment or accessory dwelling prior to construction and/or occupancy of the accessory apartment or accessory dwelling.
- I. There shall be but one mailbox and address to serve both the principal dwelling and accessory apartment or dwelling.
- J. Verification must be provided from the appropriate wastewater utility provider confirming sufficient capacity for the additional effluent or from Sumner County Environmental Office confirming sufficient percolation of the soil and sufficient septic tank capacity for the added living quarters.
- K. Only one attached accessory apartment or one detached accessory dwelling may be allowed per lot. Both are not permitted to exist on a single lot at the same time.

10.4.2.2 | ACCESSORY APARTMENT (ATTACHED TO OR WITHIN THE PRINCIPAL DWELLING)

- A. For the purposes of this section, an accessory apartment is a dwelling unit within the principal dwelling on the lot or within an addition to the principal dwelling. It contains independent living facilities, including kitchen and bedrooms. To qualify as an attached addition, the connection must be made by a common wall or roof line as a room at least seven feet by 10 feet in size. (Structures connected by breezeways, hallways, porte cocheres, and similar are defined as detached accessory buildings.)
- B. The heated area of the accessory apartment shall not exceed 40% of the total heated area of the principal dwelling and apartment combined.
- C. The principal dwelling may have only one front door per street frontage.
- D. **There shall be no variance or appeals of these development standards.**



### 10.4.2.3 | ACCESSORY DWELLING (DETACHED FROM THE PRINCIPAL DWELLING)

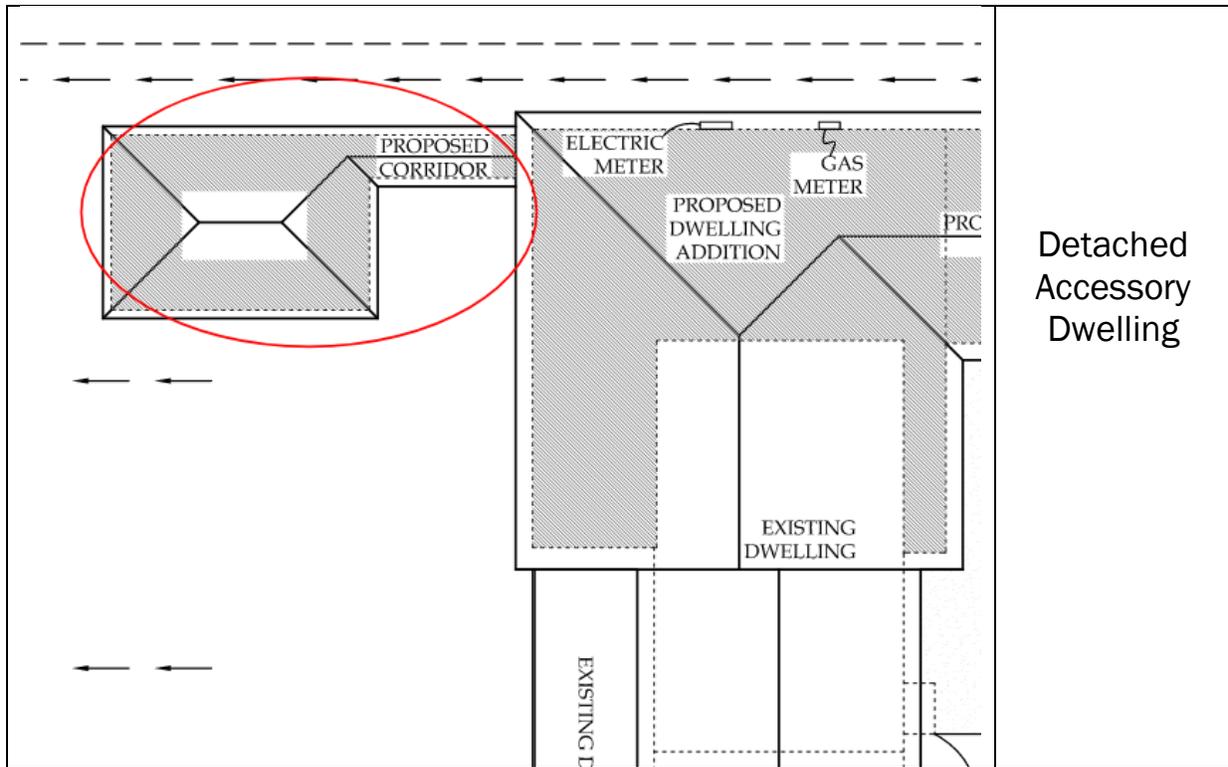
- A. For the purpose of this section, an accessory dwelling is a dwelling unit in a separate structure from the principal dwelling on the lot. It contains independent living facilities, including a kitchen and bedrooms. It is detached from the principal dwelling and may be above a detached garage provided the garage is located in the rear yard of the principal dwelling, that is behind the rear plane of the principal dwelling. The accessory dwelling and the principal dwelling may be connected by a breezeway, hallway, or similar structure. Under such conditions, the accessory dwelling is still considered an accessory dwelling (detached) and not an accessory apartment (attached).
- B. An Accessory Dwelling is not permitted if restrictive private covenants prohibit such structures.
- C. The lot shall contain a minimum of 30,000 square feet, and the maximum number and size of the accessory buildings and structures with a roof, including the Accessory Dwelling, shall comply with [Chapter 10.4.1.5](#).

*NOTE: No lot 29,999 square feet or smaller shall be allowed to construct an Accessory Dwelling. There is no variance available.*

- D. The Accessory Dwelling may only be located behind the rear plane of the principal dwelling.
- E. The Accessory Dwelling shall be complimentary to the principal dwelling in terms of architectural design, building materials, and colors. This includes roof form and pitch. When the principal dwelling is predominately brick and stone, the introduction of fibrous cement siding over a matching brick or stone perimeter foundation is appropriate to reinforce the ancillary and subordinate nature of the Accessory Dwelling. Accessory Dwellings shall be located and oriented to minimize impacts to the privacy of neighbors.

The Board of Zoning Appeals may consider a waiver of the building material requirements of this standard based on the surrounding character of the neighborhood and any buffers or screening that may ameliorate the visibility of the proposed structure from adjacent properties.

- F. A Conditional Use Permit by the Board of Zoning Appeals is required.
- G. Any door on the front of the Accessory Dwelling that is visible from the street must appear clearly secondary to the front door of the principal dwelling.
- H. The Accessory Dwelling and principal dwelling may be inspected on a periodic basis to confirm continuing compliance with the terms of this Ordinance.
- I. The Accessory Dwelling shall be a minimum of 20 feet from the side and rear property lines. No variance is allowed to this standard.



#### 10.4.2.4 | BUSINESS ACCESSORY APARTMENTS

A commercial establishment (e.g., business, industry, institution, community facility, or otherwise) may contain within one principal building, one accessory apartment occupied by the owner and family of the owner or by an employee and family of the employee, provided the apartment does not exceed 25% of the heated area of the building or 1,000 square feet, whichever is less.

*Note: Accessory Apartment shall only be located within the walls of the principal dwelling. No stand-alone buildings shall be used for an Accessory Apartment.*

#### 10.4.3 | AMATEUR (HAM & CB) RADIO EQUIPMENT

- A. Towers that solely support amateur (HAM & CB) radio equipment shall be permitted only in the rear yard. Towers shall not exceed the maximum building height of the applicable district by more than 10 feet, unless a taller tower is technically necessary to engage successfully in amateur radio communications. Such taller height may only be approved by the Planning Commission in accordance with [Chapter 10.4.3.3](#).
- B. Antenna may be ground-, building-, or roof-mounted, provided they do not exceed the maximum building height by more than 10 feet unless a taller antenna is technically necessary to engage successfully in amateur radio communications. Such taller height may only be approved by the Planning Commission in accordance with [Chapter 10.4.3.3](#).

Every effort shall be made to install radio antennae in locations that are not readily visible from neighboring properties or from the public road right-of-way.

- C. The Planning Commission may approve a taller antenna or tower provided the operator provides evidence that a taller tower and/or antenna are necessary to engage successfully in amateur radio communications. As part of the application, the applicant must submit a Site Plan for staff review and approval showing the proposed location of the tower and/or antenna, as well as its relation to the principal building and any additional accessory structures.
- D. Antennae and/or towers owned and operated by the City are exempt from these requirements.

#### 10.4.4 | AUTO REPAIR AT A RESIDENTIAL (AUTO HOBBYIEST)

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Automobile repair at a residential use shall comply with the following standards:

- A. Automobile repair activities shall be limited to vehicles owned by the person inhabiting the principal use.
- B. All repair work shall be within an enclosed garage or out of sight from the public road right-of-way.
- C. In no instance may there be more than one inoperable vehicle stored outside a fully enclosed structure.
- D. Activities that create objectionable noise, odor, or vibration are restricted between the hours of 9:00 PM and 7:00 AM.
- E. All wastes generated from automobile repair activities shall be properly disposed of. Discharge of wastes into the municipal storm sewer system are prohibited.

#### 10.4.5 | CHILD AND FAMILY CARE

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- A. Child and family care for less than 24 hours per day, up to four children and/or adults (unrelated to the care provider) is allowed as an accessory use in a residential dwelling unit.
- B. Child care for children and for adults is allowed as an accessory use in any commercial establishment, industry, institutional use, and community facility use provided it is for the family members of the employees and does not exceed 25% of the area of the principal buildings on the property.

#### 10.4.6 | DECKS AND PATIOS

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Decks and patios shall not be located on easements. A Zoning Permit must be secured before construction commences.

See [Chapter 10.5](#) (Permitted Encroachments).

#### 10.4.7 | DONATION AND COLLECTION BINS

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Donation and similar collection bins are permitted as an allowable accessory use at schools and other government facilities and on commercial and industrial sites under the following conditions:

- A. No more than two bins per parcel.
- B. Bins shall not exceed 200 cubic feet total.
- C. Bins shall be located at least 100 feet from the front property line and, in the case of a corner lot, and side street property line.
- D. Bins shall be located beside or behind the building; otherwise, the bins must be screened from view from the street(s) by evergreen landscaping or an approved panel.
- E. If located in a parking space, the bins shall be adjacent to a landscape island and screened as specified above in Condition D. The parking space(s) used shall be in excess of the number of spaces required by the Zoning Ordinance.
- F. Loading and unloading of the bins shall not block traffic or interfere with motorists' visibility.
- G. Bins shall be emptied on a regular basis such that goods do not overflow and such that it does not cause a nuisance. Items placed outside of the bins shall be removed within 24 hours of notification.
- H. Bins shall be kept clean and well maintained.
- I. Contact information shall be placed on the bins in a permanent manner. No banners, posters, or temporary signs are allowed.

#### 10.4.8 | ELECTRICAL GENERATORS

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Emergency electrical generators may only be installed as follows:

- A. An emergency electrical generator must comply with the same yard/setback requirements as the principal building.

- B. An emergency electrical generator located in the interior side yard, corner side yard, or front yard shall be screened.
- C. Screening materials may be masonry, wood, landscaped hedges or other opaque material, and shall screen the generators so no portion is visible from a street or the ground level of a building on an adjoining lot. Color and texture of a masonry screen wall shall be compatible with the color and texture of the principal building on the site.

#### 10.4.9 | ELECTRIC VEHICLE (EV) CHARGING EQUIPMENT, MINOR

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Electric Vehicle (EV) Charging Equipment with six EV charging ports or fewer is permitted as an allowable accessory use in commercial zone districts and in conjunction with (i.e., on the same lot as) institutional uses in residential districts. The following conditions shall apply:

- A. Shall contain six charging ports or fewer on a lot;
- B. Shall consist of no support equipment other than the EV charging pedestal(s), except that a screened electric meter may be provided;
- C. Each EV charging pedestal may not exceed six feet in height and four feet in width;
- D. Shall not be located within 80 feet of a street right-of-way or street easement.

Electric Vehicle Charging Equipment exceeding one or more of these criteria fall under **Electric Vehicle Charging Equipment, Major**.

#### 10.4.10 | ELECTRIC VEHICLE (EV) CHARGING EQUIPMENT, MAJOR

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- A. Shall require site plan approval from the Planning Commission.
- B. Shall be located beside or behind the primary building, or within 100 feet of the front (or other side facing a street) of the primary building.
- C. Shall not be located within 80 feet of a street right-of-way or street easement.
- D. All support equipment (i.e. equipment other than EV charging pedestals) shall be screened from the street and public use areas through the use of evergreen vegetation or brick screen walls. EV charging pedestals exceeding six feet in height and four feet in width shall also be screened from the street and public use areas.

Screening shall consist of evergreen vegetation or brick screen walls that are as tall as the unit(s) being screened. The minimum planting bed width for plant screening shall be 10 feet. Adequate additional bed width (as determined by the Planning Department to accommodate the needed screening) shall be provided where maintenance and use access to the unit(s) precludes encroachment by vegetation.

## 10.4.11 | FENCES

### 10.4.11.1 | FENCES -GENERAL KNOWLEDGE - APPLIES TO ALL DISTRICTS

Height of all fences shall be measured from existing grade, unless otherwise specified.

- A. The fence shall not encroach upon road right-of-way, including future/planning right-of-way as specified by the Hendersonville Transportation Plan. Under no circumstances, however, shall the fence be located any closer than 12 feet to the edge of pavement of the street.
- B. Fences located in residential townhome, condominium, and apartment developments shall conform to the standards specified in Chapter 10.4.11.2 (Fences in Residential Districts). In conjunction with Site Plan and Design Review approval for such developments, the developer may propose, and the Planning Commission may approve, standards which are tailored to the architecture and design of the particular development, provided such standards are consistent and equivalent to the standards above, as determined by the Planning Commission.
- C. Fences in Dockside Neighborhood (DN) would be based on the primary use.

TABLE 11: RESIDENTIAL FENCES

TABLE 11   RESIDENTIAL FENCES						
	Lot Size	Front Yard	Interior Side Yard	Corner Side Yard	Double Frontage Lots	Rear Yard
Distance from Property Line	N/A	Shall not be closer than the home, except lots that are less than one (1) acre and the fence does not exceed 48 inches in height. No front yard fence shall not be closer to the curb than 12 feet. <sup>2</sup>	As close as desired	Fences taller than four 48 inches in height must be set back a minimum of 50% of the required depth of the street side from the property line, in addition to the right of way. <sup>2</sup>	Along the rear property line (including alley lots), the fence must not encroach upon street or alley right-of-way, an alley easement, or upon future/planned right-of-way <sup>1</sup>	As close as desired
	Lots less than one acre (43,560 sq ft)	Setback restriction is reduced to zero feet for fences that do not exceed 48 inches in height. <sup>2</sup>	As close as desired	Setback restriction is reduced to zero feet for fences that do not exceed 48 inches in height. <sup>2</sup>	Setback restriction is reduced to zero feet for fences that do not exceed 48 inches in height. <sup>2</sup>	As close as desired
	Lots greater than one acre (43,560 sq ft)	Fence may be up to 60 inches in height. In addition to the fence styles listed above, the fence may be "ranch style."	As close as desired	Fence may be up to 60 inches in height. In addition to the fence styles listed above, the fence may be "ranch style."	Fence may be up to 60 inches in height. In addition to the fence styles listed above, the fence may be "ranch style."	As close as desired
Height		Up to four (4) feet	Up to eight (8) feet	Up to four (4) feet but can be up to eight (8) feet with 50% setback	Up to four (4) feet but can be up to eight (8) feet with 50% setback	Up to eight (8) feet
Zoning Permit Required?		Yes	No	Yes	Yes	No

Notes:

1. Under no circumstances, however, shall the fence be closer than twelve (12) feet to edge of pavement.

2. Must be constructed of finished wrought iron, aluminum tubing, wood “picket” fencing, split rail, brick, stone, or are constructed with similar decorative materials and design as approved by the Planning Department or Planning Commission. The equivalent to the above or compatible with the design, architecture, and buildings materials in the neighborhood.

#### 10.4.11.2 | FENCES IN RESIDENTIAL DISTRICTS

Within any residential zoned area, a Zoning Permit is required prior to erection or replacement of any fence within any front or corner side yard.

Fences constructed in Residential Districts after the adoption of this Ordinance shall conform to the following:

#### **\*RESIDENTIAL LOTS UNDER ONE ACRE: \***

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##### A. FENCES – FRONT YARD

(Including Interior-Corner, Double Frontage Lots)

Fences located in the front yard of interior, corner, and double frontage lots, including alley lots:

1. Fences shall not be located any closer to the lot line than the home, except as provided below.
2. The fence shall not encroach upon right-of-way, including future/ planned right-of-way as specified by the Hendersonville Transportation Plan. Under no circumstances, however, shall the fence be located any closer than 12 feet to the edge of pavement of the street.
3. Fences will have a zero-foot setback (must be 12 feet from edge of pavement) if the fence is not exceeding 48 inches in height and is constructed with the following materials:
  - a. Finished wrought iron,
  - b. Aluminum tubing,
  - c. Wood “picket” fencing,
  - d. Split rail,
  - e. Brick,
  - f. Stone, or
  - g. Are constructing with similar decorative materials and design as approved by the Planning Department or Planning Commission.
  - h. The equivalent to the above or compatible with the design, architecture, and building materials in the neighborhood.
  - i. See Figure 2 below.
4. A fence permit is required.

FIGURE 2: PERMITTED FENCE STYLE EXAMPLES (WROUGHT IRON, ALUMINUM TUBING, WOOD "PICKET", SPLIT RAIL, BRICK, AND STONE)

	
<p>Finished Wrought Iron/Aluminum Tubing</p>	<p>Split Rail</p>
	
<p>Wood "Picket"</p>	<p>Wood "Picket"</p>
 	
<p>Wood "Picket" Picket rails shall not be larger than four inches and the space between pickets shall be no smaller than the width of the picket rail utilized.</p>	
	
<p>Decorative Split Rail</p>	<p>Stone</p>



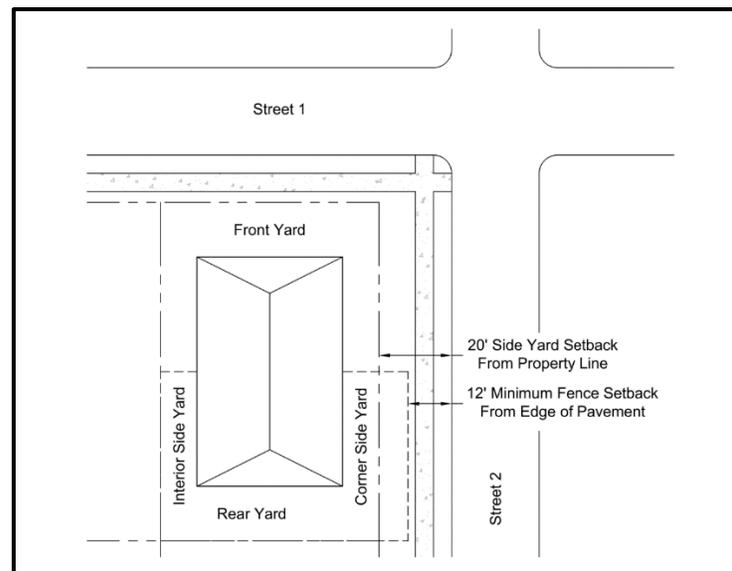
Brick

## B. FENCES, CORNER SIDE YARD

Fences located in the corner side yard of lots:

1. Fences must be set back a minimum of 50% of the required depth of the street side.
  2. The fence may not exceed eight feet in height.
3. The fence shall not encroach upon right-of-way, including future/ planned right-of-way as specified by the Hendersonville Transportation Plan. Under no circumstances, however, shall the fence be located any closer than 12 feet to the edge of pavement of the street.

*EXAMPLE: Side street setback of 20 feet would have a minimum setback of 12 feet.*



4. Fences will have a zero-foot setback (must be 12 feet from edge of pavement) if the fence is not exceeding 48 inches in height and is constructed with the following materials:
- a. Finished wrought iron,
  - b. Aluminum tubing,
  - c. Wood “picket” fencing,
  - d. Split rail,
  - e. Brick,
  - f. Stone, or
  - g. Are constructing with similar decorative materials and design as approved by the Planning Department or Planning Commission.

- h. The equivalent to the above or compatible with the design, architecture, and building materials in the neighborhood.
- i. See Figure 2 above.

5. A fence permit is required.

C. FENCES, REAR YARD AND INTERIOR SIDE YARDS:

Fences located in the rear yard and interior side yards of the interior lots and double frontage lots, including alley lots:

- 1. Fences may be erected as close to the rear and interior side property lines as desired by the owners.

*NOTE: It is the responsibility of the owner and their contractor to make sure the fence does not encroach onto the adjoining property.*

- 2. Along the rear property line of double-frontage lots, including alley lots, the fence must not encroach upon street or alley right-of-way, an alley easement, or upon future/planned right-of-way as specified by the Hendersonville Transportation Plan.

*NOTE: Under no circumstances, however, shall the fence be closer than ten (10) feet to the edge of pavement of the street or five feet to the alley.*

- 3. The fence may not exceed eight feet in height.
- 4. A fence permit is not required.

**\*RESIDENTIAL LOTS OVER ONE ACRE: \***

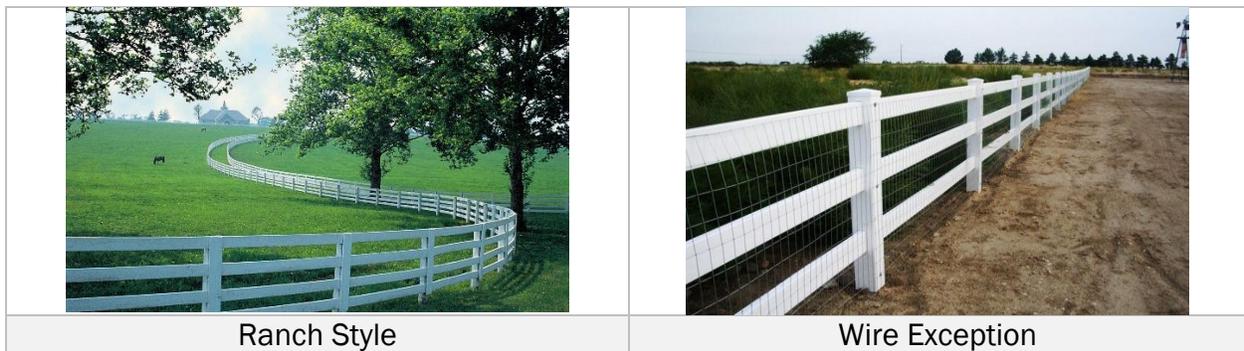
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D. FENCES, FRONT YARD

- 1. Fences shall not be located any closer than the lot line of the home, except as provided below.
- 2. The fence shall not encroach upon road right-of-way, including future/planned right-of-way as specified by the Hendersonville Transportation Plan. Under no circumstances, however, shall the fence be located any closer than 12 feet to the edge of pavement of the street.
- 3. The fence may be up to 60 inches in height. The following fence styles are permitted:
  - a. Finished wrought iron,
  - b. Aluminum tubing,
  - c. Wood "picket" fencing,

- d. Split rail,
- e. Brick,
- f. Stone, or
- g. Are constructing with similar decorative materials and design as approved by the Planning Department or Planning Commission.
- h. The equivalent to the above or compatible with the design, architecture, and building materials in the neighborhood.
- i. Ranch style fences shall be constructed of treated wood, vinyl, or an equivalent material.
- j. See Figure 3 below.

FIGURE 3: PERMITTED FENCE STYLE EXAMPLES ("RANCH STYLE" AND WIRE EXCEPTION)

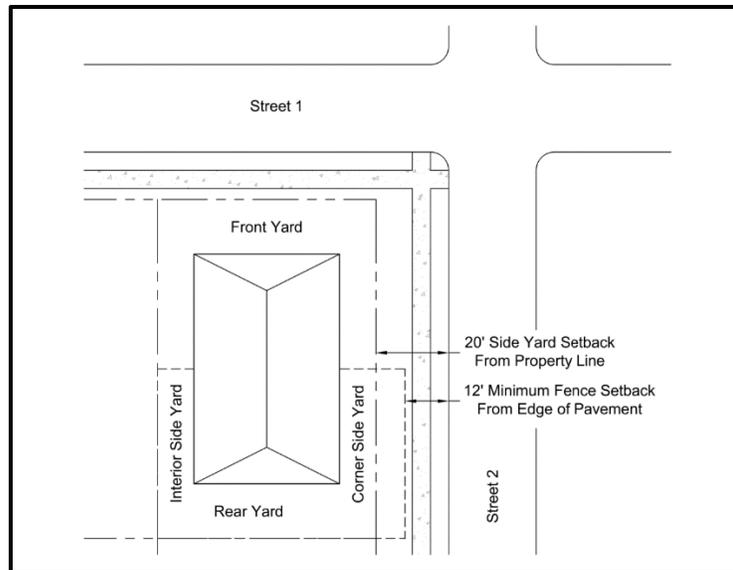


- 4. A fence permit is required.

E. [FENCES, CORNER SIDE YARD](#)

- 1. Fences must be set back a minimum of 50% of the required depth of the street side.
- 2. The fence may not exceed eight feet in height.
- 3. The fence shall not encroach upon road right-of-way, including future/planned right-of-way as specified by the Hendersonville Transportation Plan. Under no circumstances, however, shall the fence be located any closer than 12 feet to the edge of pavement to the street.

*EXAMPLE: Side street setback of 20 feet would have a minimum setback of 12 feet.*



4. The fence may be up to 60 inches in height. The fence styles below are permitted:
  - a. Finished wrought iron,
  - b. Aluminum tubing,
  - c. Wood “picket” fencing,
  - d. Split rail,
  - e. Brick,
  - f. Stone, or
  - g. Are constructing with similar decorative materials and design as approved by the Planning Department or Planning Commission.
  - h. The equivalent to the above or compatible with the design, architecture, and building materials in the neighborhood.
  - i. Ranch style fences shall be constructed of treated wood, vinyl, or an equivalent material.
  - j. See Figure 3 below.
  
5. A fence permit is required.

F. [FENCES, INTERIOR SIDE AND REAR YARD](#)

1. Fences may be erected as close to the interior side and rear property lines as desired by owners.

*NOTE: It is the responsibility of the owner and their contractor to make sure the fence does not encroach onto the adjoining property.*

2. Along the rear property line of double-frontage lots, including alley lots, the fence must not encroach upon street or alley right-of-way, an alley easement, or upon future/planned right-of-way as specified by the Hendersonville Transportation Plan.

*NOTE: Under no circumstances, however, shall the fence be closer than ten (10) feet to the edge of pavement of the street or five feet to the alley.*

3. The fence may not exceed eight feet in height.
4. A fence permit is not required.

#### 10.4.11.3 | FENCES IN COMMERCIAL DISTRICTS

A Zoning Permit is required prior to the erection or replacement of any fence in commercial or industrial zoned areas.

- A. Fences are prohibited in the front or corner side yard unless approved by the Planning Commission in conjunction with a Site Plan and Design Review approval.
- B. Fences may not exceed eight feet in height except when required by [Chapter 11.4.10](#) (Buffer Yards) and Chapter [11.4.11](#) (Screening Requirements) to be a greater height.
- C. See Chapter [11.4.10](#) (Buffer Yards) for fencing required to buffer residential uses.
- D. Fences in Commercial and Industrial developments shall conform to the standards specified above. In conjunction with Site Plan and Design Review approval for such developments, the developer may propose, and the Planning Commission may approve, standards which are tailored to the architecture and design of the particular development, provided such standards are consistent and equivalent as determined by the Planning Commission.
- E. Fences in Dockside Neighborhood would be based on the primary use.

#### 10.4.11.4 | FENCES FOR BUFFERS AND SCREENING

Fencing shall be required for screening in accordance with [Chapter 11.4.10](#) (Buffer Yards) and Chapter [11.4.11](#) (Screening Requirements).

#### 10.4.11.5 | FENCE CONSTRUCTION AND DESIGN REQUIREMENT

1. The framing members of all board fences shall not be directly visible from the street on which it is located. Placement of the framing members of board fences on the outside face of the fence directly visible from the street may be approved by the Planning Department if it is determined that it enhances the architectural character of the fence.

*NOTE: There is no requirement to face framing members of board fences between adjoining properties that are not directly visible from the street.*

2. A fence or wall, including all posts, bases, and other structural parts shall be completely within the boundaries of the lot on which it is located.
3. Fences shall only be constructed of the following materials:
  - A. Treated wood, cedar, or redwood
  - B. Simulated wood, including vinyl-covered, synthetic composite, or equivalent.
  - C. Decorative brick or stone
  - D. Wrought iron or aluminum designed to simulate wrought iron
  - E. Coated chain-link – brown, black, or green in color only
  - F. Any other combination of material which the Planning Department determines to be equivalent to the above in terms of quality and appearance.
  - G. Wire fencing that is secondary in nature and located on the interior side of the fence (owner side) may be allowed in combination with any fence that would otherwise meet the above material requirements (ex. Horse wire fencing fastened behind a three- or four-rail wood fence). In no instance, however, shall wire fencing of any type be allowed as the primary fencing material. See [Figure 3](#) above.
  - H. See Figure 4 below.

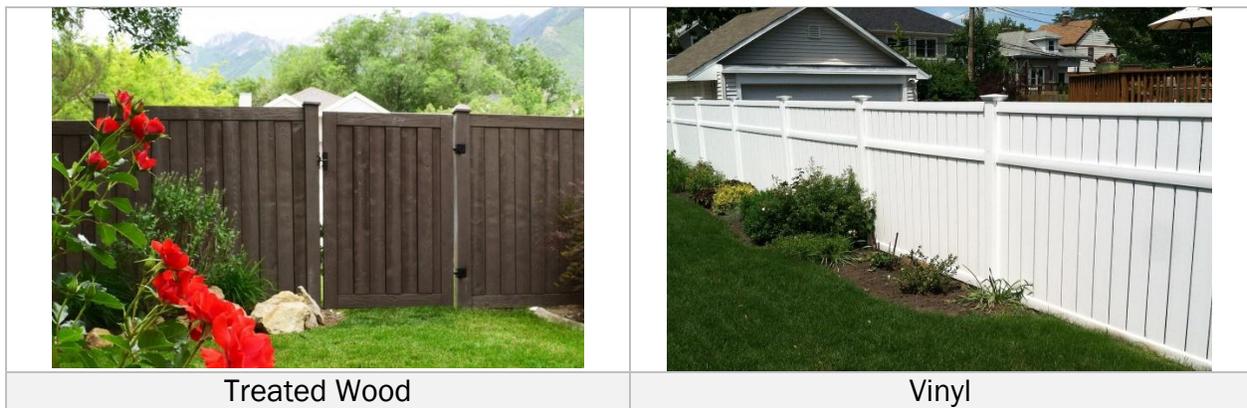




FIGURE 4: PERMITTED FENCE STYLE EXAMPLES (TREATED WOOD, VINYL, WROUGHT IRON/SIMIULATED WROUGHT-IRON, COATED CHAIN LINK)

#### 10.4.11.6 | NONCONFORMING FENCES

Existing fences which are an existing legal nonconforming structure may be repaired or reconstructed. However, any change to fence style or material, height, or length shall not be permitted without approval of the Planning Department in the form of staff-approved Site Plan and Design Review. (See [Chapter 14.4](#) Nonconforming Structure Guidelines).

#### 10.4.12 | HOME OCCUPATIONS

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##### 10.4.12.1 | GENERAL

A Major or Minor Home Occupation Permit is required prior to starting a home occupation within a residential zone district. The following standards are intended to ensure that home occupations conducted within a dwelling are compatible with the established character of the neighborhoods where they are located.

##### 10.4.12.2 | MINOR HOME OCCUPATION

A Minor Home Occupation shall meet the following requirements and limitations:

- A. The Minor Home Occupation shall be conducted entirely within the dwelling and shall be clearly secondary to the use of the dwelling for residential purposes. The dwelling is considered to be the house, any attached garage, and any addition to the house, but does not include a detached garage or building.
- B. A Minor Home Occupation shall not exceed 25% of the total floor area of the principal building.
- C. A Minor Home Occupation shall not be established prior to the member(s) of the family conducting the Minor Home Occupation taking possession of, and residing in, the dwelling.

- D. No person other than a family member residing on the premises shall be employed as part of a Minor Home Occupation unless such employee(s) works off-premises. No contractor, contract employee, consultant, associate, or any other person associated with the business shall be on the premises for purposes of conducting business.
- E. There shall be no customers or clients on the premises of a Minor Home Occupation.
- F. There shall be no more than one commercial vehicle on the premises with the business name and/or logo. Wreckers are prohibited. See also [Chapter 10.4.15](#) (Parking) for limits on length of vehicles and trailers. Vehicles located in front of or beside the home must be parked in the driveway or garage.
- G. The receipt, sale, or shipment of deliveries shall not be permitted on or from the premises, except for regular U.S. Mail and/or an express shipping service that is characteristic of service to residential neighborhoods.
- H. The Minor Home Occupation shall not change the fire rating of the structure.
- I. The Minor Home Occupation shall not generate noise, solid waste, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in a residential use.
- J. No outdoor storage or display of materials, merchandise, inventory, heavy equipment, or anything associated with the Minor Home Occupation shall be permitted.
- K. No exterior alteration that changes the residential character of the principal building shall be permitted. No exterior building signs shall be permitted unless authorized by [Chapter 13](#) (Signs).
- L. Any type of Motor Vehicle Service and Repair is not permitted as a Minor Home Occupation.
- M. Day Care Homes are not regulated by this section. Day Care Homes providing care to more than four children require a Conditional Use Permit in residential zoning districts (excluding MFR). Day Care Homes with four or fewer children are allowed as an accessory use in a residential dwelling unit. (See Chapter 10.3.3).
- N. Minor Home Occupation permits do not cover discharge of wastes to the municipal separate storm sewer permit. All operators must properly dispose of all wastes generated by the occupation. Operators must provide a pollution prevention plan to the City upon request.

*Example: A mobile detailer or mobile dog groomer must collect wash wastewater and properly dispose of the wastewater into the sanitary sewer or an approved waste disposal facility.*

- O. Illicit discharges to the municipal storm sewer system will result in revocation of the Minor Home Occupation Permit.

#### 10.4.12.3 | MAJOR HOME OCCUPATION

A Major Home Occupation is allowed only with the approval of the Board of Zoning Appeals. Such approval shall follow the same process of a Conditional Use Permit. A Major Home Occupation shall meet the following requirements and limitations:

- A. The Major Home Occupation shall be conducted entirely indoors and shall be clearly secondary to the use of the dwelling for residential purposes. A Major Home Occupation may be conducted within an attached or detached garage or a separate accessory building or structure with the specific approval of the Board of Zoning Appeals.
- B. The Major Home Occupation shall not exceed 25% of the total floor area of the principal building.
- C. A Major Home Occupation shall not be established prior to the member(s) of the family conducting the Major Home Occupation taking possession of, and residing in, the dwelling.
- D. A Major Home Occupation may include employees, contractors, or others who do not reside on the premises to work on-site provided they are not on the premises between the hours of 10:00 PM and 7:00 AM. The Board of Zoning Appeals may, with the approval of the Major Home Occupation permit, restrict the number of employees.
- E. A Major Home Occupation may have no more than two customers or other persons other than employees on the premises at one time and not more than eight per day and provided they are not on the premises between the hours of 10:00 PM and 7:00 AM. The Board of Appeals, with the approval of the Major Home Occupation permit, may restrict the number of customers and the hours of operations.
- F. There shall be no more than one commercial vehicle on the premises with the business name and logo. Wreckers are prohibited. See also [Chapter 10.4.17](#) (Parking) for limits on length of vehicles and trailers. Vehicles located in front of or beside the home must be parked in the driveway or garage.
- G. The receipt, sale, or shipment of deliveries shall not be permitted on or from the premises, except for regular U.S. Mail and/or an express shipping service that is characteristic of service to residential neighborhoods.
- H. The Major Home Occupation shall not change the fire rating of the structure.
- I. A Major Home Occupation shall not generate noise, solid waste, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs with a residential use.

- J. No outside storage or display of materials, merchandise, inventory, heavy equipment, or anything associated with the Major Home Occupation shall be permitted.
- K. No exterior alteration that changes the residential character of the principal building shall be permitted. No exterior building signs shall be permitted unless authorized by [Chapter 13](#) (Signs).
- L. Motor vehicle service repair is not permitted as a Major Home Occupation.
- M. Day Care Homes and Day Care Centers are not regulated by this section. Day Care Homes providing care to more than four (4) children require a Conditional Use Permit in residential zoning districts (excluding MFR). Day Care Homes with four (4) or fewer children are allowed as an accessory use in a residential dwelling unit. (See Chapter 10.3.4).
- N. Major Home Occupation permits do not cover discharge of wastes to the municipal separate storm sewer permit. All operators must properly dispose of all wastes generated by the occupation. Operators must provide a pollution prevention plan to the City upon request.

*Example: A mobile detailer or mobile dog groomer must collect wash wastewater and properly dispose of the wastewater into the sanitary sewer or an approved waste disposal facility.*

- O. Illicit discharges to the municipal storm sewer system will result in revocation of the Major Home Occupation Permit.

*Note: Major Home Occupation permits are not permitted in Dockside Neighborhood. Commercial Use and Occupancy standards shall apply for any commercial activity exceeding the level of Minor Home Occupation. Such commercial activity shall comply with Commercial Use and Occupancy standards.*

#### 10.4.13 | MECHANICAL EQUIPMENT

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- A. In all districts, all ground-based mechanical equipment including, but not limited to, heating, ventilating, and air-conditioning (HVAC) units and sewer grinder pumps, may encroach into one required side yard up to 70% of the width of the required yard, into the required front and side street yard up to 20% of the width of the required yard, and into the required rear yard up to 50% of the width of the required yard. Existing HVAC units and other mechanical equipment may be replaced in the same existing nonconforming location, as long as the units do not increase the extent or degree of nonconformity, with respect to the minimum required yard by more than 25%.
- B. Any HVAC units located on the roof of any structure in any zoning district shall be screened by an architectural feature forming an integral part of the building. (See [Chapter 12.3.6.6.I.](#))

#### 10.4.14 | OUTDOOR SEATING

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Outdoor seating is considered an accessory use for restaurants and brewery tap rooms.

1. Outdoor seating shall be subject to staff-level Site Plan/Design Review.
2. Outdoor seating shall not interfere with the use of required parking spaces and aisles.
3. Outdoor seating shall not be located in any required setback that abuts a residential use or district, unless an alley or street is located between the use and the residential use or district.
4. No additional parking spaces shall be required for the first 20 outdoor seats. One parking space shall be provided for each four seats above 20 provided outdoor seats.

*EXAMPLE: Additional outdoor seating for five, eight, or 20 customers would require no additional parking; however, 26 outdoor seats would require two additional parking spaces and 36 outdoor seats would require four additional parking spaces. (Note: See [Chapter 11.2.2.B](#) for rules for computation.)*

#### 10.4.15 | OUTDOOR DISPLAY

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Outdoor display may be allowed as an accessory use for all Retail Uses, Motor Vehicle Rental, Motor Vehicle Service Station/Fuel Center, and Heavy Retail and Rental. It is the intent of this Ordinance to allow the display of merchandise for sale, but not where the display of such items impedes the flow of pedestrian or vehicular traffic or creates an unsafe condition. Accessory outdoor display must be directly associated with a principal use located within a building on the same lot. The outdoor display of goods shall meet all of the following standards:

1. Outdoor display areas shall be depicted upon the Site Plan for a new retail and wholesale buildings.
2. All outdoor display of goods in front of the building or between the building and any side street shall be located immediately adjacent to the storefront and within 20 feet of the building and not in drive aisles, loading zones, fire lanes, or parking lots.
3. All outdoor display beside and behind the building shall not be located within the required side or rear yards and shall not exceed 40% of the combined required and non-required yards.
4. Outdoor display areas shall be limited to no more than (1/2 of the length of the store front.
5. In the case of a shopping center, the storefront shall include the entire frontage of the shopping center façade, meaning that the total amount of display for all the in-line

tenants combined shall not exceed 50% of the aggregate store front of the total shopping center.

6. The outdoor display area shall take place on an improved surface such as the sidewalk or pavement.
7. At least five feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display.
8. Any proposed display which does not conform to the above standards may be approved by the Planning Commission in the form of Site Plan and Design Review approval.
9. The outdoor display of cars, trucks, trailers, boats, recreational vehicles, farm equipment, construction equipment, motorcycles, landscape materials, and similar items for sale or rent which are customarily displayed outdoors shall be exempt from the above standards provided they are located entirely on private property and at least 20 feet from the edge of pavement of the adjoining street(s).
10. See [Chapter 10.6.3.5](#) (Sidewalk and Other Outdoor Sales).

#### 10.4.16 | OUTDOOR STORAGE

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Outdoor Storage of materials used by the principal business on the site may be allowed as an accessory use in accordance with the following standards:

1. Each Outdoor Storage area shall be located at the side or rear of the principal structure.
2. Each Outdoor Storage shall be screened in accordance with [Chapter 11.4.11.3](#) (Screening Requirements, Outdoor Storage Areas).
3. For the purpose of this Chapter, the parking of vehicles, trucks, and trailers associated with the business is not considered Outdoor Storage.
4. Any proposed Outdoor Storage that would not conform to these standards may only be approved by the Planning Commission in the form of Site Plan and Design Review approval.
5. Storage within over-the-road trailers, freight containers, and similar structures are prohibited in all zones, except as allowed on a temporary basis by [Chapter 10.6.3.10](#) (Temporary Uses).
6. Where there is no Principal Building on the site, Outdoor Storage will be considered the Principal Use, and as such shall be subject to Site Plan and Design Review approval.

7. Outdoor storage of materials shall be conducted in a manner to eliminate discharge of pollutants to stormwater and the municipal separate storm sewer system.

#### 10.4.17 | PARKING

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1. Off-street parking and loading are permitted as an accessory use. Requirements and standards are contained in [Chapter 11.2](#) (Outdoor Parking and Loading) which specifies the minimum number of parking spaces required for each required for each land use classification. Parking lot design standards are also included as well as standards for off-street loading.
2. The parking of the following vehicles and/or trailers is permitted as a residential accessory use:
  - A. One commercial vehicle not exceeding 22 feet in length or eight feet in height, or,
  - B. One commercial vehicle and attached trailer not exceeding 30 feet in length or eight feet in height,
  - C. One detached trailer, not attached to a vehicle and not exceeding 18 feet in length or four feet in height.

These vehicles and trailers shall not be parked between the street or side street and residence except in a paved driveway.

Specifically prohibited are semi-tractor trucks, trailers, and dump trucks.

Heavy construction equipment is also prohibited in residential zones. This includes bulldozers, end loaders, backhoes, and similar equipment.

The above standards shall not preclude temporary parking in connection with commercial service, sales and delivery, or construction projects.

3. The parking and storage of recreational vehicles, campers, travel trailers, motor homes, boats, boat trailers, and similar items are permitted as a residential accessory use provided they are not parked in the required front and corner side yards for more than three days per calendar month except in the driveway. Furthermore, not more than one shall be parked between the house and the street or any side street, even if parked in a driveway.

No recreational vehicle, camper, travel trailer, motor home or the like shall be used for living, sleeping, or housekeeping purposes except for visitors for not more than two weeks per calendar year.

#### 10.4.18 | PETS, POULTRY, AND OTHER ANIMALS

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The following pets, poultry, and other animals are permitted as an accessory use in the zones specified. Where a maximum number of such animals is specified based on lot area, this number is the collective maximum number allowed for all such animals on the lot.

1. Dogs, cats, and rabbits are allowed as a residential accessory use in all zones under the following conditions:
  - A. One per 3,000 square feet of lot area.
  - B. Subject to Animal Control Ordinance.
2. Chickens, ducks, and similar fowl are allowed as a residential accessory use in RR, ER, SR-1, SR-2, SR-3 and DN zones under the following conditions:
  - A. One per 10,000 square feet of lot area.
  - B. Shall be fenced in rear yard.
  - C. No roosters.
  - D. Shall be located at least 15 feet from all property lines except where adjacent to other such animals.
3. Pot-bell pigs, pygmy goats, and similar animals are permitted in RR, ER, SR-1, SR-2, SR-3, and DN zones under the following conditions:
  - A. One per 10,000 square feet of lot area.
  - B. Shall be fenced in the rear yard.
  - C. Shall be located at least 15 feet from all property lines except where adjacent to other such animals.
4. Horses, ponies, goats, and similar large animals are permitted in RR, ER, and SR-1 zones under the following conditions:
  - A. One per 30,000 square feet of lot area.
  - B. Shall be kept in a stable or within a fenced area or otherwise secured behind the house or beside the house. On a corner lot, the animal(s) shall not be kept in the area between the house and the side street.
  - C. Shall be located at least 50 feet from all property lines except where adjacent to other such animals.
5. Exotic animals are allowed as a residential accessory use in RR, ER, SR-1, SR-2, SR-3 and DN zones under the following conditions:
  - A. One per 20,000 square feet of lot area.
  - B. The animals are confined at all times.
6. Beekeeping of one or more beehive colonies is allowed as a residential accessory use in RR, ER, and SR-1 zones under the following conditions:

1. One beehive colony per 5,000 square feet of lot area.
  2. Conformance with State law (See TN Department of Agriculture).
  3. Must be located in the rear lot area and no closer than 20 feet to any property line.
  4. Must have a fresh water and mineral water source on site for the colony.
7. Breeding and raising of animals for sale in a residential zone is prohibited except for one litter per parcel per year. The restriction on the maximum number of animals per square foot of lot area shall not apply to the litter for a period of eight weeks following birth.
  8. Livestock and all other animal keeping and raising is restricted to RR and ER zones on parcels of land containing a minimum of 10 acres.

**10.4.19 | PORCHES**

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1. Unenclosed porches, with columns and/or rails only, may encroach eight (8) feet into any front, corner side, or rear yard, but shall not encroach into any existing or proposed utility or drainage easements.

2. Enclosed, or partially enclosed porches, with roof, columns and any type of continuous wall including screens, must meet all setback requirements.



3. Steps and stoops are not considered porches. Existing stoops, as of the date of adoption of this Ordinance, located in the interior side yard, shall be considered conforming uses and may be repaired or replaced.

#### 10.4.20 | PRODUCTION OF GOODS AT A RETAIL BUSINESS AND RESTAURANT

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Production of goods for sale by a firm engaged in a permitted principal commercial activity on the same zone lot is permitted as an accessory use, but only if:

1. At least 50% of all goods produced are sold on premises and must be sold by the same firm.
2. Such production does not occupy more than 49% of the total floor area.
3. Such production does not in any case occupy more than 2,000 square feet of such floor area.
4. Such production may only be permitted in an enclosed building.

#### 10.4.21 | RETAINING WALLS

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1. If the face of a new building is within five feet of a retaining wall, the height of the retaining wall shall be included in the building height calculation. The combination of the retaining wall height and the remainder of the building height above the wall shall not exceed the maximum building height limitation.
2. Retaining walls greater than five feet in height must be located at least five feet from any property line.
3. No footings for retaining walls shall extend past a property line without specific easement obtained from impacted adjacent property owner.

*Note: For retaining wall requirements see Appendix G in the Subdivision Regulations.*

#### 10.4.22 | SATELLITE DISH ANTENNAS

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1. Satellite dish antennas shall be permanently installed on a building, in the ground, or on a foundation.
2. Subject to operational requirements, the dish color shall be of a neutral color, such as white or grey, and shall blend with the surroundings as best as possible. No additional signs or advertising shall be permitted on satellite dish itself, aside from the logos of the satellite dish service provider or dish manufacturer.
3. Cables and lines serving ground-mounted satellite dish antennas shall be located underground and/or along the wall or roof of the building to which it is attached.
4. Compliance with all federal, state, and local regulations shall be required in the construction, installation, and operation of satellite dish antennas.

5. All exposed surfaces of the antenna shall be kept clean and all supports shall be painted to maintain a well-kept appearance. Antennas no longer in use must be removed.
6. Satellite dish antenna greater than one meter in diameter shall be located in the rear or interior side yard and shall be set back a distance from all lot lines that is at least equal to the height of the dish, but in no case less than five feet from any lot line.

#### 10.4.23 | SIGNS

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See [Chapter 13](#).

#### 10.4.24 | SOLAR PANELS

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##### 10.4.24.1 | ONE AND TWO-FAMILY RESIDENTIAL

Solar Panels are allowed as an accessory use at one and family residences on the roof of the residence and accessory buildings and as free-standing structures in the rear yard. A Zoning Permit is required prior to erecting the panels.

##### 10.4.24.2 | MULTI-FAMILY RESIDENTIAL AND INSTITUTIONAL

Solar Panels are allowed as an accessory use at townhome and multi-family residential buildings and institutional buildings in residential zones, provided the panels are located on the roof of the buildings, including garages, carports, and other accessory buildings.

*NOTE: Garages, carports, and other accessory buildings at townhome and multi-family residential and institutional developments are subject to Site Plan and Design Review approval. As such, landscaping and screening are required as per [Chapter 11.4](#) (Landscaping, Screening, and Tree Preservation). Refer to these chapters.*

##### 10.4.24.3 | COMMERCIAL AND INDUSTRIAL DISTRICTS

Solar Panels are allowed as an accessory use in commercial and industrial districts provided the panels are placed on the roof of the principal or accessory buildings. See [Chapter 12.3.6.8](#) for design standards for canopies and carports on which Solar Panels may be placed in commercial districts. See [Chapter 12.4.5.8](#) for industrial district standards. Solar Panels may be freestanding in commercial and industrial districts if located behind the principal building(s) and not visible from any public streets or surrounding property. Screening may be provided as per [Chapter 11.4.11.3](#) to block visibility.

## 10.4.25 | SWIMMING POOLS AND HOT TUBS

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### 10.4.25.1 | LOCATION

- A. Swimming Pools (including apron and decks), hot tubs (including apron and deck), and any related equipment are permitted within the rear yard and must be located at least five feet from any lot line. These items are not permitted within easements.
- B. Swimming pools and hot tubs may be located between the house and the front lot line or the corner street lot line provided they do not encroach into the required front yard setbacks and provided they are screened from view from the street(s) with evergreen landscaping. Landscaping shall be sufficient in height and spacing to block 90% of the view from the street(s) or enclosed with a wall, six feet in height minimum, which is constructed of the same materials as the house and are otherwise architecturally consistent with the house. Plans drawn up by a licensed architect must be submitted to and approved by the Planning Department prior to the issuance of the Zoning Permit. This screening shall be maintained as long as the pool or hot tub is in place.
- C. A Zoning Permit must be secured prior to commencement of construction.

### 10.4.25.2 | WALKWAYS

A grade-level walkway or deck surrounding the pool or hot tub must be located at least five feet from any lot line in the rear yard.

A pool walkway or deck elevated one foot or more above grade must be located at least 10 feet from any lot line in the rear yard.

### 10.4.25.3 | FENCING

All pools and hot tubs shall be enclosed by a fence conforming to the requirement of [Chapter 10.4.11](#) (Fences) of this Ordinance, the City's pool code, and any other law.

## 10.5 PERMITTED ENCROACHMENTS AND HEIGHT EXCEPTIONS

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### 10.5.1 | PERMITTED ENCROACHMENTS INTO REQUIRED YARDS

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An encroachment is the extension or placement of any structure or building, or component of such, into a required yard setback. Additional restrictions on permitted encroachments, including additional setback requirements and bulk regulations, can be found in [Chapter 10.4](#) (Accessory Uses) above and are referenced within the following table. Permitted encroachments are found in in Table 12 (Permitted Encroachments).

TABLE 12: PERMITTED ENCROACHMENTS

**TABLE 12 | PERMITTED ENCROACHMENTS**

**Y = PERMITTED // N = NOT PERMITTED**

TYPE OF ENCROACHMENT	YARDS WHERE ENCROACHMENT PERMITTED		
	FRONT YARD, CORNER SIDE YARD	INTERIOR SIDE YARD	REAR YARD
Accessibility Ramp	Y	Y	Y
Air Conditioner Window Unit (No more than 18" into any required yard)	Y	Y	Y
Amateur (HAM) Radio Equipment (Subject to Chapter 10.4.3)	N	N	Y
Arbor or Trellis (Subject to Chapter 10.4.1.4.C.2)	Y	Y	Y
Awning & Canopy (Residential Use)	Y, no more than 4' into a required yard	Y, no more than 2' into a required yard	Y, no more than 4' into a required yard
Balcony (Must be located at least 2 feet above ground, and does not rest on the building foundation or on the ground)	Y, no more than 4' into a required yard	N	Y, no more than 4' into a required yard
Basketball Goal (Single goal located on driveway)	Y, no more than 12' into a required yard	Y	Y
Bay Window	Y, no more than 4' into a required yard	N	Y, no more than 4' into a required yard
Chimney (No more than 18" into a required yard)	Y	Y	Y
Compost Pile	N	N	Y
Deck - Does not include decks constructed around and part of swimming pools - No higher than the first floor of a structure - If fenced, see fence requirements	N	N	Y, no more than 8' into a required yard
Dog House & Dog Run	N	N	Y, but 5' from any lot line
Driveway	Y	Y	Y
Eaves (Principal Building)	Y, no more than 2' into a required yard	Y, no more than 2' into a required yard	Y, no more than 2' into a required yard
Eaves (Accessory Building or Structure)	N	Y, no more than 1' into a required yard	Y, no more than 1' into a required yard
Emergency Electrical Generator (Subject to Chapter 10.4.8)	N	N	N
Exterior Stairwells	N	N	Y, no more than 4' into a required yard
Exterior Stairwells	N	N	Y, no more than 4' into a required yard

**TABLE 12 | PERMITTED ENCROACHMENTS**

**Y = PERMITTED // N = NOT PERMITTED**

TYPE OF ENCROACHMENT	YARDS WHERE ENCROACHMENT PERMITTED		
	FRONT YARD, CORNER SIDE YARD	INTERIOR SIDE YARD	REAR YARD
Fall-Out Shelter (Underground)	N	N	Y
Fence (Residential District)(Subject to Chapter 10.4.11)	Y	Y	Y
Fence (Commercial District)(Subject to Chapter 10.4.11)	Y	Y	Y
Fire Escape	Y	Y	Y
Flagpole (No more than 3 per zoning lot) (Not to exceed 35' in height)	Y	Y	Y
Garage, Detached	N	Y	Y
Gazebo (Subject to Chapter 10.4.1.4.C.2)	Y	Y	Y
Laundry Drying Equipment (Clothesline & Poles)	N	N	Y
Mechanical Equipment, Ground Mounted (Central air conditioning, heating, ventilating, compressors, etc.) (Subject to Chapter 10.4.13)	Y	Y	Y
Ornamental Lighting, Lamp Posts & Permanently Anchored Lawn Furniture & Decorations (Benches, statues, birdbaths, sculptures, etc.) (Subject to view obstruction and exterior lighting regulations)	Y	Y	Y
Outdoor Fireplaces	N	N	Y
Parking Lots (Subject to Chapter 11.2)	Y	Y	Y
Patio	Y, no more than 10' into a required yard	Y, no closer than 5' to the side line	Y, no closer than 5' to the rear line
Pens, Animal (Subject to 10.4.18)	N	Y, no closer than 5' to the side line	Y, no closer than 5' to the rear line
Pergola (Subject to Chapter 10.4.1.4.C.2)	Y	Y	Y
Planter Box, Building-Mounted or Freestanding (No more than 1' into any required yard)	Y	Y	Y
Playground & Recreational Equipment (Must be located at least 3' from any lot line)	N-Front Y-Corner Side if fenced	Y	Y
Porch, Unenclosed (Subject to Chapter 10.4.19)	Y, no more than 8' into required front and corner side yard	N	Y, no closer than 8' to the rear line
Porch, Enclosed	N	N	N
Retaining Wall - Subject to Chapter 10.4.21	Y	Y	Y
Satellite Dish Antenna (1 meter or less in diameter)(Subject to Chapter 10.4.22)	Y	Y	Y

**TABLE 12 | PERMITTED ENCROACHMENTS**

"Y" = PERMITTED // "N" = NOT PERMITTED

TYPE OF ENCROACHMENT	YARDS WHERE ENCROACHMENT PERMITTED		
	FRONT YARD, CORNER SIDE YARD	INTERIOR SIDE YARD	REAR YARD
Satellite Dish Antenna (More than 1 meter in diameter) (Subject to Chapter 10.4.22)	N	N	Y, no more than 4' into a required yard
Sidewalk and Private Walkway	Y	Y	Y
Signs	Y, subject to Chapter 13 (Signs)	Y, subject to Chapter 13 (Signs)	Y, subject to Chapter 13 (Signs)
Sills, Belt course, cornices & ornamental features of the principal building (No more than 12" into a required yard)	Y	Y	Y
Sheds & Private Greenhouses (Subject to Chapter 10.4.1)	N	Y	Y
Solar Collectors	N	N	Y
Steps & Stoops, Open	Y, no more than 10' into a required yard	Y, no more than 3' into a required yard	Y
Swimming Pools & Hot Tub ( Subject to Chapter 10.4.25)	Chapter 10.4.25.1.B	Y	Y
Tennis Court, Basketball Court, or Similar	N	N	N
Terrace - No more than 5' into any required yard - Located no more than 3' above grade	Y	N	Y
Outdoor Fireplaces	N	N	Y
Trash Receptacles (Dumpsters) - Does not include trash receptacles temporarily placed on the lot for trash collection	N	Y	Y
Water Feature & Man-Made Pond	Y	Y	Y

(Corrected 02/04/2026)

**10.5.2 | PERMITTED EXCEPTIONS FROM HEIGHT LIMITATIONS**

The height limitations specified by Table 4, Table 6, Table 9, & Table 10 shall not apply to water tanks installed by a state regulated water utility district or telecommunication towers as regulated by Chapter 15 (Wireless Telecommunications Facilities and Towers). Church steeples, spires, chimneys, and similar structures are exempt provided they do not exceed 80 feet in height as measured from the ground.

# 10.6 TEMPORARY USES AND STRUCTURES

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## 10.6.1 | TEMPORARY USE AND STRUCTURE PERMIT APPLICATION

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1. Unless specifically exempt below, any person, firm, or corporation desiring to conduct a temporary use within Hendersonville shall first obtain a temporary use permit. Such person, firm, or corporation shall file a written application with the Planning Department on a form provided by the City, together with an application fee as required by separate Ordinance. For any event not conducted by the owners of the property where the temporary use is to occur, a letter from the property owner granting permission to conduct the even shall be provided. A permit is not required for Temporary Uses to be conducted on City property, provided such use has been approved by the appropriate City official and provided the temporary use complies with all other provisions of this Ordinance.
2. The Planning Department shall grant temporary use permits for those uses listed below so long as it is determined that the proposed use, including the erection of any temporary building or structure, complies with the requirements of this Chapter and this Ordinance. Unless expressly provided in this Chapter, every temporary use shall comply with the bulk requirements applicable in the district in which the temporary use is located.
3. Temporary uses not specifically listed herein shall require the specific approval of the Planning Commission. The process for approval shall be the same as for a Site Plan, except that the submittal items shall conform to the requirements for a Staff Approved Site Plan. Such uses may be allowed in any zoning district, provided that such temporary use is consistent with the purpose and intent of this Ordinance and the zoning district in which it is located.
4. Every temporary use shall comply with this Ordinance and all local regulations. The Planning Department may impose other conditions, as party of this temporary use permit approval, as necessary to achieve the purposes of this Ordinance, and to protect the public health, safety, comfort, convenience, and general welfare. No temporary use shall be permitted in any district if it would have a significant negative impact on any adjacent property or on the area as a whole.

## 10.6.2 | GENERAL PROVISIONS

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Only those temporary uses as defined in [Chapter 16](#) (Definitions) and as specified below are allowed in Hendersonville. Every temporary use shall comply with all the requirements listed below.

1. No temporary use shall be permitted that causes, or threatens to cause, an on-site or off-site threat to the public health, safety, comfort, convenience, and general welfare.

2. Every temporary use shall be operated in accordance with such restrictions and conditions as the Fire, Police, Public Works and Codes Departments may require. If required by the City, the operator of the temporary use shall employ appropriate security personnel.
3. No temporary use shall be permitted if the additional vehicular traffic reasonably expected to be generated by such would have undue detrimental effects on surrounding streets and uses.
4. No Temporary Use shall be permitted on any site without adequate all-weather, dust-free, off-street parking sufficient to meet the demands of the temporary use. No temporary use shall be authorized that would unreasonably reduce the amount of parking spaces available for use in connection with permanent uses located on the lot in question. Adequate drive aisles and fire lanes shall be provided. The Planning Department may make an assessment of the total number of parking spaces that will be reasonably required in connection with a proposed temporary use, on the basis of the particular use, its intensity and the availability of other parking facilities in the area. The Planning Department shall approve such temporary use only if such parking spaces are provided.
5. No Temporary Use shall be permitted if such use would conflict with another previously authorized temporary use.
6. Signs shall be permitted only in accordance with [Chapter 13](#) (Sign Standards).
7. Temporary structures, including tents, vendor carts and kiosks, portable buildings, trailers, over-the-road trailers, freight containers, recreational vehicles and mobile homes, used in conjunction with the temporary uses listed below are permitted as stated below, otherwise they are prohibited. All temporary structures are subject to being inspected for compliance with all applicable fire, life safety, building, electrical, and related codes.
8. The operation of all temporary uses shall be subject to the Hendersonville Noise Ordinance (Title 11, Chapter 4 of the Hendersonville Municipal Code).
9. All temporary uses shall comply with all applicable local, county, and state environmental, solid waste disposal and sanitary waste disposal regulations. Any required Health Department certificate shall be plainly displayed.
10. Temporary uses which require use of public road right-of-way, parks, or other public property shall first secure approval of the appropriate City representative. All such uses shall be coordinated with the appropriate City, County, and State officials.
11. Trash generated by the temporary use shall be removed daily.
12. Any required business license shall be obtained.

### 10.6.3 | PERMITTED TEMPORARY USES

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#### 10.6.3.1 | CARNIVALS, CIRCUSES, AND HAUNTED HOUSES

Carnivals, circuses, and haunted houses are allowed in all commercial zoning districts, except O, DN, and NC, and in all industrial districts. Carnivals include pony rides. These uses shall be evaluated on the basis of the adequacy of the parcel size, parking provisions, traffic, access, and the absence of undue adverse impact, including noise, on other properties. Temporary structures may be used, provided they conform to all applicable laws. These uses need not comply with the yard requirements and the maximum height requirements of this Ordinance. The concessionaire responsible for the operation of any such use shall:

- A. Submit, in advance of the event, a site layout displaying adequate ingress and egress routes for emergency vehicles, with no dead-end aisles.
- B. Comply with all local regulations.
- C. Provide refuse containers in the number and locations required by the City. All containers shall be properly serviced.
- D. Provide for thorough clean-up of the site at the completion of the event.
- E. Provide proof that all amusement devices have been State inspected, if required.
- F. Upon written notice from the City, immediately stop the use of any amusement device or structure found by the City to pose a threat to the public safety.
- G. Provide a \$5,000 surety conforming to the requirements of [Chapter 4.10.5](#) of this Ordinance. Pony rides are exempt from this requirement.
- H. Carnivals and circuses must cease operation and completely clear the site within 15 days of first occupying the site. Haunted houses have 45 days.
- I. Only operate one such event per zone lot per 12-month period, with exception of pony rides which may operate up to four times per parcel per 12-month period.
- J. Limit operation of the event to between the hours of 8:00 AM and midnight.

#### 10.6.3.2 | CHRISTMAS TREE, PUMPKIN, AND PLANT SALES

Christmas tree, pumpkin, and plant sales are allowed in commercial zoning districts. Plants include seasonal flowers and potted plants, not shrubs and trees other than Christmas trees. These uses shall be evaluated based on the adequacy of the parcel size, parking provisions, traffic, access, and the absence of undue adverse impact on other properties. Tent, trailers, and recreational vehicles may be used, provided they conform with all

applicable laws. Each sale shall be limited to a period not to exceed 45 consecutive days. There shall be no more than two such sales per parcel per 12-month period.

### 10.6.3.3 | FIREWORKS

Pursuant to Title 7, Chapter 4 of the Hendersonville Municipal Code, as amended, firework sales are prohibited in the City except at one “grand-fathered” site (103 Caldwell at Center Point). Such sales are limited to 45 days prior to Christmas and July 4<sup>th</sup>. Tents, over-the-roads trailers, freight containers, and recreational vehicles may be used, provided they conform to all applicable laws. Signs must conform to [Chapter 13](#) (Signs).

### 10.6.3.4 | CIVIC, NON-PROFIT, RELIGIOUS EVENTS, AND FESTIVALS

Civic, non-profit, and religious events, festivals, bazaars, bands, arts and crafts sales, fundraisers, car shows, farmers markets, and the like are allowed in commercial and industrial districts, property in residential districts in use as government and educational uses, religious uses, cultural uses, recreational and entertainment uses. These uses shall be evaluated based on the adequacy of the parcel size, parking provisions, traffic, access, and adverse impact on other properties. Tents, food trucks, and vendor carts and trailers may be used provided they conform to all applicable laws. Such events conducted in a residential zone are limited to a maximum of three consecutive days per event and not more than four such events per calendar year per parcel and the hours of operation are limited to 8:00 AM and 11:00 PM. Such events conducted in non-residential zones are limited to a maximum of 10 consecutive days per event.

### 10.6.3.5 | SIDEWALK AND OTHER OUTDOOR SALES

Sidewalk and other outdoor sales for special sales events or other purposes are permitted in all commercial and industrial zones. They shall be in conjunction with, and clearly incidental to, an existing permanent on-site use and are permitted to display and sell only merchandise that is found in the on-site store. Tents and vendor carts and trailers may be used provided they are at least 20 feet from the street and otherwise conform to all applicable laws. No sidewalk/outdoor sale shall be permitted for a period of more than seven successive days and no more than six sales shall be permitted in any 12-month period. The above provisions do not preclude the outdoor storage and display of merchandise as permitted/regulated by Chapter [10.4.15](#) (Outdoor Display) and Chapter [10.4.16](#) (Outdoor Storage) of this Ordinance.

### 10.6.3.6 | MOBILE VENDORS

Mobile vendors, including the sale of prepared food, produce, and new merchandise from a cart, kiosk, or tent, which conform to all applicable laws, are permitted in all commercial districts. Mobile vendors operating in conjunction with other permitted temporary uses, i.e., carnivals, circuses, and civic, non-profit, religious events, and festivals, shall abide by the standards of such other temporary use rather than the standards of this sub-chapter. Furthermore, food trucks which do not remain on any lot for more than one hour shall abide by the requirements of the Peddlers Ordinance contained in the Municipal Code, Title 9,

Chapter 1 rather than the standards of this sub-chapter. Applications for mobile vendors shall be evaluated by the Planning Department based on the adequacy of the parking provisions, traffic, access, and impact on the neighborhood and compliance with the following required standards.

- A. The lot on which they are located must contain a minimum of one acre.
- B. The mobile vendor shall be a minimum of 100 feet from any public street.
- C. Must be at least 1,000 feet from any other vendor, except that group of not more than three mobile vendors located within 50 feet of each other shall be considered a single vendor in regard to the 1,000-foot separation requirement.
- D. Must be at least 1,000 feet from a permanent business which sells the same items unless notarized permission is obtained in writing from the permanent business agreeing to the mobile vendor to be closer than 1,000 feet. (See [Appendix E: Consent for Property Use for Mobile Vendor](#))
- E. No lot or parcel may be occupied by a mobile vendor or group of three vendors for more than six one-week periods during the calendar year. Periods may be consecutive. This time limitation shall not apply to a single vendor located within 20 feet of the principal building on the lot or parcel.
- F. Tables seating no more than eight persons may be provided for food vendors, provided trash receptacles are also provided and emptied as necessary to maintain a clean and sanitary site. All tables, chairs, and trash receptacles and other items associated with the operation shall be removed by the end of the period(s) specified in [Chapter 10.6.3.6.E](#).
- G. Business license must be prominently displayed. Food vendors must also display the required Health Department Food Service Permit.
- H. No mobile vendor may operate in a location that impedes the ingress to, egress from, or signage of another business or otherwise causes undue interference with access to other businesses or emergency areas, paths, or facilities.
- I. Mobile vendors may operate in City Parks or on City owned property with permission of the City of Hendersonville Parks Director or Mayor.
- J. Mobile vendors may not park on vacant lots or grassy areas.
- K. Mobile vendors may operate within subdivisions with Homeowners Association permission for special events and are exempt from the above standards.

#### 10.6.3.7 | TEMPORARY PORTABLE CLASSROOMS

Temporary portable classrooms are permitted at public and private primary and secondary schools. These classrooms shall not contain any sleeping or cooking accommodations. No portable building shall be used as an office. The portable classrooms must be of high quality and in good repair. Site Plan approval is required.

#### 10.6.3.8 | TEMPORARY CONSTRUCTION OFFICES

In any district, a Temporary Use Permit may be issued for a trailer for a contractor's temporary office and equipment sheds incidental to a construction project. Such temporary permit shall expire after one year. Prior to expiration, the temporary permit may be renewed for six-month increments. Such temporary use shall be removed immediately upon expiration of the Temporary Use Permit or completion of the construction project, whichever occurs sooner. These temporary uses shall not contain any sleeping accommodations or cooking facilities, except those located in a model unit for demonstration purposes only. No trailer, unit, or office may be used as the general office or headquarters of any firm. All temporary construction offices and equipment sheds must be of high quality and maintained in good repair, as determined by the City.

#### 10.6.3.9 | TEMPORARY OFFICES

In any commercial or industrial district, a Temporary Use Permit may be issued for a modular or manufactured building for temporary office use, such as hiring and pre-sales. This building must be placed on or adjacent to the site where the permanent building for this business or industry is being constructed. The permanent building must be substantially complete. Temporary offices must be of high quality and maintained in good repair. Vehicular and emergency vehicle access to the office must be complete as well as adequate parking. The permit shall not exceed 90 days unless a longer duration is approved by the Planning Director.

#### 10.6.3.10 | TEMPORARY STORAGE WITHIN OVER-THE-ROAD TRAILERS OR FREIGHT CONTAINERS

- A. Storage within over-the-road trailers or freight containers shall not exceed 90 days within a 12-month period in all commercial districts and industrial districts. At the end of the 90 days, any trailers shall be totally removed from the premises or location where the storage occurred. Storage is not allowed within visibility of a Public Street or residential neighborhood. A temporary use and occupancy permit is required.
- B. The temporary storage of two portable containers, not exceeding a total of 2,000 cubic feet, are permitted within all residential zoning districts for a maximum of 90 days in a one year period. An extension of an additional 30 days may be granted by the Planning Director. Requests for longer periods of time shall require the approval of a Conditional Use Permit by the Board of Zoning Appeals. Temporary portable storage or freight containers shall not be allowed to be placed on public property, including sidewalks, roadways, and public road right-of-way.

10.6.3.11 | MODEL HOMES, SUBDIVISION/BUILDER INFORMATION, AND SALES OFFICE

In any residential district, a temporary use permit may be issued by the Planning Department to allow the use of a dwelling unit or club house as a model home and/or Subdivision and/or building information and sales office. This permit may be modified to reflect moving the model home or information and sales office to a new location in the same subdivision. Said use shall be discontinued when all homes in the subdivision, except the model, have been sold. All regulations pertaining to signs as contained in [Chapter 13](#) (Signs) shall apply. Any parking lots or other parking areas, other than driveways and parking which are accessory to the dwelling, shall require the submittal of a Site Plan for review and approval of the Planning Department staff.

A modular or manufactured building may be approved by the Planning Department until a dwelling or the club house is complete.

10.6.3.12 | GARAGE SALES

Garage, yard, estate, and home sales are allowed in any yard, garage, carport, driveway, or in the home in any district operated by the owner or occupant of the dwelling unit where the sale is being conducted. These uses shall be limited to a period not to exceed three consecutive days and no more than three sales shall be conducted from the same residence in any 12-month period. Such sales are exempt from permit and parking requirements. All items associated with a sale must be removed from all yards, carports, and other areas visible from any property line within three days of conclusion of each sale.

**10.7 AIRPORT HAZARD AREA**

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10.7.1 | TEMPORARY USE AND STRUCTURE PERMIT APPLICATION

10.7.1.1 | INTENT AND PURPOSE

An ordinance regulating and restricting the height of structures and objects of natural growth and otherwise regulating the use of property, in the vicinity of the Nashville International and John C. Tune Airports by creating the appropriate zones and establishing the boundaries thereof. This ordinance is adopted pursuant to the authority conferred by T.C.A., Section 42-6-103 and 14 CFR Part 77. It is hereby found that an obstruction has the potential for endangering the lives and property of the City of Hendersonville and of users of Nashville International and John C. Tune Airports, and property or occupants of land in its vicinity; that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Nashville International and John C. Tune Airports and the public investment therein.

Accordingly, it is declared:

- A. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Nashville International and John C. Tune Airports.
- B. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- C. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

#### 10.7.1.2 | DEFINITIONS

As used in this Section, unless the context otherwise requires the following words and terms shall have the following meanings:

*Airports* – Nashville International and John C. Tune Airports

*Airport Zoning Map* – A map produced in order to outline the horizontal and vertical limits beyond which the projection of any structure or tree will constitute an airport hazard.

*Obstruction* – Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this ordinance.

*Structure* – An object, including a mobile object, constructed, or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formations and overhead transmission lines.

#### 10.7.1.3 | AIRPORT ZONES

In order to carry out the provisions of this Section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Nashville International and John C. Tune Airports.

#### 10.7.1.4 | AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Section, no structure shall be erected or altered in any zone created by this Section to a height in excess of 150 feet above ground level.

#### 10.7.1.5 | NONCONFORMING USES

##### Regulations Not Retroactive:

The regulations prescribed by this Section shall not be construed to require the removal, lowering, or other change or alteration of any structure not conforming to the regulations as of the effective date of this section, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this section and is diligently prosecuted.

#### 10.7.1.6 | SITE PLAN APPROVALS

In the airport zone, applications for uses in excess of 150 feet from ground level shall require prior approval of the Metropolitan Nashville Airport Authority (MNA) prior to consideration of approval. Any application made without this attached approval for structures within this zone will be considered an incomplete application and will not be processed for review.

#### 10.7.1.7 | ENFORCEMENT

The City of Hendersonville will make every effort to enforce this provision for applications made for development within its enforcement jurisdiction.

#### 10.7.1.8 | SEVERABILITY

If any of the provisions of this Section or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Section which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.





# CHAPTER 11 | SITE DEVELOPMENT STANDARDS

11.1 | PURPOSE

11.2 | OFF-STREET PARKING AND LOADING

11.3 | OUTDOOR LIGHTING

11.4 | LANDSCAPING, SCREENING, AND TREE PRESERVATION

11.5 | MULTI-FAMILY SITE DEVELOPMENT STANDARDS

11.6 | RESIDENTIAL SUBDIVISION AND MULTI-FAMILY DEVELOPMENT ENTRY WAYS, WALLS, AND FENCING

11.7 | STREET AND OTHER REQUIRED IMPROVEMENTS

11.8 | UTILITY SERVICE

11.9 | ROADWAY ARCHES

11.10 | CLUSTER MAILBOXES

## 11.1 PURPOSE

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The standards in this Chapter are intended to provide accessible, attractive, secure, and well-maintained off-street parking and loading areas with the appropriate number of spaces in proportion to the needs of the proposed use and increase public safety by reducing congestion of public streets. This Chapter is also intended to reduce adverse impact caused by bright lights.

The landscaping and screening requirements established by this Chapter are intended to preserve and enhance the appearance, public health, safety, convenience, comfort, and general welfare of the City. Proper landscaping contributes to the City in many ways:

1. Enhancing its character and scenic beauty.
2. Providing clean air, reducing noise.
3. Preventing erosion of topsoil.
4. Reducing the rate of stormwater runoff.
5. Providing nesting areas for birds and habitat for other wildlife.
6. Conserving energy.
7. Providing shade and windbreaks.

These regulations are also intended to increase the compatibility of adjacent uses, and minimize the adverse impact of noise, dust, motor vehicle headlight glare or other artificial light intrusions, and other objectionable activities or impacts conducted on, or created by, adjoining or neighboring uses.

# 11.2 OFF-STREET PARKING AND LOADING

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## 11.2.1 | GENERAL PROVISIONS

### 11.2.1.1 | EXISTING FACILITIES

- A. The existing number of off-street parking and loading spaces shall not be reduced below the requirements of this Section. If the number of existing spaces is already less than the requirements of this Section, it shall not be further reduced.
- B. Existing off-street parking and loading areas that do not conform to the requirements of this Section, but were in conformance with the requirements of this Ordinance at the time the parking or loading facilities were legally established by permit, are permitted to continue as a nonconforming structure.
- C. If a building permit for a building or structure was lawfully issued prior to the effective date of this Ordinance, and if construction has begun within 180 days of the issuance of a permit, the number of off-street parking and loading spaces shall be provided in the amount required for the issuance of said building permit, regardless of what may be required by this Section.

### 11.2.1.2 | DAMAGE OR DESTRUCTION

When a building is reconstructed or repaired after being damaged or destroyed, off-street parking and loading facilities shall be restored or maintained in an amount equivalent to that at the time of such damage or destruction. However, it shall not be necessary to restore or maintain parking and loading facilities in excess of the applicable requirements of this Section.

### 11.2.1.3 | CHANGE IN LAND USE

When the existing use of a building, structure, or parcel of land is changed to a new use, parking and loading spaces shall be provided as required for the new use. Additional parking or loading spaces shall be required in the amount by which the requirements for the new use exceed the requirements for the existing use.

### 11.2.1.4 | CHANGE IN INTENSITY OF USE

- A. When the intensity of use of any building, structure, or parcel of land is increased, additional parking and loading spaces shall be provided. The number of additional parking and loading spaces shall be based on the increase in the number of dwelling units, gross floor area, seating capacity, or other unit of measurement used to calculate the number of required parking or loading spaces.
- B. When the intensity of use of any building, structure, or parcel of land is decreased, the number of parking and loading spaces may be reduced so long as the parking

requirements of this Chapter are met for the entire building, structure, or parcel of land as modified.

#### 11.2.1.5 | PROVISIONS FOR ADDITIONAL SPACES

Nothing in this Chapter shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities, provided that all regulations governing the location, design, and control of such facilities shall be in accordance with this Chapter.

#### 11.2.1.6 | LIMITATIONS ON USE

No motor vehicle repair or cleaning of any kind shall be permitted in any parking space, parking lot, or loading berth. No gasoline, motor oil, or any other automobile accessory or similar product shall be sold or dispensed in such areas.

#### 11.2.1.7 | HARDSHIP REDUCTION / ADJUSTMENTS TO PARKING SPACES REQUIRED (LIMITED TO SITES WITH OLDER EXISTING BUILDINGS)

The Planning Commission may determine that the total number of parking spaces required by this Ordinance may be reduced in unique situations within sites located within older commercial areas of the City with existing buildings and site limitations to encourage redevelopment and reinvestment. The applicant shall be fully responsible to provide sufficient evidence supporting the request to reduce the parking requirement. The Planning Commission may evaluate any request to reduce parking space requirements by the following:

- A. There is an existing commercial building located on the property that is more than 25 years in age and there are no existing or proposed residential uses on the property.
- B. Due to special circumstances associated with the operation of the use at its location, the proposed use will generate a parking demand different from the standards specified.
- C. The number of reduced parking spaces approved will be sufficient for its safe, convenient, and efficient operation of the use and will not create issues for adjacent properties.
- D. In no instance shall the number of parking spaces be reduced more than 30% below the standards specified.

*Note: Standards for other parking reductions/adjustments not meeting this criteria are listed under [Chapter 11.2.9.3](#).*

#### 11.2.1.8 | ADJUSTMENTS TO PARKING SPACES REQUIRED WHEN EXISTING PARKING REMOVED DUE TO CITY ACTION (RIGHT-OF-WAY NEEDED DUE TO STREET OR OTHER PUBLIC IMPROVEMENTS)

Legal conforming or legal nonconforming parking spaces that are taken or rendered unusable or nonconforming due to right-of-way dedication required by the City, may be credited to the lot or parcel from which they were taken or made unusable, for the purpose of fulfilling [Section 11.2.10](#) (Required Off-Street Parking Spaces).

*For example, a lot which has a total of 50 parking spaces is required by this Ordinance to dedicate right-of-way resulting in the loss of 10 parking spaces. Later, a building addition or change-of-use is made which incurs the requirement for 25 additional parking spaces over and above what exists on the lot or parcel. Ten parking spaces will be credited to the lot or parcel towards fulfillment of the required parking. The lot or parcel owner will be required to provide 15 additional parking spaces rather than 25 spaces.*

In the event the building is voluntarily removed and the property redeveloped, the credited parking spaces shall be voided and no longer credited towards the lot or parcel.

#### 11.2.2 | COMPUTATION

The total number of required parking and loading spaces shall be based upon the requirements for the principal use of the lot. However, when more than one use occupies the same lot, the number of required spaces shall be the sum of the separate requirements for each use.

*EXCEPTION: Commercial Centers (multi-tenant, mixed-use developments, i.e., retail, office, service, and restaurants) shall provide parking as per [Table 13](#) (Parking Requirements).*

All off-street parking facilities shall be completed before occupancy of the building or structure served. In computing the number of off-street parking or loading spaces required by this Chapter, the following standards for computation shall apply:

- A. Space allocated to any off-street loading space shall not be used to satisfy the requirement for any off-street parking space, or portion thereof. Conversely, the area allocated to any off-street parking space shall not be used to satisfy the replacement for any off-street loading space or portion thereof.
- B. A fraction of less than 1/2 may be disregarded, and a fraction of 1/2 or more shall be counted as one parking or loading space.
- C. In places of assembly in which patrons or spectators occupy benches, pews, or similar seating facilities, each 18 inches of such seating facility shall be counted as one seat for the purpose of determining the requirement of off-street parking facilities.
- D. Except as otherwise specified, parking or loading spaces required on an employee basis shall be based on the maximum number of employees normally present on the premises

at any one time. When the determination of the number of parking spaces is based on the number of employees, the owner and/or manager shall be counted as an employee(s).

### 11.2.3 | CONSTRUCTION OF PARKING AND LOADING FACILITIES

#### 11.2.3.1 | SITE PLAN REVIEW REQUIRED

Site Plan review, in accordance with [Chapter 4.7](#) (Site Plan and Design Review), is required prior to any construction, alteration, or addition of any parking facility. For purposes of this Chapter, construction, alteration, or addition shall include all paving of previously unpaved surfaces.

#### 11.2.3.2 | TIME OF COMPLETION

Off-street parking and loading facilities required by this Chapter shall be completed prior to the issuance of the Use and Occupancy Permit for the use they serve.

### 11.2.4 | COLLECTIVE PROVISIONS

1. Off-street parking spaces for individual uses may be provided collectively if the total number of spaces provided is equal to or greater than the sum of the spaces required for each individual use.

*EXCEPTION: Commercial Centers (multi-tenant, mixed-use developments, i.e., retail, office, service, restaurants) shall provide parking as per [Table 13](#) (Parking Requirements).*

No parking space, or portion of a space, shall serve as the required space for more than one similar use, but can be shared among two or more individual uses under the following shared parking arrangements described in [Chapter 11.2.4.B](#).

2. The use of a particular parking facility shall not occur by each use at the same time. The use with the highest demand must provide all required spaces. No shared use of parking spaces shall be permitted unless:
  - A. The users of the shared parking facility shall sign an agreement, approved by the City Attorney, expressing the intent to share parking facilities. This agreement shall be filed with the City and recorded with the Sumner County Register of Deeds.
  - B. Approval is obtained from the Planning Department that confirms that the use of such facility by each user does not take place at the same hours during the same days of the week.
  - C. The location and design requirements of this Chapter are met.

- D. Any subsequent change in ownership or use shall require proof that the minimum parking requirements, per this Chapter, have been met for each use, prior to the issuance of the required Use and Occupancy Permit.

#### 11.2.5 | *LAND BANKED FUTURE PARKING*

The Planning Commission may permit land banking of up to 25% of the required parking spaces through the Site Plan review process, if the following standards are met:

1. Sufficient evidence shall be provided by the applicant that supports the reduced parking needs.
2. The area proposed for land banking of parking spaces shall be an area suitable for parking at a future time.
3. Landscaping of the land banked area shall be in full compliance of the zoning regulations and at a minimum landscaped with turf. As a result of the Site Plan review process, the Planning Commission may require additional landscaping of the land-banked area.
4. The land banking area cannot be used for any other permanent use without amendment of the Site Plan.
5. As part of the Site Plan review process, the applicant shall show the area to be banked on the Site Plan and marked as “land banked future parking.”
6. The Planning Department, on the basis of increased parking demand for the use, shall require the conversion of all or part of the land-banked area to off-street parking spaces. Evidence of increased demand includes the fact the parking lot is one hundred percent (100%) occupied more than once per week.
7. Failure to construct land-banked parking within 120 days of notification by the Planning Department shall be cause for revocation of the Use and Occupancy Permit and to invoke other penalties authorized by this Ordinance.

#### 11.2.6 | *LOCATION OF OFF-STREET PARKING SPACES*

##### 11.2.6.1 | *RESIDENTIAL USES*

- A. All required parking spaces for residential uses shall be located on the same lot as the building or use served except for condominiums where the parking may be located on adjacent common open space.
- B. For single-family and townhome dwelling(s), parking shall be permitted in private driveways, but no such parking may encroach onto the public road right-of-way or sidewalk. Parking spaces located within garages or covered carports shall not be utilized in calculating the required number of parking spaces.

11.2.6.2 | NON-RESIDENTIAL USES

- A. All required off-street parking areas for non-residential uses shall be located on the same lot as, or within 300 feet of, the building or use served. However, off-street parking accessory to a commercial or industrial use shall not be located in any residential district.
- B. When required off-street parking spaces are provided at an off-site parking area, such off-site parking areas shall be, and remain in, the same possession and ownership as the zoning lot occupied by said building or use. No such off-site parking areas, including land-banked parking, shall be authorized and no Use and Occupancy Permit shall be issued, unless the Planning Department has reviewed the plans and has made findings that common ownership or possession does and will continue to exist with respect to the zoning lot and the land containing the off-site parking areas, and that the off-site parking area will be maintained at all times during the life of the proposed use or building. A covenant to this effect shall be recorded with the Sumner County Register of Deeds.
- C. Off-street parking spaces are permitted within any yard. However, where a yard abuts a residential district, no off-street parking spaces shall be permitted within 10 feet of the lot line abutting the residential district.

11.2.7 | DESIGN STANDARDS

All off-street parking facilities shall comply with the following standards:

11.2.7.1 | DIMENSIONS

- A. Standard off-street parking spaces shall be designed in accordance with [Figure 5](#) (Off-Street Parking Dimensions).
- B. All parking spaces shall have a minimum vertical clearance of seven feet-six inches (7' 6").
- C. Any exceptions to the size standards for off-street parking spaces shall be in conformance to [Chapter 11.2.7.9](#).

11.2.7.2 | ACCESS

- A. Each off-street parking space shall open directly upon an aisle or driveway of such width as will provide adequate means of vehicular access to such parking space. All off-street parking facilities shall be provided with appropriate means of vehicular access in a manner that least interferes with traffic movement and allows the driver of the vehicle to proceed forward into traffic rather than back out.
- B. All required off-street parking facilities shall have vehicular access from a street, alley, driveway, or cross-access connection.

- C. Within off-street parking facilities one-way traffic aisles shall be at least 12 feet in width and two-way traffic aisles shall be at least 24 feet in width. Furthermore, all aisles shall be design in accordance with Figure 5 (Off-Street Parking Dimension).

FIGURE 3: OFF-STREET PARKING DIMENSIONS

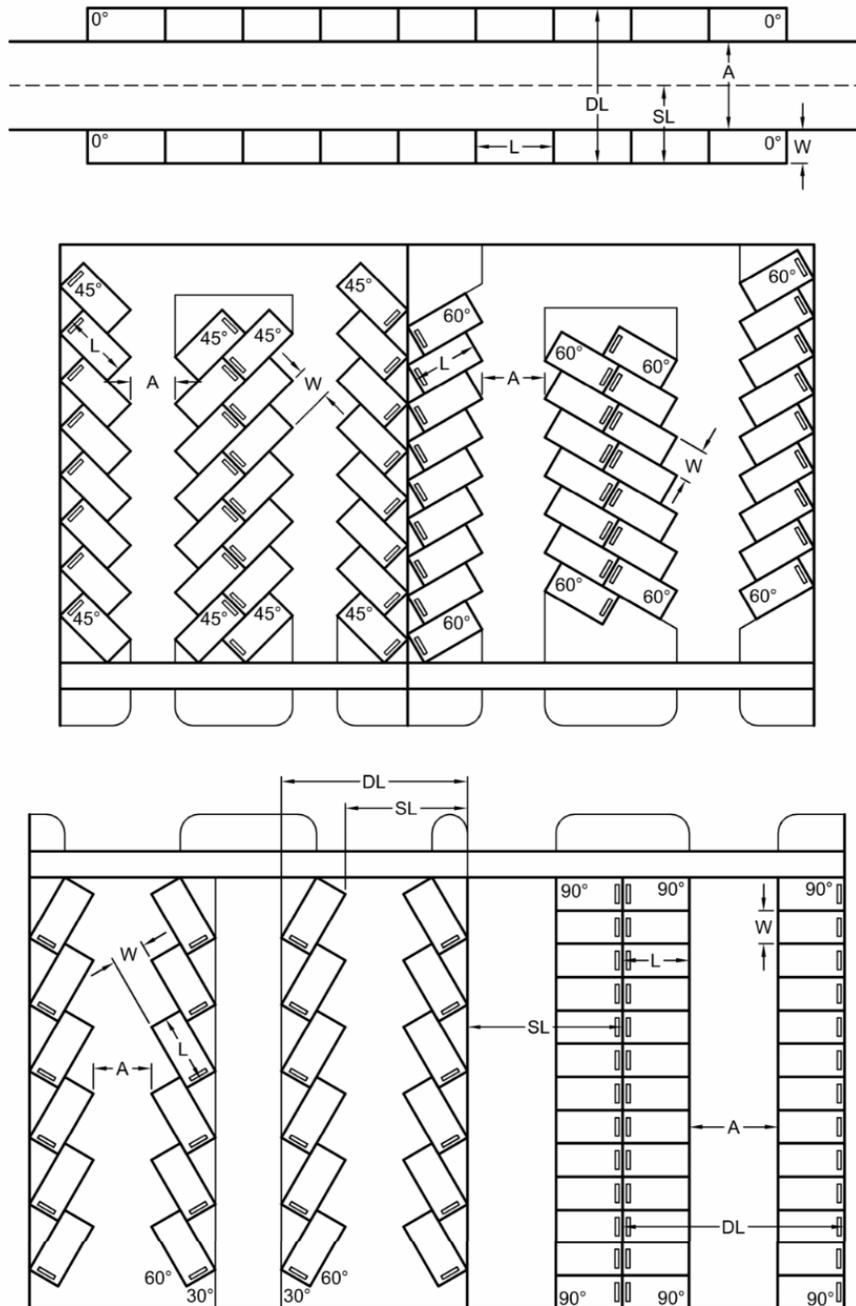


Figure 2: Off-Street Parking Dimensions

Off Street Parking Requirements					
PARKING ANGLE	STALL WIDTH (W)	STALL LENGTH (L)	AISLE WIDTH (A)	SINGLE-LOADED MODULE <sup>2</sup> WIDTH (SL)	DOUBLE-LOADED MODULE <sup>2</sup> WIDTH (DL)
0°	9'	21'	12'/24' <sup>1</sup>	21'/33' <sup>1</sup>	30'/42' <sup>1</sup>
30°	9'	18'	12'	29'	46'
45°	9'	18'	15'	35'	54'
60°	9'	18'	17'	38'	58'
90°	9'	18'	24' <sup>1</sup>	42' <sup>1</sup>	60' <sup>1</sup>

**NOTES:**

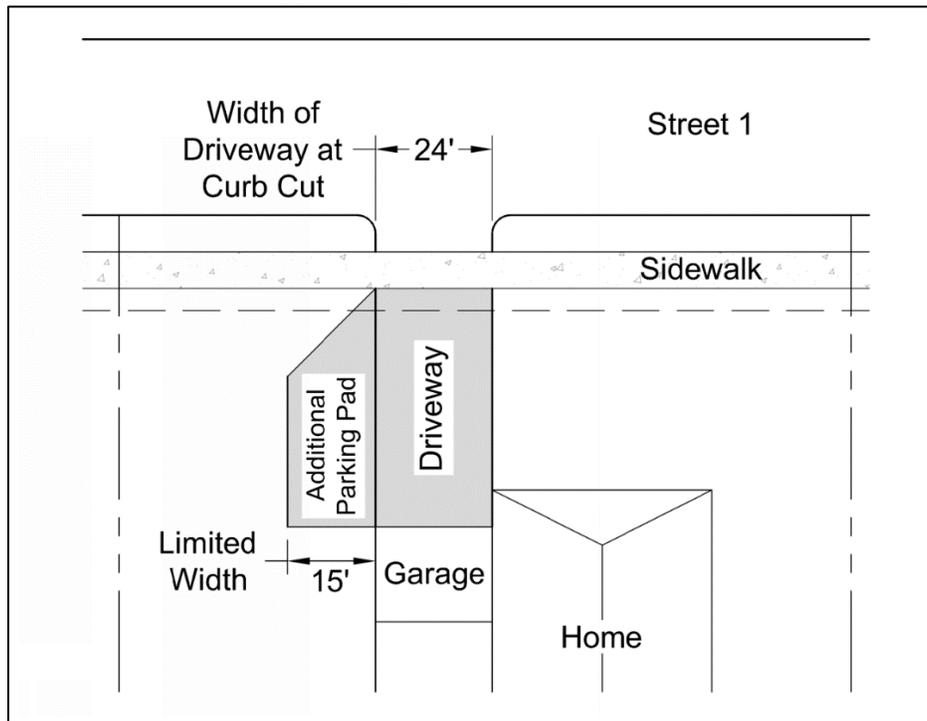
1. Two-way traffic permitted.
2. A module is defined as a drive aisle with automobiles parked on one side (single-loaded) of the drive aisle, or both sides (double-loaded) of the drive aisle.
3. Dimensions are shown exclusive of curbs.

**D. Driveways**

**1. Residential Driveways, Excluding Multi-Family and Townhome Dwellings**

- A residential driveway shall be no wider than 24 feet in width at the curb cut. See Figure 6 (Residential Driveway Width).
- Single-family dwellings are permitted an additional paved parking pad, located beside the house and up to 15 feet in width. See Figure 6 (Residential Driveway Width).

FIGURE 4: RESIDENTIAL DRIVEWAY WIDTH



## 2. Multi-Family and Townhome Dwellings and Non-Residential Driveways

- No driveway shall have a width exceeding 24 feet, except for non-residential driveways that provide access to loading berths or are striped with dual exit lanes. Such driveways shall not exceed 36 feet in width.
- Driveways within townhomes shall be separated by a minimum of a three-foot grass yard area.
- Driveways, off-street parking areas and access aisles for multi-family residential and non-residential parking lots shall be designed in accordance with [Figure 5](#) (Off-Street Parking Dimensions). However, during the Site Plan review process, the Planning Commission may approve a reduction in the minimum width of a drive aisle subject to Fire Department approval.

## 3. Single-Family Dwelling Units Driveway Curb Cuts

One driveway curb cut shall be permitted on a zoning lot for a new single-family (detached) dwelling unit. Two curb-cuts not more than 12 feet wide may be approved for a circular driveway. For lots with more than one street frontage, one curb-cut is allowed per frontage. More than one curb cut in any other circumstance must be approved by the Public Works Department. Existing lots with more than one curb cut and/or a circular driveway or straight driveway that exists at the time of adoption of this Ordinance, may be replaced and repaired.

### 11.2.7.3 | SURFACING

All off-street parking areas and driveways shall be constructed of concrete, asphalt pavement or equivalent. Semi-pervious materials such as grasscrete and brick and concrete pavers may also be used, subject to the approval of the Planning Department.

Off-street parking areas and driveways on City owned property may be surfaced with gravel if determined to be appropriate by the City Engineer. Typically would involve areas located within City owned parks.

### 11.2.7.4 | STRIPING

Off-street parking areas shall delineate parking spaces with paint or other permanent materials, which shall be maintained in clearly visible condition. Parking spaces for handicapped person shall be identified with appropriate signage or markings.

### 11.2.7.5 | CURBING AND BUMPER STOPS

All parking lots exceeding 10 spaces shall be edged with concrete curbing. Bumper stops, wheel stops, or curbing shall be provided as needed to prevent vehicles from damaging or encroaching upon any adjacent loading space, sidewalk, landscaped area, or parking lot island, fence, wall, or building. Curbing shall be at least four inches in height. The length of

the parking stall shall be as indicated in [Figure 5](#) (Off-Street Parking Dimensions). This standard shall not, however, prohibit the use of planting areas as on-site stormwater management devices, wherein curbing around such planting areas may be waived.

#### 11.2.7.6 | DRAINAGE AND GRADING

Except for parking spaces accessory to a single-family detached dwelling, no area of any parking facility shall have a slope of more than five percent. No access ramp shall have a slope of more than 10% in the first 15 feet from the back of sidewalk.

#### 11.2.7.7 | LIGHTING

Illumination of an off-street parking area shall be arranged so as to deflect the direct rays of light away from adjacent properties and streets in accordance with [Chapter 11.3](#) (Outdoor Lighting).

#### 11.2.7.8 | LANDSCAPING AND SCREENING

All parking lots shall be landscaped in accordance with [Chapter 11.4](#) (Landscaping, Screening and Tree Preservation).

#### 11.2.7.9 | PARKING EXCEPTIONS

The following exceptions may be considered by the decision maker when reviewing a project.

##### A. Compact Spaces

Where allowed pursuant to a Variance or through a discretionary approval, compact spaces may not account for more than 20% of all required spaces and must have a minimum width of eight feet and depth of 14.5 feet.

##### B. Motorcycle Spaces

Motorcycle parking may be used to substitute up to five percent of required automobile parking for any use at a ratio of two to one (2:1) and must measure at least four feet by nine feet. All motorcycle and moped parking areas must be clearly marked and dedicated to these vehicles.

#### 11.2.8 | ADA ACCESSIBLE PARKING

The following provisions apply to accessible parking spaces that are required in compliance with the federal Americans with Disabilities Act (ADA).

### 11.2.8.1 | REQUIRED SPACES

With the exception of single family and townhome dwellings, all off-street parking facilities where parking is provided for employees, visitors, or both, ADA-compliant parking spaces for disabled person shall be provided. The number of ADA accessible parking spaces shall be included in the total number of required parking spaces and shall be in accordance with applicable laws.

### 11.2.8.2 | DIMENSIONS AND DESIGN

Required ADA-compliant spaces shall comply with the design and locational standards of all applicable laws.

### 11.2.9 | STACKING SPACES FOR DRIVE-THROUGH FACILITIES

#### 11.2.9.1 | DESIGN

Stacking spaces provided for drive-through uses shall be:

- A. A minimum of nine feet in width, as measured from the outermost point of any service window to the edge of the driveway, and 18 feet in length.
- B. Placed in a single line behind each drive-through facility. Multiple facilities (i.e., dual ordering stations at quick service restaurants) shall provide separate stacking lines for each station.
- C. Located so that, when in use, they do not obstruct ingress or egress to the site and do not obstruct access to required parking and loading spaces.
- D. Stacking spaces shall begin the vehicle parked at a last point of service, such as a window or car wash bay.

#### 11.2.9.2 | REQUIRED SPACES

Every stand-alone drive-through facility shall provide a minimum of six stacking spaces per facility, unless otherwise required by [Table 13](#) (Parking Requirements) of this Ordinance. Every in-line drive-through facility shall provide a minimum of three stacking spaces per facility, unless otherwise required by [Table 13](#) (Parking Requirements) of this Ordinance.

*NOTE: Stand-alone drive-through would be a business/building that is not attached to any other business/building. In-line drive-through would be a business/building that is attached to other business/buildings, such as a shopping center.*

### 11.2.9.3 | REDUCTION OF REQUIRED SPACES

The number of required stacking spaces may be reduced by the Planning Commission during the Site Plan review process if the petitioner presents a study which demonstrates that a different requirement should be imposed. The approval of a reduced number of stacking spaces shall apply only to the specific business for which the study was conducted.

### 11.2.10 | *REQUIRED OFF-STREET PARKING SPACES*

The minimum number of off-street parking spaces to be provided for the designated uses shall be as follows in [Table 13](#) (Parking Requirements). [Table 13](#) lists parking requirements for the generic uses listed within the districts. In some cases, uses which are considered part of a generic use category are listed with specified parking requirements. These specified uses are listed only for the purposes of this Section and do not indicate whether such uses are permitted or conditional uses within any district. Certain generic uses listed within the districts do not have parking requirements. These types of uses are not listed within [Table 13](#).

A portion of the required number of parking spaces may be located on-street, but may only be on non-collector and non-arterial routes, provided that the street side from the centerline is increased to 22 feet (10 feet demarcated and striped for parking with a 12-foot lane) and shown as such on a site plan or subdivision plat with curb and gutter. Any on-street parking must be located immediately adjacent to the lot for which the parking is required.

TABLE 13: PARKING REQUIREMENTS

<b>TABLE 13   PARKING REQUIREMENTS</b>	
<b>GFA = GROSS FLOOR AREA // SF = SQUARE FEET</b>	
<b>USE TYPE</b>	<b>PARKING REQUIREMENTS</b>
<b>RESIDENTIAL USES</b>	
Assisted Living Facility	0.5 per bed + 1 per employee (largest shift)
Bed and Breakfast	1 per bedroom + 1 per employee (largest shift)
Community Residence	.25 per bed + 1 per employee (largest shift)
Dwelling above the Ground Floor	2 per unit
Dwelling, Single-Family	2 per dwelling unit (garage/carport spaces do not count towards this requirement)
Dwelling, Multi-Family	2 per unit
Dwelling, Townhome	2 per dwelling unit (garage/carport spaces do not count towards this requirement) + 0.5 space per unit separate from unit
Home for the Aged	0.5 per bed + 1 per employee (largest shift)
Independent Living Facility	2 per dwelling unit + 1 per employee (largest shift)
Nursing Home	1 per bed + 1 per employee (largest shift)
<b>GOVERNMENT &amp; EDUCATIONAL USES</b>	
Educational Facility, Primary/Secondary	Primary: 2 per classroom Secondary: 1 per 8 students (based on maximum enrollment) + 2 per classroom
Educational Facility, College/University	1 per 2 students (based on maximum enrollment) + 1 per classroom
Educational Facility, Vocational School	1 per 2 students (based on maximum enrollment) + 1 per classroom
Educational/Residential Boarding Campus	2 per dwelling unit + 1 per classroom + 1 per employee
Government Facility & Offices	3 per 1,000 SF GFA
Public Safety Facility	1 per 600 SF GFA
Public Works Facility	1 per 2 employees
<b>OFFICE USES</b>	
Call Center	1 per phone
Office	1 per 400 SF GFA
<b>RELIGIOUS USES</b>	
Place of Worship	1 per 4 seats

<b>TABLE 13   PARKING REQUIREMENTS</b>	
<b>GFA = GROSS FLOOR AREA // SF = SQUARE FEET</b>	
<b>USE TYPE</b>	<b>PARKING REQUIRMENTS</b>
<b>RETAIL USES</b>	
Brewery Tap Room and Retail Sales	1 per employee at largest shift, + 1 per 4 seats
Commercial Center (multi-tenant, including retail, office, restaurants) <sup>1</sup>	1 per 200 SF GFA: first 20,000 SF 1 per 250 SF GFA: next 80,000 SF 1 per 300 SF GFA: over 100,000
Motor Vehicle Dealership	1 per 1,000 SF of sales & display area (indoor + outdoor)
Retail Goods Establishment	4 per 1,000 SF GFA
<b>CULTURAL, RECREATIONAL &amp; ENTERTAINMENT USES</b>	
Art Gallery	1 per 800 SF GFA
Cultural Facility	2 per 1,000 SF GFA
Community Center	3 per 1,000 SF GFA
Firing Range	1 per lane
Golf Course	4 per hole
Health/Fitness Center	4 per 1,000 SF of public use area
Indoor Entertainment Facility	4 per 1,000 SF of public use area
Movie Theater	1 per 4 seats for first 400 seats + 1 per 6 additional seats after first 400
Indoor Recreation Facility	4 per 1,000 SF of public use area
Bowling Alley, Tennis, Raquetball, Volleyball, and other courts	2 per lane, 2 per court
Live Entertainment	4 per 1,000 SF of public use area
Marina	1 per 2 slips
Outdoor Entertainment Facility	2 per 1,000 SF of public use area
Outdoor Recreation	2 per 1,000 SF of public use area
Race Tracks	1 per 4 seats for the first 400 + 1 per 6 thereafter
Recreational Training School	1 per 250 SF GFA
Social Club or Lodge	2 per 1,000 SF GFA
<b>SERVICE USES</b>	
Animal Hospital	1 per 300 SF GFA
Banquet Hall	1 per 4 seats (based on maximum capacity) + 1 per 2 employees (based on largest shift)
Car Wash	1 per employee + 2 stacking spaces per bay
Caterer	1 per employee
Day Care Center, Adult or Child	1 per employee + 1 per 10 adults or children + 2 passenger loading spaces
Equipment Repair	1 per 500 SF GFA

## TABLE 13 | PARKING REQUIREMENTS

GFA = GROSS FLOOR AREA // SF = SQUARE FEET

USE TYPE	PARKING REQUIREMENT
<b>SERVICE USES</b>	
Financial Institution	1 per 400 SF GFA + 2 stacking spaces per lane
Funeral Home	1 space per 3 seats
General Business Services	3 per 1,000 SF GFA
Helistop	2 spaces
Hospital	1 per 2 beds + 2 per 3 employees (based on largest shift)
Hotel / Motel	1 per room + 1 per employee (largest shift)
Kennel	1 per 1,000 SF GFA + 1 per employee
Medical Rehabilitation Facility, Residential	1 per 2 beds + 2 per 3 employees (based on largest shift)
Medical / Dental Clinic	1.5 per exam room or 1 per 300 SF, whichever is greater
Medical / Dental Laboratory	1 per employee
Meeting / Event Center	1 per 4 seats (based on maximum capacity) + 1 per 2 employees (based on largest shift)
Motor Vehicle Rental Establishment	1 per 1,000 SF of display area (indoor + outdoor area)
Motor Vehicle Service & Repair, Major or Minor	2 per service bay + 1 per 500 SF of office & waiting area
Motor Vehicle Service Station /Fuel Center	2 per 1,000 SF GFA of any accessory convenience retail and/or food service + 2 stacking spaces per bay for any accessory automatic car wash
Personal Services Establishment	3 per 1,000 SF GFA
Printing Shop	1 per employee
Research and Development Facility	3 per 1,000 SF GFA
Restaurant, Full and Quick Service	1 per 100 SF GFA, plus see 10.4.12.4 for outdoor seats/ refer to 11.2.9.2 for drive-through stacking
Restaurant, Carry Out	1 per 150 SF GFA
Taxidermy	1 per employee
Utility, Private	1 per 2 employees

<b>TABLE 13   PARKING REQUIREMENTS</b>	
<b>GFA = GROSS FLOOR AREA // SF = SQUARE FEET</b>	
<b>USE TYPE</b>	<b>PARKING REQUIRMENTS</b>
<b>HEAVY RETAIL, WHOLESALE &amp; SERVICE USES</b>	
Contractor Office & Storage Yard	1 per 400 SF of office area + 1 per 5,000 SF of storage yard (indoor + outdoor)
Food Service Contractor	1 per employee
Heavy Retail, Rental, & Service Establishment	4 per 1,000 SF GFA, including outdoor storage & display areas
Machine Shop	1 per employee
Motor Vehicle Operations Facility	1 per 1,000 SF GFA
Reupholstery / Custom Home Textiles	1 per employee
Self-Service Storage Facility	1 per 100 storage units
Welding Shop	1 per employee
<b>INDUSTRIAL USES</b>	
Concrete or Asphalt Plant	1 per employee
Manufacturing	1 per employee
Reclamation Facility	1 per employee
Sign Manufacturing / Fabricating	1 per employee
Trucking Company / Terminal	1 per employee
Warehouse / Distribution	1 per 1,000 SF GFA
<b>OTHER USES</b>	
Adult-Oriented Establishment	1 per 100 SF GFA
Cemetery & Mausoleum	1 per 250 SF of Office and/or chapel space
Driving Range (Principal Use)	1 per tee
High Impact Facilities	1 per employee
Plant Nursery	3 spaces per acre
Radio & Television Towers & Transmission Facilities	2 spaces
Storage Space Accessory to a Principal Use - Service, Office, or Retail Use	1 per 1,000 SF GFA (storage space only)
Vacation Rental	1 per 500 SF GFA (Amended by Ord. 2016-16)
Wireless Telecommunications Tower	2 spaces

**NOTES:**

1. A Commercial Center is a multi-tenant development with a mixture of uses including, but not limited to retail, service, office, and restaurants. Full-service restaurants within such centers shall be provided with the number of parking spaces required for full-service restaurants rather than the lesser number of spaces required for a commercial center.
2. At the discretion of the Planning Director, a mixture of use areas within a structure can be utilized to calculate parking requirements.

11.2.11 | REQUIRED OFF-STREET LOADING SPACES

Off-street loading spaces shall be provided for a building, structure, or use which requires the receipt or distribution of materials or merchandise by trucks or other vehicles in accordance with Table 14 (Off-Street Loading Requirements).

TABLE 14: OFF-STREET LOADING REQUIREMENTS

TABLE 14   OFF-STREET LOADING REQUIREMENTS	
USE	NUMBER OF REQUIRED SPACES
<b>NON-RESIDENTIAL USES (EXCLUDING USES BELOW)</b>	
10,000 - 100,000 SF of Gross Floor Area	1 Loading Space
Each additional 100,000 SF of Gross Floor Area	1 Loading Space
<b>HEAVY RETAIL &amp; SERVICE, WHOLESALE &amp; DISTRIBUTION &amp; INDUSTRIAL USES</b>	
5,000 - 10,000 SF of Gross Floor Area	1 Loading Space
10,001 - 40,000 SF of Gross Floor Area	2 Loading Spaces
40,001 - 100,000 SF of Gross Floor Area	3 Loading Spaces
For each additional 100,000 SF of Gross Floor Area over 100,001 SF of Gross Floor Area	1 Loading Space

11.2.12 | DESIGN OF OFF-STREET LOADING SPACES

11.2.12.1 | LOCATION

- A. All off-street loading spaces shall be located on the same zone lot as the building or use served. No off-street loading spaces shall project into a public road right-of-way.
- B. Off-street loading spaces shall not take up a required parking space and shall not interfere with entrances and exits to the property.
- C. No off-street loading space shall be located in a front or corner side yard.
- D. All off-street loading spaces shall be located a minimum of 50 feet from the lot line of any lot in a residential district, unless completely enclosed by building walls or a solid fence or wall, or any combination thereof, not less than six feet in height.

11.2.12.2 | DIMENSIONS

All required off-street loading spaces shall be at least 12 feet in width and at least 30 feet in length, exclusive of maneuvering space, and shall have a minimum vertical clearance of at least 14 feet. During Site Plan review, the Planning Commission may require a loading space in excess of 30 feet in length based upon the proposed use land and anticipated shipping/delivery methods. In no case shall the Planning Commission may require a loading space in excess of 60 feet.

### 11.2.12.3 | SURFACING

All off-street loading spaces shall be constructed of a heavy-duty concrete, asphalt, or equivalent conforming to the specifications of the Public Works Department.

### 11.2.12.4 | ACCESS CONTROL AND SIGNAGE

Each required off-street loading space shall be designed with adequate means of vehicular access to a street or alley in a manner that will minimize interference with traffic movement.

### 11.2.12.5 | LIGHTING

Loading facility lighting shall be in accordance with [Chapter 11.3](#) (Outdoor Lighting). Illumination of an off-street loading facility shall be arranged so as to deflect the direct rays of light away from adjacent properties and streets.

### 11.2.12.6 | LANDSCAPING AND SCREENING

All loading facilities shall be landscaped and screened in accordance with [Chapter 11.4](#) (Landscaping, Screening and Tree Preservation).

## 11.3 OUTDOOR LIGHTING

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### 11.3.1 | LIGHTING LEVELS AND TYPE

Parking lots, which exceed 10 parking spaces and which are located within commercial districts and at multi-family residential/non-residential uses within residential districts shall be lighted at a minimum of 0.2 foot-candles and a maximum of 10 foot-candles. Lighting beneath canopies, such as at fuel centers, shall not exceed 30 foot-candles. Canopy lights shall be fully recessed into the canopy ceiling. See Chapter 11.3.3 (Light Trespass) for additional requirements.

### 11.3.2 | LIGHT DISTRACTION

Light fixtures in excess of 150 watts shall be fully shielded to prevent glare or spillover onto adjacent lots and streets. No exterior lighting may be used in any manner that could interfere with the safe movement of motor vehicles on public thoroughfares. Specifically, the following types of light trespass are prohibited:

- A. Any light not designed for roadway illumination that produces direct or reflected glare that could interfere with a driver's ability to safely operate a motor vehicle.
- B. Any light that may be confused with, or construed as, a traffic control device, except as authorized by state, federal, or local government.

C. In addition, motor vehicle service station lighting shall comply with the requirements of [Chapter 10.3.7](#) (Motor Vehicle Service Stations).

### 11.3.3 | LIGHT TRESPASS

No lighting source from a commercial use shall cause more than one foot-candle of illumination of cross the property line of an adjoining residentially zoned property.

### 11.3.4 | LIGHT POLE AND BUILDING MOUNTED LIGHTING HEIGHTS

The maximum height of light poles on private property, as measured from grade at the base to the bottom of the luminaire, shall be as specified below. These standards do not apply to public road right-of-way lighting. Permitted light pole heights shall be as follows:

#### 11.3.4.1 | NON-RESIDENTIAL

Lights poles and building-mounted fixtures shall be designed with fully shielded luminaires. Such poles or mounts shall not exceed 22 feet in height. The Planning Commission may approve, in appropriate circumstances as part of Site Plan review, a pole or mount of up to 30) feet. Wallpack light mounting height shall not exceed 12 feet.



#### 11.3.4.2 | RESIDENTIAL DISTRICTS

Light poles in residential districts shall not exceed 16 feet in heights. Light poles at places of worship, other non-residential uses and multi-family residential sites shall not exceed 22 feet in height. Light poles on public property, including at city parks and public schools shall be subject to the policies of their governing bodies.

### 11.3.5 | LIGHT POLE AND FIXTURE DESIGN STANDARDS

Light poles and fixtures in commercial districts should be black or dark bronze. The base of the lights should not exceed 30 inches above grade. Lights within parking lots should be placed within landscaped islands. Bases shall be painted or stained black and shall be screened with shrubs.

## 11.4 LANDSCAPING, SCREENING, AND TREE PRESERVATION

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### 11.4.1 | APPLICABILITY

This Chapter shall apply to all development, construction, use of land and buildings and other activity for which Site Plan and/or Design Review approval is required as per [Chapter](#)

[4.7](#) (Site Plan and Design Review). No building permit or Use and Occupancy Permit shall be issued for any lot or use subject to the requirements of this Chapter unless all requirements of this Chapter have been fulfilled. Failure to implement the landscape plan, or to maintain the lot or use in conformance with the landscape plan, shall be cause for revocation of the Occupancy certificate and/or the application of fines and penalties, as established in this Ordinance. All landscaping is subject to periodic inspection by the Planning Department.

#### 11.4.2 | LANDSCAPE PLAN

##### 11.4.2.1 | LANDSCAPE PLAN REQUIRED

A detailed landscape plan shall be submitted to the City as part of the Site Plan and Design Review as specified in [Chapter 4.7](#) (Site Plan and Design Review).

##### 11.4.2.2 | CONTENT OF LANDSCAPE PLAN

- A. The location and dimensions of all existing and proposed structures, property lines, easements, parking lots and drives, roadways and rights-of-way, sidewalks, ground signs, refuse disposal and recycling areas, bicycle paths and parking facilities, fences, utility lines and equipment, recreational facilities, drainage facilities, and other freestanding structures, as determined necessary by the Planning Department.
- B. The location, quantity, size, botanical name and condition of all existing plant materials, including trees and other plant material in the road right-of-way, and indicating plant material to be retained and removed.
- C. The location, quantity, size and name, both botanical and common, of all proposed plant material including, but not limited to, shade and evergreen trees, shrubs, groundcover, annuals/perennials and turf.
- D. The existing and proposed grading of the site indicating contours using one or two-foot intervals. Proposed berming shall be indicated using one-foot contour intervals.
- E. Elevations of all proposed fences, steps, stairs, retaining walls both fixed (caste concrete, unitized walls) and any natural rock outcropping on the site. Top-of-wall and bottom-of-wall elevations shall be shown for retaining walls.
- F. Elevations, cross-sections, and other details as determined necessary by the Planning Department.

##### 11.4.2.3 | CHANGES TO APPROVED LANDSCAPE PLANS

Changes to the landscape plan shall be governed by [Chapter 4.7.6](#) (Amendments to Approved Site Plan Reviews).

11.4.3 | SELECTION, INSTALLATION, AND MAINTENANCE OF PLANT MATERIALS

11.4.3.1 | SELECTION

All planting materials used shall be of good quality and meet American Standard for Nursery Stock, ANSI Z60.1 latest edition, developed by the American Nursery and Landscape Association, for minimum acceptable form, quality, and size for species selected, and capable to withstand the seasonal temperature variations of Middle Tennessee, as well as the individual site microclimates. Size and density of plant material, both at the time of planting and at maturity, are additional criteria that shall be considered when selecting plant material. Plant materials shall conform to the City’s Standard Tree Selection Specifications as included in [Appendix D](#) (Landscape Standards).

11.4.3.2 | INSTALLATION

All landscaping materials shall be installed in accordance with the current planting procedures established by the ANLA. All plant materials shall be free of disease and shall be installed so that soil of sufficient volume, composition, and nutrient balance are available to sustain healthy growth. Installation shall also be in accordance with the City’s Standard Tree Planting Details as included in [Appendix D](#) (Landscape Standards).

11.4.3.3 | REQUIRED ELEMENTS

Landscape materials depicted on landscape plans approved by the City shall be considered to be required Site Plan elements in the same manner as buildings, parking, and other improvements. As such, the owner of record, or in some instances the property owner’s association, shall be responsible for the maintenance, repair, and replacement of all landscape materials, fences, steps, retaining walls and similar landscaping elements over the entire life of the development.

11.4.3.4 | MAINTENANCE

All landscaping materials shall be maintained in good condition, in accordance with the approved landscape plan, shall present a healthy neat, and orderly appearance, and shall be kept free of refuse and debris. Any dead, unhealthy, or missing plants shall be replaced within six months or the next reasonable available growing/planting season. Fences, steps, retaining walls, and similar landscaping elements shall be maintained in good repair. The owners of the premises shall be responsible for the maintenance, repair, and replacement of all landscaping materials, fences, steps, retaining walls, and similar landscaping elements, and refuse disposal areas.

Irrigation systems, when provided, shall be maintained in good operating condition to promote the health of the plant material and the conservation of water. Shrubs that screen parking areas shall be maintained as a continuous, unbroken hedge.

Trees shall only be pruned to maintain their natural form and to remove dead or diseased wood. Topping of trees is strictly prohibited, except that *Pyrus calleryana* species may be

pruned to prevent wind damage. Trees that are topped in violation of this Ordinance shall be replaced with new trees of like species and size, multiples thereof.

#### 11.4.4 | LANDSCAPE DESIGN STANDARDS

Landscape plans, as described above, shall be prepared by a licensed Landscape Architect, registered in the State of Tennessee, and evaluated and approved based on the following criteria.

##### 11.4.4.1 | SCALE AND NATURE OF LANDSCAPE MATERIAL

The scale and nature of landscape materials shall be appropriate to the size of the site and related structures. Required landscape beds (such as at building foundations and at parking lot perimeters) shall implement multiple layering of plant material to give a sense of depth, rather than distributing plants into thin ribbons or rows. Generous plantings should define the street edge and site entry/exit points, as well as building entries.

##### 11.4.4.2 | IMPERVIOUS SURFACE RATIO

The impervious surface ratio (ISR), computed by dividing the impervious surface area of the site by the total site area, shall not exceed 80%. In DN zones, the ISR shall not exceed 90%. The remaining pervious area shall be landscaped.

##### 11.4.4.3 | SELECTION OF PLANT MATERIAL

Plant materials shall be selected from the recommended plant materials list included in [Appendix D](#) (Landscape Standards) or as approved by the City Landscape Architect. Plant material shall be selected for its form, texture, color, pattern of growth, and suitability to local conditions. Plant sizes shall be specified according to the Plant Sizing Chart in [Appendix D](#) or as otherwise indicated in this Section.

##### 11.4.4.4 | SHADE TREES

Except as otherwise specified in this Section, all deciduous shade trees shall have a minimum trunk size of 2.5 inches in caliper at time of planting, unless otherwise specified.

##### 11.4.4.5 | EVERGREEN TREES

Except as otherwise specified in this Section, evergreen trees shall have a minimum height of six feet at planting and shall be incorporated into the landscape treatment of a site, particularly in those areas where year-round screening and buffering is required.

##### 11.4.4.6 | ORNAMENTAL TREES

Except as otherwise specified in this Section, single stem ornamental trees shall have a minimum trunk size of 2.5 inches in caliper at planting, unless otherwise specified. Multiple

stem ornamental trees shall have a minimum height of eight feet at planting, unless otherwise specified. Multi-trunk trees having more than five trunks shall be considered shrubs.

#### 11.4.4.7 | SHRUBS

Unless otherwise specified, all large deciduous and evergreen shrubs shall have a minimum height of three feet at installation, and all small-growing deciduous and evergreen shrubs shall have a minimum height of 18 inches at installation.

Large shrubs shall be considered to be those shrubs that reach five or more feet in height at maturity. Small shrubs shall be considered to be those shrubs that can grow up to five feet in height if left unmaintained but are generally kept at heights of 18 to 30 inches.

#### 11.4.4.8 | WALLS AND FENCES

Plant material shall be placed intermittently against long expanses of building walls, walls, fences, and other barriers to create a softening effect and to help break up long expanses of blank walls with little architectural detail.

#### 11.4.4.9 | NATURAL AND HISTORIC FEATURES

Streams, wetlands, large rock outcrops, stands of native vegetation, fence rows, cemeteries, and other notable natural features must be indicated on the Site Plan and preserved wherever possible. Existing natural stone walls should be incorporated into the site design and preserved.

Structures over 50 years old or valued for their local significance should be located on the Site Plan and retained if possible. Incorporation of such structures onto the site's development as a special feature is encouraged. If the structures are not to be retained or adapted, reasons should be given.

#### 11.4.4.10 | PLANTING BEDS

Planting beds shall be mulched with naturally colored shredded hardwood, mushroom compost, or pine needles. Rock, gravel, or synthetic mulches are not acceptable. Planting beds shall be a minimum of five feet in width, except where otherwise stated within this Chapter. Any exception(s) to this standard must be approved by the Planning Commission.

- A. Trees planted within sidewalk or plaza zones shall be provided a minimum of 200 cubic feet of soil. A minimum of 60 square feet of pervious area shall be provided around each tree. Pervious paving may be used for this purpose if used in conjunction with structural soils.

#### 11.4.4.11 | IRRIGATION

Automatic irrigation systems are required for all required landscaped areas within commercial and industrial districts as well as multi-family developments and institutional uses. The Planning Commission may waive automatic irrigation requirements for existing areas with existing vegetation; however, plant material planted within such areas to meet transitional buffering requirements must be within 100 feet of a hose bib or be provided a



temporary above-ground irrigation system. All irrigation systems shall be designed to minimize the use of water. Plans shall be prepared and stamped by a Certified Irrigation Designer, Certified Irrigation Contractor, or Landscape Architect. Irrigation systems shall be designed to meet the standards shown in [Appendix D](#) (Landscape Standards).

#### 11.4.4.12 | DETENTION AND RETENTION PONDS



Detention and retention ponds shall be landscaped with trees, shrubs, and turf. Detention ponds shall be considered a service area and shall be screened from public view. Back sloped areas with ratios steeper than 4:1 (rise:run) that are exposed to public streets shall be screened with trees and shrubs. Structures (such as headwalls and weirs) within ponds located in front and side yards adjacent to public streets shall be faced with brick or stone. Slopes exceeding 3:1 shall be vegetated with plants that do not

require frequent mowing. Groundcovers used for this purpose shall be planted with sufficiently tight spacing to provide 100% coverage within the first year.

#### 11.4.4.13 | BERMING

Earthen berms and existing topographic features may be incorporated into the landscape treatment of a site where there is a need to mitigate noise and sight lines from certain noxious activities such as loading berths, outdoor storage, drive-throughs, auto service areas, heavy equipment operation, refuse disposal/storage areas, etc. Side slopes shall not be steeper than 3:1 in order to



prevent erosion and must be properly and safely maintained. Retained slopes may be implemented with the appropriate terracing necessary to reduce the need for safety railing.

#### 11.4.4.14 | TOPSOIL

Topsoil shall be saved and set aside during grading activities to be used for landscape areas. Topsoil shall be screened and placed over landscape areas to a depth of at least six inches. All landscape beds shall have a minimum of 18 inches of topsoil. Each tree shall have a minimum of 24 inches topsoil depth over a 25 square-foot area. Construction debris shall not be incorporated into the topsoil or otherwise buried on site.

#### 11.4.4.15 | STEEP SLOPES

Turf areas visible from the street should not exceed a slope of 3:1 . Rip-rap should not be used in areas that are visible from a street or public parking, unless a determination is made by the City Engineer that it is essential to the design of the site and no other option or stabilization technique is viable.

#### 11.4.5 | BUILDING FOUNDATION LANDSCAPING

1. Building foundation landscaping is required in all commercial and industrial districts, as well as all multi-family developments and institutional uses for all new construction and additions to buildings. Landscaping shall be placed on all side that are visible from public areas. Plantings are not required where walkways access building entrances.
2. Foundation plantings shall work in concert with transition yard plantings to frame important views, while visually softening long expanses of walls, particularly those that lack windows and/or other architectural details. Foundation plantings shall be compatible with the materials and the form of a building.
3. The minimum width of the area provided to accommodate foundation plantings is as follows:
  - A. Five feet of planting area width adjacent to one-story buildings.
  - B. Ten feet of planting area width adjacent to buildings having two or more stories.
  - C. Building segments that have long flat wall expanses of 40 feet or longer without significant architectural detailing, wall projections, and recesses, shall have a ten-foot wide planting beds that incorporate ornamental trees, tall evergreens, and a range of shrub sizes and ground covers.

#### 11.4.6 | PARKING LOT PERIMETER LANDSCAPE YARD

Perimeter parking lot landscaping provides for the enhancement and screening of parking lots. Perimeter landscaping shall be required for all parking lots subject to Site Plan and Design Review and shall be established along the edge of the parking lot.

#### 11.4.6.1 | APPLICABILITY

The perimeter landscape yard shall run the full length of the parking lot boundary and drive aisles, and drive aisles, and shall be protected with raised concrete curbs. Sections of curbing may be eliminated for the purpose of facilitating a bioswale designed as part of an overall water quality and drainage plan.

#### 11.4.6.2 | WIDTH OF PARKING LOT PERIMETER LANDSCAPE YARD

A perimeter landscape yard shall be a minimum of seven feet in width and shall require six - inch curbing.

#### 11.4.6.3 | REQUIRED LANDSCAPING

The following landscaping shall be provided within the perimeter landscape yard.

##### A. AMOUNT OF LANDSCAPING

Landscaping shall run the full length of the perimeter landscape yard.

##### B. SHRUBS

A continuous, double staggered row of shrubs shall be planted with a minimum height of 30 inches and a maximum on-center spacing of five feet. Shrubs shall be planted a minimum of three feet from the back-of-curb. The configuration of shrubs within the perimeter yard may be altered so long as the overall quantity is maintained, but in no case shall there be less than a single row of evergreen shrubs at the back of the parking lot curb. Shrubs placed in a single row shall be spaced a maximum of three feet on center.

##### C. GROUND COVER

Landscaped areas outside of shrub and tree masses shall be planted in turf or other live groundcover, perennial or ornamental grass plantings.

#### 11.4.7 | INTERIOR PARKING LOT LANDSCAPING

For parking lots consisting of more than 10 spaces, interior parking lot landscaping shall be required. Ten percent of the total parking lot area shall be landscaped with parking lot islands and landscaped areas. Parking lot perimeter landscape yards shall not be included toward satisfying this requirement.

##### 11.4.7.1 | AMOUNT

Parking lot islands and landscaped areas shall be provided in the following amount:

- A. One 9'x18' or larger parking lot landscape island shall be provided every 10 contiguous parking spaces. Runs of parking over 10 spaces may accommodate up to a maximum of

20 spaces provided 18'x18' or larger landscape islands are provided. All rows of parking spaces shall be terminated by a parking lot island.

- B. Where parking medians are provided within interior parking bays, runs of parking, including adjacent perimeter parking, may be increased to 20 spaces, with a 9'x18' landscape island terminating each run. Parking medians are linear green spaces running between and perpendicular to parking rows and connecting the terminating landscaping island together. Medians shall be a minimum of nine feet wide as measured from back-of-curb. Medians shall be landscaped with trees and shrubs. See illustration below.
- C. At least one shade tree shall be provided for every 2,000 square feet of vehicle use area (VUA). Such trees shall be planted within parking lot islands and landscaped areas.
- D. Each parking lot island shall contain at least one shade tree. If an island must also contain a light pole, an ornamental tree may be substituted for the shade tree. Tree and pole must be separated by at least 14 feet.



E. Off-street parking facilities larger than 100,000 square feet for VUA or 250 spaces, shall be organized into a series of smaller modules separated by linear landscaped islands with a minimum width of nine feet, located at least every fourth parking bay, and running the length of the parking bays, to accommodate stormwater quality features, trees, shrubs groundcover, or light poles. Such planting strips or islands shall be landscaped with trees, shrub masses and suitable

groundcover.

- F. Within the industrial zoning, interior landscape islands are not required.

#### 11.4.7.2 | DESIGN OF PLANTING AREAS

Parking lot islands and landscaped areas shall be at least six inches above the surface of the parking lot and protected with concrete curbing, except where designed specifically for the absorption of stormwater. Such islands and landscaped areas shall be properly drained and irrigated as appropriate to the site conditions to ensure survivability.

#### 11.4.7.3 | TYPE OF LANDSCAPE MATERIAL

Shade trees shall be the primary plant materials used in parking lot islands and landscaped areas. Ornamental trees, shrubs, hedges, and other plant materials may be used to

supplement the shade tree plantings but shall not create visibility concerns for automobiles and pedestrians.

#### 11.4.7.4 | QUANTITY OF LANDSCAPE MATERIAL WITHIN PARKING LOT ISLANDS AND LANDSCAPED AREAS

A minimum of one shade tree shall be provided for every parking lot island. If the island extends the width of a double row, then two shade trees shall be provided.

#### 11.4.7.5 | GROUNDCOVER

A minimum of 70% of every parking lot island shall be planted in turf or other live groundcover, perennials, or ornamental grasses. The remainder must be mulch, pursuant to Section 11.4.4.10.A (Planting Beds).

#### 11.4.7.6 | FILL

Soil used in parking lot islands, driveway medians, and other areas internal to a vehicular use area shall be screened prior to deposition in planting areas. Construction debris shall not be buried on site. Islands shall be constructed in accordance with [Appendix D](#) (Landscape Standards).

#### 11.4.8 | SIGN LANDSCAPING

Ground signs shall be landscaped at the base of the sign in accordance with [Chapter 13.2.3.3](#).

#### 11.4.9 | STREET YARD

Except for points of access, a street yard shall be provided where the site adjoins the public road right-of-way. Alleys are exempt from this requirement.

1. The street yard shall be a minimum depth of 10 feet as measured from the property line towards the interior of the property. The yard shall consist of sod grass or other approved groundcover. Shrubs required for the screening of vehicle use areas or other site elements may be located within the yard. No parking or other impervious surfaces are permitted in the street yard area.
2. Trees shall be planted within the street yard 40 feet on-center, exclusive of points of access. Trees shall be a minimum of 2.5 inches caliper.
3. Existing woodlands or tree rows along the road right-of-way frontage can be substituted for the street yard tree requirement, provided the street yard depth is increased to at least 25 feet, as measured from the property line.
4. Street trees shall not count towards other landscaping requirements.

5. Vehicular entry and exit points shall be landscaped so as to be easily identified by users.
6. Where street trees are permitted to be planted between the street sidewalk and the street curb, and where there is less than 10 feet of width between the sidewalk and curb, root barriers shall be installed. Installation shall be in accordance with the “Root Barrier” detail in [Appendix AD.5](#).

#### 11.4.10 | BUFFER YARDS

The following criteria applies to all zoning districts with the exception of Dockside Neighborhood zoned properties that are not adjacent to other zoning classifications.

1. This Chapter establishes standards for the dimensions and improvement requirements of buffer yards between land uses and/or zoning districts. The yard provides transition between incompatible uses by requiring a landscape yard of a minimum specified depth along the shared property line. Buffer yards shall provide a year-round visual, noise, and dust barrier.
2. In some instances, a buffer yard may not be required by the Planning Commission. These include, but are not limited to, instances where the rear wall of a commercial building is located on the rear property line or where an alley is located between a commercial property that abuts a residential property. Where it proves difficult to meet the buffer yard requirements of this Ordinance due to pre-existing site constraints, the body approving the landscape plan may approve alternative approaches or waive requirements.
3. Buffer yards shall be provided according to the matrix shown below. First identify the type of zoning for the proposed development along the left side of the matrix. Find where the zoning type of the proposed development and each adjoining property intersect on the matrix. If a buffer is required, a capital letter will indicate the type of buffer to be applied. If the proposed use within a zone is also listed as a permitted use within a less-intensive zone, the corresponding class for the less intensive zone may be applied. For example, a proposed commercial use within an industrial zone may be classified as a commercial zone for the purposes of the matrix.

TABLE 15: BUFFER MATRIX

TABLE 15   BUFFER MATRIX							
		EXISTING					
		INDUSTRIAL	COMMERCIAL	OFFICE	MULTI-FAMILY RESIDENTIAL	TOWNHOME RESIDENTIAL	SINGLE-FAMILY RESIDENTIAL
PROPOSED	INDUSTRIAL		C	B	A	A	A
	COMMERCIAL				B	B	B
	OFFICE				C	C	B
	MULTI-FAMILY RESIDENTIAL	A	B	C	C	C	B
	TOWNHOME RESIDENTIAL	A	B	C	C	C	B
	SINGLE-FAMILY RESIDENTIAL	A	B	B	B	B	

A. Buffer Type A:

Provide a 30 feet deep (as measured towards the interior of the property) buffer yard along the shared property line planted with:

1. A row of evergreen trees, 10 feet to 15 feet on-center (depending on growth habit of species selected), a double staggered row of shrubs spaced a maximum of eight feet on-center, and one row of shade trees spaced a maximum of 33 feet on-center.
2. All plants shall meet the installation and planting size requirements specified in [Appendix D](#) (Landscape Standards).

B. Buffer Type B:

Provide a 20 feet deep (as measured towards the interior of the property) buffer yard along the shared property line planted with:

1. Evergreen trees spaced a maximum of 10 to 15 feet on-center, a row of shrubs spaced a maximum of eight feet on-center, and one row of shade trees spaced a maximum of 33 feet on-center.
2. All plants shall meet the installation and planting size requirements specified in [Appendix D](#) (Landscape Standards).

C. Buffer Type C:

Provide a 10 feet deep (as measured towards the interior of the property) buffer yard along the shared property line planted with:

1. Evergreen trees spaced a maximum of 10 to 15 feet on-center.
2. All plants shall meet the installation and planting size requirements specified in [Appendix D](#) (Landscape Standards).

4. Responsibility for buffer installation shall be as follows:

- A. Where a developing parcel is adjacent to a vacant parcel, the developing parcel shall provide 100% of the buffer yard required adjacent to the vacant land.
- B. Where a developing parcel is adjacent to an existing use, the developing parcel shall provide the full buffer yard required adjacent to the existing use.
- C. Where all or part of a buffer yard exists on the adjacent developed parcel, but the yard does not fully comply with the standards of this subchapter, the developing parcel shall be responsible for providing all the additional planting material required to conform to the above stated buffering requirements.

D. If the existing developed parcel contains a buffer meeting the standards of this subchapter, then the developing use is not required to provide a buffer.

5. The minimum width of the required yard may be reduced by up to 50% with the provision of a brick or stone wall at least six feet in height running the length of the reduced width. The quantity of required evergreen trees and shrubs may also be reduced by 50%. The quantity of required shade trees shall not be reduced. Fencing may be installed within drainage or utility easements provided it does not interfere with drainage or the utilities within the easement.

The minimum width of a required buffer yard may be reduced by up to 33% with the provision of a solid wood fence or heavy-duty commercial grade fence at least six feet in height running the length of the shared property boundary. The quantity of required shade trees may not be reduced. Fencing may be installed within drainage or utility easements provided it does not interfere with drainage or the utilities within the easement.

6. The required buffer yard shall not contain any development, impervious surfaces, or site features that do not function to meet the standards of this subchapter or that require removal of existing vegetation, unless otherwise permitted in this Ordinance. The following items shall be permitted within buffer yards provided that, in the opinion of the Planning Commission, the intent of the buffer yard is not compromised and damage to existing vegetation is minimized:
  - A. Sidewalks, trails, and bike paths.
  - B. Fences and walls.
  - C. Required landscaping.
  - D. Stormwater retention or detention facilities and best management practices, provided they do not interfere with the performance and maintenance of the buffer area.
  - E. Driveway or parking lot drive aisles provided they cross the buffer yard at a 90 degree angle to the yard or do not encroach into the yard in a parallel fashion for more than 35 feet. In the latter instance, a six feet tall brick or stone wall shall be installed within the encroached area.
  - F. In the event that utility lines are installed within a buffer yard in a manner that is parallel to the buffer, additional width shall be added to the yard in an amount equivalent to the amount occupied by the utility lines and any associated easements. Any path cleared by utility installation shall be replaced with plant materials consistent with what was removed.
7. Existing vegetation located within the required buffer yard and meeting the minimum size requirements in this subchapter may be credited toward the buffer standards. The

amount of credit shall be at the discretion of the City's Landscape Architect, and shall be based on the quality, size, projected longevity and function of the vegetation.

8. When a new residential development will create double frontage lots, the Planning Department may require that a Buffer Type C be placed along the rear of the double frontage lot to screen the rear from the roadway. See [Chapter 11.4.10.C](#).

#### 11.4.11 | SCREENING REQUIREMENTS

##### 11.4.11.1 | REFUSE DISPOSAL DUMPSTERS AND REFUSE STORAGE AREAS

Refuse disposal containers, recycling containers, and refuse and recycling storage areas shall be screened on at least three sides by a solid brick or stone screen wall to a height at least two feet above the top elevation of the dumpster. The fourth side shall be enclosed by an opaque gate constructed of wood, vinyl, or other approved material, and situated on a concrete apron that extends as a minimum of six feet beyond the opening of the enclosure, so as to support the weight of the waste disposal vehicle during unloading. Plants shall be installed to blend the enclosure into the surrounding landscape.

An enclosure is not required when the dumpster is located behind the building and is in an area where it will not be visible to nearby streets or adjacent properties. All refuse shall be stored within the covered refuse disposal containers. In residential districts, this provision shall not apply where refuse is collected by the City from containers less than 100 gallons in size at the street, curb, or alley.

##### 11.4.11.2 | LOADING SPACES

Loading spaces in all zoning districts should be located and oriented so as not to be visible from the street, while still allowing access to the use it is serving. Loading docks in all zoning districts shall be screened as much as possible, unless such screening is determined unnecessary by the body approving the landscape plan. Such screening shall consist of a solid wood or simulated wood fence or masonry screen wall to a height of no less than six feet. A dense evergreen hedge may be substituted for a fence or wall, subject to approval of the landscape plan. If vegetative screening is used, a nine feet minimum width planting bed shall be provided along the length of the dock. Views into the dock shall also be screened.

##### 11.4.11.3 | OUTDOOR STORAGE AREA

Outdoor storage areas, as regulated by [Chapter 10.4.16](#) (Outdoor Storage), shall be screened from view from all property lines and streets by a solid wood or simulated wood fence or masonry screen wall to a height of no less than six feet but no more than eight feet. Plant materials shall be installed along the fence or wall located along the public road right-of-way to provide a softening effect. No materials stored outdoors shall be of a greater height than that of the fence or wall. Where outdoor storage is the principle use, in addition to a fence or wall, a landscape buffer conforming to the standards for a Type B Buffer as described in Chapter 11.4.10.3 shall be required.

11.4.11.4 | DRIVE-THROUGH FACILITY

Drive aisles of drive-through facilities shall be effectively screened from view at the edges of sites adjacent to residential properties in order to minimize the impact of exterior site lighting, headlight glare, and any menu intercom displays. Such screening shall be approved during the Site Plan review process and shall consist of a solid wood or simulated wood fence, masonry screen wall, or dense evergreen hedge at least six feet in height. Chain-link fencing is prohibited. Plant materials shall be installed along the fence or wall to provide a softening effect.

11.4.11.5 | SERVICE AREA, SERVICE BAYS, AND UTILITY EQUIPMENT

- A. Service areas, such as laydown yards, equipment, or material holding areas, and service bays with overhead or roll-up doors, shall be screened from public view. Screening shall consist of evergreen trees and shrubs of sufficient height, width, and quantity to provide such screening at the time of planting. Planting beds shall be a minimum of 15 feet in width. Bed width may be reduced to 10 feet if it can be demonstrated that sufficient quantities and sizes of plant material can be accommodated within that width to achieve the required screening. Screening is not required where transitional buffers provide an equal amount of screening.
- B. Utility equipment shall be screened from view from streets and other public areas. Screening shall consist of evergreen plants of sufficient height, width, and quantity to provide such screening at the time of planting.

11.4.12 | TREE PRESERVATION

To maintain existing natural surroundings, mature trees and natural vegetation must be maintained where possible. Bands of trees, such as fence rows when present alongside and rear lot lines, must be maintained as an effective screen and wind buffer where possible.

- 1. A tree survey shall be required. The survey shall show the locations of each tree ten (10) inches diameter at breast height (DBH) or greater. Species and condition shall also be noted. The survey shall be stamped by a licensed land surveyor. In situations where no grading will occur within 50 feet of a tree save area, limits of tree masses may be shown instead of individual locations.
- 2. Saved trees 10 inches DBH and greater shall be indicated on a Tree Plan. The tree protection zone shall also be shown. Saved trees shall not be disrupted by grading, construction activity, materials storage, or parking within their driplines. Tree protection fencing shall be installed at the dripline prior to any grading or construction activity. Fencing shall be installed in accordance with the City’s Standard Tree Protection Fencing Detail.
- 3. In the event the root protection zone is disrupted, the Planning Department shall make a determination of damage and appropriate mitigation measures. At the discretion of the Planning Department, a Registered Consulting Arborist shall be hired by the property

owner to assist in this determination. Recommended measures shall be completed by the property owner.

4. Removed trees 10 inches DBH and greater shall be indicated on the Tree Plan. Trees shall be replaced at half the DBH value of the removed tree. For example, an existing 20 inches DBH tree would be replaced with new trees equaling 10 caliper inches. Replacement trees shall be planted on site and may not be used to fulfill other planting requirements, except that they may be used towards tree planting requirements in Buffer Yards. Disturbance of the root zone may occur to the extent a Registered Consulting Arborist determines that it will not affect the long-term health of the tree. The minimum replacement size for new trees shall be 2.5 inches caliper. No more than 25% of replacement trees may be ornamental-type trees. The remainder shall be shade trees. Trees 10 inches DBH and greater removed less than two years prior to the Site Plan submittal shall be replaced at 100 percent of the DBH.
5. Trees 20 inches DBH and greater that are retained may, at the discretion of the Planning Commission, be credited at 50% value towards replacement requirements, if the tree is in good health and the full root protection zone remains undisturbed. For instance, if 60 tree inches are required to be replaced, and a 20-inch tree is saved, the total tree replacement required may be reduced by 10 inches.
6. If site constraints such as excessive rock, drainage problems, or inadequate space make it difficult to locate replacement trees on-site, Planning Staff may designate public property on which the trees may be planted. Alternatively, Planning Staff may allow the developer to make payment into the Tree Bank fund. Payment shall be made at the time the Building Permit is issued. The Tree Bank fund shall be administered by the Planning Department. A cost of \$50.00 per caliper inch of replacement trees shall be required. Tree Bank funds shall be used to install trees, landscaping, and related irrigation measures on public property or easements by the Planning Department. Where the placement of utilities, drainage features, and other public infrastructure inhibits planting within City rights-of-way, planting may be conducted by the City on private property in conjunction with a City-initiated Road Improvement and Beautification Plan supervised by the Planning Department Director. Such planting should generally be for the purpose of beautification, screening, and/or reduction of heat island effect along streets and roadways.

## **11.5 MULTI-FAMILY SITE DEVELOPMENT STANDARDS (NOT TOWNHOMES)**

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The standards contained in this Section are specific to multi-family residential developments. Additional standards are contained in other parts of this Ordinance.

1. Multi-family developments shall comply with minimum yard setback requirements, maximum building coverage and other lot and building bulk standards as specified in [Table 4](#) (Lot and Building Bulk Standards Residential Districts) or [Table 9](#) if a Planned Development.

2. Sidewalks shall be placed on both sides of all internal streets and along all adjacent external streets five feet back of the street curb. Paved pedestrian walkways shall be provided for convenient and safe access to all living units from streets, driveway, parking lots, or garages and for convenient circulation and access to all facilities.
3. Open space and amenities should include the following:
  - A. Open space should be provided in a minimum amount of 35% of the total area of the development. Yard area and all other pervious areas, except power transmission lines, may be counted toward this 35% requirement.

B. Open space shall include exterior sitting areas with a total minimum area of 20 square feet per bedroom, easily accessible by paved walkways to the residents the facilities are designed to serve. Generally, the sitting areas should be located no more than 750 feet from the residential building it is to serve. All sitting areas should be equipped with benches, picnic tables and other passive recreational facilities. All sitting areas should be suitably landscaped to enhance their intended function.



C. Open space shall also include playlots and/or playgrounds with a total minimum area of 20 square feet per bedroom. These areas should include playground equipment sufficient to meet the needs of children expected to live within the development. All recreational equipment provided shall be durable commercial grade equipment. The playground shall be served by paved pedestrian walks linking individual buildings to the facility. Additional sitting areas may be substituted for playgrounds on a square foot basis when the development is planned for elderly adults only.



D. Club house facilities with a minimum floor space of 20 square feet for each dwelling unit located within the development.

E. All multi-family developments containing 100 or more dwelling units should provide swimming pool facilities.

- F. All multi-family developments include centralized garbage disposal facilities. All dumping cart/bins shall be opaquely screened and landscaped.
- G. A screened and fenced parking and storage area for boats, trailers, and campers with a minimum of one space for each eight dwelling units. This requirement may be waived by the Planning Commission if the developer agrees to prohibit the parking of boats, trailers, and campers at any location within the development and a contingency plan is provided for said parking and storage area. In the event that the prohibition is not being enforced, the Planning Commission may require the implementation of the contingency plan.
- H. Street and area lights lighting the entire development.

## **11.6 RESIDENTIAL SUBDIVISION AND MULTI-FAMILY DEVELOPMENT ENTRY WAYS, WALLS, AND FENCING**

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### *11.6.1 | SITE PLAN AND DESIGN REVIEW APPROVAL REQUIRED*

Any developer of a residential subdivision or multi-family development desiring to construct decorative walls, hardscape, landscape, and similar decorative features at the entry way to the development and/or walls or fencing around the perimeter of the development shall first secure Site Plan and Design Review approval as specified by [Chapter 4.7](#) (Site Plan and Design Review). Application should be submitted concurrent with the application for subdivision approval. Site Plan and Design Review approval for entry features for multi-family developments should be combined with Plan and Design Review approval for the multi-family site and buildings.

### *11.6.2 | DESIGN STANDARDS*

1. Entrance features should consist of decorative walls, fencing, columns, ornamental lighting, and similar hardscape complimented with landscaping.
2. Building materials of features should include brick, stone, wrought iron, and similar quality materials.
3. All walls, fencing, and other structures must be at least 10 feet back from the edge of street pavement and three feet back from the edge of a center median and must not block visibility of motorists.

*NOTE: Walls, fencing, and other structures are only permitted on private medians.*

4. The name of the development may be incorporated into the wall. Individual channel letters should be used or individual letters carved into the wall or a pre-cast inset. The size should be proportionate to the size of the wall.

5. Lighting should be in the form of ground mounted spotlights. These lights must be screened from view by landscaping. Landscaping and other methods shall be utilized to prevent light glare and the resulting adverse impact on surrounding property.



6. Such entry features may be located on each side of the entry and/or in any median of adequate size.

Decorative brick and/or stone columns with the development's logo may be erected on each side of secondary entries. Height shall not exceed 10 feet.

7. Materials for perimeter fencing should be brick, wrought iron, or aluminum or western cedar or equivalent with the framing away from the street. Brick columns should be erected at intervals of no more than 50 feet. Street trees and/or landscaping should be planted between the fence and street.

## **11.7 STREET AND OTHER REQUIRED IMPROVEMENTS**

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The Planning Commission shall, in conjunction with the approval of any Site Plan, require the construction of any and all infrastructure and other improvements (if not already in place or guaranteed by an appropriate surety) necessary to support the development and to satisfy the purposes of this Ordinance. These improvements shall include, but are not limited to, streets, curb and gutter, storm sewer, detention/retention and other drainage improvements, sidewalks, bicycle and pedestrian accommodations, utilities, lighting, landscaping, irrigation, fencing, screening, parking, loading areas, and driveways.

Street improvements which may be required include public and/or private streets and drives and may include new streets or improvements to existing streets necessary to improve these streets to current city standards and especially includes major thoroughfare, arterial and collector streets as showing the City's Transportation Plan and includes local streets as well. The owner/developer shall also be required to dedicate all public improvements to the City by dedicating road right-of-way and/or easements or by other methods specified by the City. See Subdivision Regulations regarding recording of plats.

All improvements shall be constructed in accordance with the Public Works Department Construction Manual and the construction plans as approved by the City Engineer. Detention/retention ponds shall also conform to the design standards contained in Subdivision Regulations.

Bike facilities shall conform to the Land Use and Transportation Plan. The City Engineer may require a payment in-lieu-of construction of the above specified improvements.

The Planning Commission may waive all or a portion of these improvements and payment if, after conferring with the staff, it is determined that the street(s) to be improved will not be further improved within the next 10 years.

*Note: These improvements are not required for any Site Plan which the staff is authorized to approved as per [Chapter 4.7.4.1.A](#) (Applications Eligible for Staff Level Site Plan and Design Review Approval).*

## 11.8 UTILITY SERVICE

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### 11.8.1 | UTILITY SERVICE TO BE UNDERGROUND

Electric, telephone, cable, internet, and all other such service lines extending from the utility company's line to all buildings shall be installed underground in accordance with the utility company's underground installation requirements.

Exceptions are:

1. New and replacement building service lines in residential subdivisions where the utility company-owned lines are overhead and more than 50% of the buildings on the same street and within 1,000 feet on the same street are served with overhead service lines.
2. New and replacement building service lines in non-residential areas where the utility company-owned lines are overhead and more than 75% of the buildings on the same street and within 1,000 feet on the same street are served with overhead service lines.
3. The Planning Commission may waive these underground requirements and approve overhead service in areas with less overhead service that specified above.

### 11.8.2 | SEWER

All new buildings that have sanitary sewer shall be connected to a State-approved public sanitary sewer system( i.e., Hendersonville Utility District or White House Utility District), or to an individual sanitary sewer or other method of disposing of sanitary sewer approved by the State or other agency authorized by law to approve such sanitary sewer disposal.

## 11.9 ROADWAY ARCHES

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The Planning Commission may approve Roadway Arches on a case by case basis. The following criteria shall be considered in such approval:





1. The overall design and character of the proposed roadway arch is compatible to the surrounding development and area.

2. Plans for the roadway arch have been designed by a structural engineer.

3. The placement of the roadway arch will not impede the safe passage of all emergency equipment.

4. The roadway arch will be located over private roads only and private

responsibility for maintenance of the roadway arch has been clearly defined.

5. Only artwork or wording allowed on the roadway arch will be to promote the general name or location of a development and not be utilized to advertise any specific business or product.

## 11.10 CLUSTER MAILBOXES

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During a new residential development's design and planning phase (i.e., before the developers and builders finalize plans and site plats with the appropriate planning/zoning authorities), developers and builders are required by the United States Postal Service to notify the local Postal Service. Developers and builders should plan for basic or customized Centralized Mail Delivery Installations for residential communities (i.e., Neighborhood Delivery Centers or Cluster Box Units).

The layout and design of centralized delivery must meet the requirements of the United States Post Office and receive approval from the Planning Department.



# CHAPTER 12 | BUILDING DESIGN STANDARDS

12.1 | PURPOSE, GOALS, BASIS

12.2 | RESIDENTIAL BUILDING DESIGN STANDARDS

12.3 | COMMERCIAL BUILDING DESIGN STANDARDS

12.4 | INDUSTRIAL BUILDING DESIGN STANDARDS

12.5 | MUNICIPAL EXEMPTIONS FROM DESIGN STANDARDS

## 12.1 PURPOSE, GOALS, BASIS

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### 12.1.1 | PURPOSE

Hendersonville's environment is its most important asset in seeking to attract residents, businesses, and employment opportunities. Its natural environment sets a demanding standard, the lakes and rolling hillsides provide an unparalleled setting for places to live, shop, and work. However, as Hendersonville grew in its early years, before the advent of design standards, some of the buildings and areas developed in a way that was disappointing to the citizens. Conversely, development that occurred after 1990 after City design standards were adopted has been very satisfying to the citizens and has led to millions of dollars in investments in the City in the form of quality franchise restaurants, national and local retailers, offices, and other development. These investors deserve to have their investments protected by continuing to apply appropriate design standards to new development.

This Chapter explains the goals and standards which the Planning Commission will apply in reviewing proposals. It does not reproduce all the specific requirements stated in other parts of this Ordinance, the Subdivision Regulations, or other applicable development standards and regulations. Applicants are advised to consult all such documents prior to preparing plans.

This Chapter also is not intended to discourage applicants from submitting plans which are in the spirit of the standards, but not their letter, particularly if departures hold merit for a particular site or circumstance. In such instances, the Hendersonville Planning Commission may decide to make exceptions from its standards. The burden of demonstrating that the plan is appropriate falls upon the applicant.

Design review will occur in parallel with other required reviews. The design review process is described step by step in [Chapter 4.7](#) (Site Plan and Design Review) of this Ordinance. Where Site Plan review is required, design review will occur at the same time.

## 12.1.2 | GOALS

### 12.1.2.1 | NATURAL CHARACTER

Hendersonville's natural character should be preserved and enhanced with new development. Especially important are retaining mature trees and vegetation, maintaining topography, preserving important views to the lakes and other natural features, and ensuring that new buildings sit within a generously landscaped setting.

### 12.1.2.2 | COMPATIBILITY

New buildings should be compatible with their neighbors, assuming that the neighboring structures are a credit to the community. That does not imply uniformity or architectural style, rather a sympathetic response to the height, scale, materials, color, site location, and other aspects of nearby structures.

### 12.1.2.3 | ORDERLY PUBLIC REALM

The City's character is largely formed by the appearance of its major roadways. How public and private elements of the streetscape relate to each other provides a sense of order – public roadways, shoulders and medians, utility lines, and traffic signage in relationship to private landscaping, parking areas, building facades and signage. Scrutiny of what may be seen from public ways should be most intense, while less visible private areas of sites should be more at the landowner's discretion.

### 12.1.2.4 | RESTRAINED COMMUNICATIONS

Private signage and advertising should be restrained and not detract from the sense of continuous landscape. The principal purpose of on-site signage is to identify establishments, and to direct those seeking to visit them safely and efficiently to their destination. Signage that is limited in size and set in a strong landscape surrounding can be more visible than a forest of messages.

### 12.1.2.5 | DIVERSITY OF OPPORTUNITY

Hendersonville wishes to continue to attract diverse housing types, services, and other community attractions. In reviewing plans and proposals, it does not wish to rule out particular uses because of costs or burdens imposed. Rather, it wishes to work with developers and builders to find a formula for creating uses that is economically viable as well as harmonious with the environment.

### 12.1.2.6 | RESIDENTIAL PRIVACY

The sense of privacy of residential areas should be protected, especially from nuisances created by adjacent uses, such as noise, traffic, high lighting levels, and uncontrolled access. Within residential areas, there should be privacy of individual units.

### 12.1.2.7 | HISTORY

References to Hendersonville's past – both its natural and settlement history – should be preserved wherever possible. These include artifacts such as rock fences, stack stone walls, areas of formal landscape, historic cemeteries and archaeological sites and structures more than 50 years old.

### 12.1.2.8 | UTILITARIAN ELEMENTS

As a way of reducing disorder and emphasizing the human environment, utilitarian elements should be masked or located out of public view. These include mechanical equipment on buildings, transformers, meters, refuse stations, electric wiring, and service areas.

### 12.1.3 | BASIS/PRINCIPLES

1. To promote qualities in the environment that sustains the community's economic well-being;
2. To foster the community's attractiveness and functional utility as a place to live and work;
3. To preserve the community's heritage by maintaining the integrity of areas enjoying discernible character contributing to this heritage;
4. To safeguard public investment in the community; and
5. To raise the level of citizen expectations favoring the quality of the community's visual environment.

## 12.2 RESIDENTIAL BUILDING DESIGN STANDARDS

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### 12.2.1 | APPLICABILITY

The standards contained in this Section apply to the construction or placement of:

1. All single-family dwellings to be constructed in a subdivision containing three or more lots granted preliminary or final subdivision approval or preliminary development plan approval after the effective date of this Ordinance and all Horizontal Property Regimes (HPR) of any size or number of dwellings constructed after the effective date of this Ordinance.
2. All additions and renovations of dwellings described in [Chapter 12.2.1.1](#), as previously triggered above as well as the re-construction of said dwellings.
3. Dwellings constructed on another parcel and relocated to a lot and manufactured dwelling moved to a lot. This includes lots created prior to March 28, 2014. Only

standards of [Chapter 12.2.9](#) (Moving Dwellings and Manufactured Dwellings Into Developed Areas) apply.

4. Townhomes (includes villas, cottages, and two-family dwellings)
5. Multi-family residential buildings
6. Any single-family residence constructed after January 23, 2024 in Dockside Neighborhood.

#### *12.2.2 | DESIGN REVIEW APPROVAL REQUIRED*

Design review approval is required in accordance with [Chapter 4.7](#) (Site Plan and Design Review) for townhomes and multi-family residential buildings. Usually this approval is granted concurrent with Site Plan approval of a project is not required, i.e., for renovations to buildings, yet design review is required. Refer to [Chapter 4.7](#) (Site Plan and Design Review).

#### *12.2.3 | ARCHITECTURAL STYLE AND COMPATIBILITY*

The architectural style, design, colors, building materials, roof and other similar features of each residential building shall be compatible with existing complying residential buildings within the same subdivision phase or section. In the case of townhomes and multi-family residential buildings, compatibility shall be measured with existing complying townhomes and multi-family residential buildings in the area.

#### *12.2.4 | BUILDING MATERIALS*

Applicable residential buildings as defined in [Chapter 12.2.1](#), should be constructed of brick and/or stone with minimum percentages as specified in the following chart. Approved materials for the remaining percentage of the building are fiber cement board (such as Hardie Board), EIFS, stucco, and treated and painted wood, cedar, and redwood. Vinyl, aluminum, and similar siding are limited as shown. There are no restrictions on building materials for zones not listed in Table 16.

TABLE 16: BUILDING MATERIALS REQUIREMENTS

TABLE 16   RESIDENTIAL BUILDING MATERIAL REQUIREMENTS		
ZONING DISTRICT	BRICK AND/OR STONE <sup>1</sup>	VINYL <sup>2</sup>
<b>RR</b>	0%	P
<b>RR PD</b>	50%	P
<b>ER</b>	0%	P
<b>ER PD</b>		
1-Family Dwellings	50%	P
Townhomes	50%	P*
<b>SR-1</b>	50%	P
<b>SR-1 PD</b>		
1-Family Dwellings	66%	P*
Townhomes	50%	P*
<b>SR-2</b>	50%	P
<b>SR-2 PD</b>		
1-Family Dwellings	66%	P*
Townhomes	50%	P*
<b>SR-3 &amp; SR-3-PD</b>		
1-Family Dwellings	0%	P*
<b>THR PD</b>		
1-Family Dwellings	50%	P*
Townhomes	50%	P*
<b>WR &amp; WR PD</b>		
1-Family Dwellings	66%	P*
Townhomes	50%	P*
Multi-Family Dwellings	66%	P*
<b>MXR &amp; MXR PD</b>		
1-Family Dwellings	60%	P*
Townhomes	50%	P*
Multi-Family Dwellings	66%	P*
<b>DN &amp; DN-PD</b>		
1-Family Dwellings	30%	P*
<b>MFR &amp; MFR PD</b>		
1-Family Dwellings	35%	P
Townhomes	50%	P*
Multi-Family Dwellings	66%	P*
<b>MXC &amp; MXC PD</b>		
1-Family Dwellings	66%	P*
Townhomes	50%	P*
Multi-Family Dwellings	66%	P*

**NOTES:**

1. Expressed in terms of minimum percentage of the total wall area for each side of each dwelling, exclusive of windows and doors
2. P = Permitted; P\* = Limited to 10% of each wall.

## 12.2.5 | FRONT-ENTRY GARAGES

### 12.2.5.1 | SR-1, SR-2, DN, AND MFR DISTRICTS

Front-entry garage doors in SR-1, SR-2, DN, and MFR districts without a Planned Development overlay shall conform to the following design standards. If more than 50% of the homes in a subdivision have front-entry garages, all of the homes shall have carriage style doors and:

- A. Shall have two single-wide doors rather than a double-wide door or
- B. Shall have an arch over the garage door (brick or dryvit stucco), columns, a portico or decorative/ornamental lighting.

### 12.2.6 | SUPPLEMENTAL DESIGN STANDARDS FOR MULTI-FAMILY RESIDENTIAL BUILDINGS

In addition to the standards contained in this Chapter, the following building design standards contained in [Chapter 12.3](#) (Commercial Building Design Standards) are to be used as a guide in designing multi-family residential buildings:

1. Chapter [12.3.3](#) (Massing and Scale of Buildings)
2. Chapter [12.3.5](#) (Orientation of Buildings)
3. Chapter [12.3.6.3](#) (Building Color)
4. Chapter [12.3.6.4](#) (Building Façade)
5. Chapter [12.3.6.5.A](#) (Windows – General Guidelines)
6. Chapter [12.3.6.6](#) (Roofs)

### 12.2.7 | SUPPLEMENTAL DESIGN STANDARDS FOR TOWNHOMES

No attached grouping of townhomes shall be more than six units attached in a row.

### 12.2.8 | MOVING DWELLINGS AND MANUFACTURED DWELLINGS INTO DEVELOPED AREAS

1. No single-family dwelling shall be moved from an existing foundation to another foundation located within a developed area of single-family residences, nor shall a manufactured dwelling be moved into a developed area of a single-family dwellings unless:
  - A. The dwelling to be moved is consistent with the age, value, size, and appearance of existing dwellings with the developed area into which the dwelling is proposed to be moved.

- B. Approval for the movement of the dwelling has been given by:
1. The homeowner's association of the development where the dwelling is to be moved, if a homeowner's association exists;
  2. A neighborhood association that has been in existence in the area for more than one year, if a neighborhood association exists;
  3. The Planning Commission, if there is not a homeowner's association or neighborhood association in existence in the area in question.

2. The dwelling is considered consistent if:

- A. It is within 10 years of the average age of the existing structures in the developed area;
- B. The value of the dwelling to be moved will initially appraise at least at the average appraisal of the existing structures within the developed area after all planned improvements have been completed once the dwelling has been moved;
- C. It is within 100 square feet of the average size of the existing structures within the developed area; and
- D. The appearance of the dwelling is consistent with those in the developed area, as determined by the body giving approval for the move.

*NOTE: Manufactured Dwelling is permitted in RR and conditional in ER.*

## **12.3 COMMERCIAL BUILDING DESIGN STANDARDS**

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### *12.3.1 | APPLICABILITY*

This Section applies to buildings and structures located within commercial zone areas (MXR, MC, O, MXC, GC, HC, and commercial uses in DN), and any multi-family and institutional buildings and structures located within any zoning classification.

### *12.3.2 | DESIGN REVIEW APPROVAL REQUIRED*

Design review approval is required in accordance with [Chapter 4.7](#) (Site Plan and Design Review). Usually this approval is granted concurrent with Site Plan approval. Nevertheless, there are occasions when Site Plan approval of a project is not required (e.g., for renovations to buildings), yet design review is still required. Refer to [Chapter 4.7](#) (Site Plan and Design Review).

**12.3.3 | MASSING AND SCALE OF BUILDINGS**

Techniques suggested in these standards provide tools for allowing large buildings while reducing their perceived massiveness. While the footprint of new commercial development may remain large, human scale can be retained through creative massing and organization of building forms and through other techniques including landscaping and berms. These standards will be especially useful for the design of commercial and office buildings but can also apply to multi-family residential buildings, which often have large footprints and multiple stories. The following standards or guidelines, are to be utilized as a basis for establishing the appropriate massing and scale of buildings in Hendersonville:

- 1. Use building mass appropriate to the site. Place buildings of the greatest footprint, massing, and height in the core of commercial or office developments where the impact on adjacent uses is the least.
- 2. The use of a large, single building mass should be avoided. Break up the front of a large building by dividing it into individual bays of 25 to 40 feet wide. This is a human-scale dimension which improves the pedestrian experience. The use of flat front facades is not permitted.
- 3. Use variation in materials, textures, patterns, colors, and details to break down the mass and scale of the building.



4. Use building articulation techniques to reduce a building’s massing. Water tables, string courses, cornices, material changes and patterns, and fenestration can reduce the apparent height of a large building.

When making transitions to lower density areas, modulate the mass of the building to relate to smaller buildings. Height can be greater if the mass is modulated and other scale techniques are adopted. Reduce height near the lower density uses.

**12.3.4 | BUILDING SETBACK**

Buildings shall conform to the minimum front yard/setback requirements. However, when located between buildings with greater setback than required, every effort should be made to place the new building in line with the existing adjoining buildings.

**12.3.5 | ORIENTATION OF BUILDINGS**

Building orientation refers to the direction of prominent entrances and front facades of a building. The entrance façade will be the most prominent elevation of a building. The

following guidelines are to be utilized as a basis for establishing the proper orientation of buildings in Hendersonville:

1. Buildings shall be sited so that their main entrances are facing the street on which they are located. If a building does not have street frontage, it should be oriented to any public space or its most visible side from the public realm. Buildings should respect the orientation of neighboring buildings and developments. Front facades should face front facades, and sides should face sides. A main entrance façade should not face another building's rear or service façade.
2. In many cases, a building may have more than one orientation and need more than one entrance façade. For instance, the prominent front elevation may face a major collector or corridor while elevations facing local streets, parking, or adjoining developments can have secondary facades and entrances. The entrances should be designed to reflect this hierarchy.
3. Buildings shall be oriented toward accessible arterial or collector streets rather than nearby freeways.
4. Buildings entrances should be designed to reflect their hierarchy within a building or development and should be articulated with architectural elements such as columns, pilasters, arches, or details such as special moldings. Include entry features such as porches, porticoes, arcades, or canopies and changes in massing, wall planes, or roof forms and/or landscaping features such as planters or benches.

### 12.3.6 | ARCHITECTURAL CHARACTER AND BUILDING ELEMENTS

The establishment of building character, or specific architectural styles, is appropriate to give a distinctive character to a specific area, such as a commercial development, a commercial corridor, or a major commercial intersection. The following standards are to be utilized as a basis for establishing the appropriate character of the architecture and elements of buildings in Hendersonville:

#### 12.3.6.1 | CHARACTER

- A. The establishment of a design theme for a large commercial center or a major intersection with a common palette of materials, colors, building and roof forms, and architectural features can create a coordinated and inviting mix of buildings and spaces.
- B. The design themes for office parks should take on a campus



appearance where roof forms, building height, materials, and details such as windows all relate closely to one another, creating a unified appearance.

- C. The use of cookie-cutter architectural design should be avoided. Cookie-cutter design utilizes the same architectural details on multiple buildings within a development with no variation for added interest.
- D. When making transitions between developments, excessive contrast in building scale, forms, materials, or styles are not permitted.
- E. Franchises must also meet these guidelines and blend with Hendersonville's character. In recent years national retail chains have developed more options in their standardized designs. New franchise designs shall be modified as needed to follow the standards in this document.

### 12.3.6.2 | BUILDING MATERIALS

The choice of materials and texture has great visual significance. Coordinating materials within a development can tie together buildings of different sizes, uses, and forms, while contrasting materials or textures within large developments may add visual interest and reduce its scale. It is important that new development be compatible with, and respectful of, the strengths of the City's current development fabric. New structures shall be compatible with their neighbors in substantially in compliance with the standards. This does not imply uniformity of architectural style; rather, a similarity to exterior building materials of nearby conforming structures. Choose materials which are high in quality, durable, and which offer texture. Use material and texture changes to help reduce the mass and provide visual interest and variety. Avoid monotony.

#### A. PRIMARY BUILDING MATERIALS

For the purpose of this Section, a primary building material is defined as the predominate, most extensive, exterior building material(s) used to clad a façade, excluding storefronts, windows, and doors. A primary building façade is simply the most visible façade from the public realm. In this context, the public realm is the building façade containing the primary entrance, the side of a building facing a street, or a side facing the primary entrance to another building. The following materials are approved as primary building materials:

1. Brick (full size, clay-fired)
2. Stone
3. Artificial stone products (masonry based, with a fine or rock cast authentic finish such as Arriscraft)

In Dockside Neighborhood, the above materials are allowed as primary but shall also include fiber cement board. A minimum of 30 percent of the building should be one of items 1-3 above.

The following materials when used in combination with the above materials, may be approved on a case by case basis with the context of each application and the particular use and quality of each material being the basis for the decision:

- a. Fiber cement board (simulated wood siding)
- b. Marble
- c. High quality architectural metals (copper, bronze, low-luster aluminum)
- d. Quik Brick (concrete block with an imitation brick finish; half-size or full size) or equivalent
- e. Exterior Insulation Finishing System (EIFS)
- f. Cementitious Stucco

#### B. TRIM AND ACCENT MATERIALS

Trim and accent building materials are clearly subordinate to the primary building materials on a façade. The following materials are acceptable for building trim and accents:

1. Any building material approved for use as a primary building material
2. Fiber cement board
3. Exterior Insulation Finishing System (EIFS)
4. Cementitious Stucco
5. Metal or vinyl trim

The following materials may be approved on a case by case basis:

- a. Wood trim
- b. Tile
- c. Split-faced concrete block (integrally colored)
- d. Simulated wood details (for trim, columns, etc.) made of plastic, vinyl, fiberglass, or fibrous cement
- e. Neon lighting/tubing and strings of LED lighting and similar lighting limited to the walls of commercial buildings in the form of a single enclosed band of such lighting around not more than the perimeter of the building. Such lights shall not be located in the windows

or doors or other places within the building or on the property to the extent such lights are visible from a public street.

*Exception: Traditional holiday lighting for not more than two 30-day periods per calendar year. These periods may run consecutively.*

### C. REMOTE WALLS

Facades of buildings which will not be visible to the public realm (front a street, primary entrance to the building, or primary entrance of another building) and do not abut a residential development/zoning district are considered remote walls. In these instances, the following materials may be approved on a case by case basis which would otherwise not be approved for the primary building facades:

1. Any material approved for primary, trim and accent materials, including those which may be approved on a case by case basis.
2. Tilt-up concrete walls

### D. NEW MATERIALS

This Section is not an exhaustive list of materials which may be approved. The Planning Commission (or staff, for staff-approved projects) may approve the use of new materials not expressly listed, on a case by case basis. This may include new products or synthetic materials which approximate the look, quality, and durability of approved materials. Examples include artificial slate, artificial brick or stone products or clay-fired brick veneers.

### 12.3.6.3 | BUILDING COLOR

Color is an integral element of the overall design. Brick, stone, and concrete have an inherent color created by nature or during the manufacturing process. Other surfaces will get their color from applied materials such as paint. Awnings and canopies provide other opportunity for color.

- A. Create a coordinated palette of colors for each development. This palette shall be compatible with adjacent conforming developments as well as corridor or intersection themes.
- B. Set the color theme by choosing the color for the material with the most area. If there is more roof than wall area, roof color will be the most important color choice setting the tone for the rest of the colors.
- C. Limit the number of color choices. Generally, there will be a wall color, trim color, accent color, and roof color. All building elements should work within this palette, including chimneys, vents, and gutters.

- D. Use muted earth tone tints of colors such as reds, browns, tans, grays, and greens. Avoid primary colors or bright accent colors and stark contrast colors. Avoid white. Use cream colors instead.
- E. Use color variation to break up mass and provide visual interest.

#### 12.3.6.4 | BUILDING FAÇADE

Unadorned blank walls on any elevation which is visible from streets, from adjoining developments, from parking areas or on a rear elevation which is not screened are not allowed. Include human-scale elements, particularly at the street level and on facades with a pedestrian focus. The articulation of a façade, both horizontally and vertically, is critical to creating a human scale and reflecting the traditional image and character of Hendersonville.

##### A. HORIZONTAL FAÇADE ARTICULATION THROUGH BAY DIVISIONS

1. Facades of all buildings shall be proportionally divided using architectural elements including windows and entries in conjunction with porches, arcades, canopies, and awnings.
2. Any wall surface over 40 feet in length should include at least one change in plane.



3. Larger buildings shall be divided into bays with widths of 25 to 40 feet.

4. Bays can be articulated by a combination of pilasters, piers, differentiation in material, texture, color, or by variation in the wall plane. Pilasters shall project a minimum of four inches. The addition of porches or covered walkways can also be used to articulate facades.

##### B. VERTICAL FAÇADE ARTICULATION-HORIZONTAL BANDS TO BREAK VERTICALITY

All buildings shall have a clearly identifiable articulated base, middle and top, which contribute to the human scale of the building.

1. An articulated base may be defined by a water table, a change in wall plane, or a change in material, texture, or color. For multi-story buildings, a base may be one story tall, defined by a storefront, a cornice or a change in materials.
2. The middle of a building typically consists of a pattern of upper-story windows or may include recessed panels or other decorative features.

3. An articulated top could be a roof cornice or a sloped roof with overhanging eaves and could feature brackets or other decorative architectural details.
4. Stage-set facades, with parapets only on the front, do not meet the intent of these guidelines. Parapets, when used, should be located on all sides of buildings.
5. When designing the façade, give careful consideration to locating signage within sign bands.

#### 12.3.6.5 | WINDOWS

The relationship of walls to windows as well as the number, size, and proportion of openings in a wall has an effect on how a building relates to a user. Aside from allowing natural ventilation and light, windows provide a great deal of design character and interest in a building.

##### A. GENERAL GUIDELINES

1. Facades of all buildings shall be proportionally divided using architectural elements including windows and entries in conjunction with porches, arcades, canopies, and awnings.
2. Use a regular pattern of walls and windows. Maintain an overall pattern so that all of the floors seem part of a whole. Use special windows, window groupings, and a mixture of large and small windows to create a hierarchy of importance of a building, particularly around entrances.
3. Use patterns of walls and windows which relate to more traditional building design in which there is a larger proportion of walls than windows in upper stories.

4. Use a proportion of windows (vertical, horizontal, or square) which generally is consistent with the style and context of the building and with the rest of the development.



5. The fronts of commercial buildings facing a street should have display windows on the ground floor. At least 60 percent of the linear horizontal dimension should be covered with windows or doors, except in DN, which will be 30 percent minimum. For upper stories, between 30 percent and 50 percent of the lineal horizontal dimension should be windows. For secondary elevations (sides) visible from streets and public areas, storefronts should wrap the

corner but do not need to cover the full façade. Façade articulation should continue on these facades.

## B. STOREFRONTS

1. Storefronts or large display windows should be used at the street level on the main façade and secondary elevations, especially on facades oriented to pedestrian areas, on all commercial buildings including large-scale, big-box developments.
2. Quality natural materials, such as brick, stone, or marble, shall be used. Other materials can be reviewed on a case-by-case basis. Bronze or black aluminum storefronts are the most appropriate colors for storefronts in the majority of Hendersonville. However, muted earth tones or clear anodized (silver) aluminum storefronts may be appropriate on a case-by-case basis. Novelty colors or franchise colors, which are not in keeping with the intent of these standards, are prohibited for storefronts.
3. Consider the use of a knee wall or bulkhead at the base of storefronts instead of carrying the glass through to the ground to give a more traditional look.
4. Storefronts and display windows shall be designed as an integral part of the building's character and should reflect the architectural style of the building. Storefronts should vary in width for individual retail establishments and should have architectural interest.

### 12.3.6.6 | ROOFS

The design of a roof can have a significant impact on the character and scale of a building. While larger commercial projects may have roofs hidden behind parapet walls, small commercial buildings, office parks, and multi-family residential developments often have very visible roofs. The importance of roof materials depends on the form of the roof. Certain roof types result in highly visible roof materials.

- A. Roof form should complement the roof forms of neighboring developments to soften transitions between uses and intensities of uses.
- B. Use roof forms which complement the building design and contribute to a human scale. Avoid tall roof areas which overwhelm the height of the building's wall.
- C. Gabled, hipped, or other roof forms which relate to a residential, human scale are encouraged. Steeper forms are associated with more traditional design and are appropriate when the development adjoins a residential use. The use of parapets in these areas should be limited.
- D. Avoid a visible monolithic expanse of roof on large-scale buildings. Break the roof mass with elements such as gables, dormers, or parapets. Scale these features to the scale of the building. When breaking the roof mass, stage-front features which do not blend with other portions of the roof are not permitted.

- E. If a shed roof or flat roof design is used, a parapet wall shall be used on all sides of the building to screen the roof.
- F. Consider using a special roof feature at a gateway or a prominent corner or to highlight entry bays on larger structures.
- G. On roofs which are visible, use quality materials such as standing seam metal, architectural shingles, tile, or slate.
- H. Roof elements of entry features shall be integrated into the building design and shall be finished on all sides.
- I. Any equipment located on a roof shall be screened on all sides of the building including the rear, by architectural elements that are integral to the building such as parapet walls. Roof-mounted screen walls shall not be approved for this purpose. See [Chapter 10.4.13.B](#).
- J. Roof top access shall be provided internally whenever possible. The utilization of external ladders should be avoided. Paint exterior ladders to match the colors of the wall against which they are located.

#### 12.3.6.7 | AWNINGS

- A. For commercial buildings, awnings are an appropriate architectural detail, which add a human scale and highlight a storefront. They provide shelter to pedestrians from the elements and they shield window displays and store interiors from bright sunlight. Although they should not serve as a building's primary architectural element, awnings are encouraged when a structure does not have a covered walk to shield displays and the entry and to add visual interest.
- B. Awnings should not be less than eight feet above the finished sidewalk and should not extend more than four feet from the building wall. Deviations from this requirement shall be reviewed on a case-by-case basis with the stipulation that the request conform to the overall requirements of the standards in relation to scale, color palette, and materials and that they are designed in such a manner consistent with the development and the surrounding development.
- C. Awnings should be broken up into small components, no wider than an articulated bay of the building, and preferably less wide.
- D. Mold- and fire-resistant fabric awnings are encouraged, as are metal.
- E. The choice of colors should be coordinated as a part of an overall color scheme of the building and surrounding developments. Solid colors and stripes are appropriate.
- F. Awning forms may be angled or curved and should have closed ends.

G. Down-lighting, such as goose-neck lights, is permitted.

#### 12.3.6.8 | CANOPIES, CARPORTS, SHEDS, AND SIMILAR STRUCTURES

The architectural character and building elements standards contained in this section are applicable to canopies, carports, sheds, and similar open air commercial structures without walls, in commercial zones except for Heavy Commercial Districts (HC), which are subject to [Chapter 12.4.5.8](#) (Canopies, Carports, Sheds, and Similar Structures). These include fuel center canopies, drive-in restaurant canopies, bank canopies, car wash vacuum cleaner canopies, solar panel canopies, and carports and similar structures. These standards vary on depending on which side of the principal building(s) the structure is located.

A. In front of the principal building(s) and any side of the building adjacent to a street, public or private:

1. The roof support posts should be metal with brick or stone veneer the entire length of each post. The brick or stone should match any brick or stone on the principal building.
2. The roof shall have a ceiling, or the roof framing, wiring, conduit, and other electrical and mechanical components should be concealed from public view.
3. Any fascia shall be EIFS, wood, fiber cement board, or other approved trim and accent material listed in [Chapter 12.3.6.2.B](#) (Trim and Accent Materials).

B. Beside the principal building and behind the front line of the principal building:

1. The roof support posts should be metal with brick or stone veneer the entire length of each post. The brick or stone should match any brick or stone on the principal building.
2. The roof structure (e.g., beams, fascia, rafters, and other framing members) may be metal. The metal shall be painted to match the principal building. A ceiling is not required. Or
3. The posts and fascia may be powder-coated aluminum or vinyl coated.
4. Visibility of the structures from a public street and surrounding properties shall be screened in accordance with [Chapter 11.4.11.3](#) (Outdoor Storage Areas).

C. Behind the principal building:

1. The roof support posts and roof support structure may be metal painted to match the principal building. A ceiling and screening is not required, or
2. The posts and roof structure may be unpainted metal without a ceiling provided the structure is not visible from public streets or surrounding property. Screening

conforming to [Chapter 11.4.11.3](#) (Outdoor Storage Areas) may be provided to block visibility.

#### 12.3.6.9 | OVERHEAD DOORS FOR SERVICE BAYS AND LOADING DOCKS

- A. As per [Chapter 11.2.12.1.C](#), loading spaces shall not be located in front or corner side yards.
- B. Overhead doors for service bays shall not face a public street nor shall they be on the side of the building facing on-coming traffic. The Planning Commission may waive this standard provided extra landscaping and/or other means of screening is provided, which, in the opinion of the Planning Commission, adequately blocks the view of the doors/openings. Doors on other sides of the building shall likewise be properly screened. See [Chapter 11.4](#) (Landscaping, Screening, and Tree Preservation).

## 12.4 INDUSTRIAL BUILDING DESIGN STANDARDS

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### 12.4.1 | APPLICABILITY

This Chapter applies to buildings and structures located within the Industrial zoned area.

### 12.4.2 | DESIGN REVIEW APPROVAL REQUIRED

Design review approval is required in accordance with [Chapter 4.7](#) (Site Plan and Design Review). Usually this approval is granted concurrent with Site Plan approval. Nevertheless, there are occasions when Site Plan approval of a project is not required, i.e., for renovations to buildings, yet Design Review is still required. Refer to [Chapter 4.7](#) (Site Plan and Design Review).

### 12.4.3 | MASSING AND SCALE OF BUILDING

Use variation in materials, textures, patterns, colors, and details to break down the mass and scale of the building. Use building articulation techniques to reduce a building's massing. Water tables, cornices, material changes and patterns, and fenestration can reduce the apparent height of a large building.

### 12.4.4 | ORIENTATION OF BUILDINGS

Buildings shall be sited so that their main entrances are facing the street on which they are located. Buildings shall be oriented toward accessible arterial or collector streets rather than nearby limited access interstate or freeways. Building entrances should be designed to reflect their hierarchy within a building or development and should be articulated with architectural elements such as columns, pilaster, arches, or detail such as special moldings. Include entry features such as porches, canopies, or awnings.

## 12.4.5 | ARCHITECTURAL CHARACTER AND BUILDING ELEMENTS

### 12.4.5.1 | CHARACTER

The design theme for industrial parks should take on a campus appearance where roof forms, building height, materials and details such as windows all relate closely to one another, creating a unified appearance.

### 12.4.5.2 | BUILDING MATERIALS

Brick, stone, split face concrete block (integrally colored), drivet, stucco, and EIFS are approved as exterior building materials for the front of industrial buildings. On corner lots, both sides of the building facing a street are considered the front of the building. On all other sides facing a street, the above stated materials are approved, or, in lieu thereof, evergreen trees and shrubs may be planted so as to screen the view of these sides, as well as all other sides not facing a street, may be constructed of painted metal siding, painted concrete block (plain or split-faced) or painted concrete tilt-up walls.

### 12.4.5.3 | BUILDING COLOR

Colors shall be compatible with adjacent conforming developments. Limit the number of colors. Generally, there will be a wall color, trim color, accent color, and roof color. All building elements should work within this palette. Use muted earth tone tints of colors such as browns, tans, grays, and greens. Avoid primary colors or bright accent colors and stark contrast colors. Use color variation to break up mass and provide visual interest.

### 12.4.5.4 | BUILDING FAÇADE

Larger buildings should be divided into bays with widths of 50 to 75 feet. Bays may be articulated by the use of pilasters, piers, differentiation in material texture or color or by variation in the wall plane. The base of a building may be articulated/defined by a water table, a change in wall plane, or a change in material, texture, or color.

### 12.4.5.5 | WINDOWS

The front façades of all buildings shall be proportionally divided using architectural elements including windows and entries in conjunction with porches, canopies, and awnings.

### 12.4.5.6 | ROOFS

Roof forms should complement the roof forms of neighboring buildings. Use roof forms which complement the building design. On roofs which are visible, use quality materials such as standing seam metal. Any equipment located on the roof shall be screened from all sides of the building.

#### 12.4.5.7 | GARAGE DOORS AND LOADING DOCKS

Garage doors and loading docks must be properly screened from view from the street. See [Chapter 11.4](#) (Landscaping, Screening, and Tree Preservation).

#### 12.4.5.8 | CANOPIES, CARPORTS, SHEDS, AND SIMILAR STRUCTURES

The architectural character and building design standards contained in this chapter are applicable to canopies, carports, sheds, and similar open-air structures without walls, in Industrial and Heavy Commercial Districts (HC). These include solar panel canopies and carports. These standards vary depending on whether the structures are visible from the street or surrounding property.

- A. Structures in front or beside the principal building or otherwise visible from a public street:
  - 1. The roof support posts should be metal with brick or stone veneer the entire length of each post. The brick or stone should match any brick or stone on the principal building.
  - 2. The roof structure (beams, fascia, rafters, and other framing members) may be metal. The metal shall be painted to match the principal building. A ceiling is not required. Or,
  - 3. The posts and fascia may be powder-coated aluminum or vinyl coated.
  - 4. Visibility of the structures from a public street and surrounding properties shall be screened in accordance with [Chapter 11.4.11.3](#) (Outdoor Storage Areas).
- B. Structures behind the building or otherwise not visible from a public street:
  - 1. The structure may be unpainted metal without a ceiling.
  - 2. These standards apply if the visibility of the structure from the public street is fully screened in accordance with [Chapter 11.4.11.3](#) (Outdoor Storage Areas).

### 12.5 MUNICIPAL EXEMPTIONS FROM DESIGN STANDARDS

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The following structures located upon City-owned property shall be exempt from Design Review under this Chapter.

- 1. Dome Air-Supported Structures (See [Chapter 16](#): Definitions)
- 2. Dome Membrane-Covered Frame-Supported Structures (See [Chapter 16](#): Definitions)
- 3. Dome Tensile Membrane Structures (See [Chapter 16](#): Definitions)

NOTE: This exemption creates the opportunity to cover more athletic fields and maximize the full use of City Park Properties.



# CHAPTER 13 | SIGN STANDARDS

- 13.1 | PURPOSE AND INTENT
- 13.2 | DESIGN STANDARDS
- 13.3 | MASTER SIGN PLAN
- 13.4 | GENERAL DEVELOPMENT STANDARDS
- 13.5 | SIGN TYPES
- 13.6 | PROHIBITED SIGNS
- 13.7 | EXEMPTIONS
- 13.8 | NONCONFORMING SIGNS
- 13.9 | VIOLATIONS

## 13.1 PURPOSE AND INTENT

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The purpose of this Chapter is to regulate signs as an information system that preserves and enhances the aesthetic character and environmental values of the City, its residential neighborhoods, its visitor-oriented uses, and commercial/industrial areas, while also providing an effective means for members of the public to express themselves through the display of signs. More specifically, this Chapter is intended to:

1. Ensure the protection of the rights of free speech and expression are guaranteed by the United States Constitution and the Constitution of the State of Tennessee while setting local design standards and expectations.
2. Establish a permit path and procedures to allow a variety of types of signs in commercial and industrial zones and a limited variety of signs in residential zones, subject to the standards and the permit procedures of this Chapter.
3. 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 Chapter, but without a requirement for permits.
4. Provide for temporary signs in limited circumstances.
5. Prohibit all signs not expressly permitted by this Chapter.
6. Provide for the enforcement of the provisions of this Chapter.
7. Promote communications through signs that provide information and orientation and also to promote economic activity and vitality to the community.
8. Maintain and enhance the City's appearance by regulating the design, character, location, number, type, quality of materials, size, illumination, and maintenance of signs.

9. Limit commercial signage to on-site locations to ensure that signage is primarily used as identification in order to protect the City’s aesthetic environment from the visual clutter associated with the unrestricted proliferation of signs. Restrict signs that may create a nuisance to nearby properties, violate privacy, or create hazards or unreasonable distractions for pedestrians or drivers.

### 13.1.1 | *APPLICABILITY*

This Chapter regulates signs that are located or mounted on private property within the corporate limits of the City, as well as signs located or mounted on public property, over which the City has land use or zoning authority. The provisions in this Chapter apply in all zoning districts of the City. No sign within the regulatory scope of this Chapter may be erected or maintained anywhere in the City except in conformance with this Chapter.

### 13.1.2 | *EXEMPT SIGNS*

The following signs are exempt from permit requirements and regulations of this Chapter:

#### 13.1.2.1 | *GOVERNMENT SIGNS*

Any public notice or warning required by a valid and applicable federal, State, or local law, regulation, or ordinance.

#### 13.1.2.2 | *TRAFFIC CONTROL SIGNS*

Signs such as stop, yield, and similar signs, the faces of which meet the Department of Transportation standards and contain no commercial message of any sort.

#### 13.1.2.3 | *MENU DISPLAYS*

Any sign not legible from a street (public or private). This includes drive-in and drive-through menu board signs and signs within buildings, including signs at least 10 feet back from window.

#### 13.1.2.4 | *PROTECTED NON-COMMERCIAL SPEECH SIGNS*

Any constitutionally protected speech not otherwise in conflict with the provisions of this Ordinance or other statute(s) of the Hendersonville Municipal Code.

#### 13.1.2.5 | *CITY-SPONSORED EVENT SIGNS*

Any special event signage that is placed on any property within the City that is:

- A. Directly associated with a City sponsored event (City sponsored event shall equate to an event that has a successfully passed resolution from the Board of Mayor and Aldermen).
- B. Not placed any closer to the edge of pavement (public or private) than 12 feet.
- C. Not any other location that blocks the visibility of motorists.

### 13.1.3 | SIGN PERMIT REQUIRED

#### 13.1.3.1 | APPLICABILITY

No sign, except those identified in [Chapter 13](#) (Signs) as being exempt or not requiring a permit, shall be erected, constructed, altered or relocated without first obtaining a Sign Permit. Application for the permit shall be in accordance with [Chapter 3.2](#) (Application).

#### 13.1.3.2 | AUTHORITY

The Planning Department shall be responsible for determining compliance with this Ordinance. The Planning Department shall be responsible for issuing a Sign Permit.

#### 13.1.3.3 | SIGN PERMIT ISSUANCE

Upon the filing of an application for a permit for erection, alteration or relocation of a sign, the Planning Department shall, within five working days, determine whether the application is complete. If the application is not complete, the Planning Department shall notify the applicant of any deficiencies and shall take no steps to process the application until the deficiencies are remedied.

Once it is determined that the application is complete, the Planning Department shall:

1. Examine the plans and specifications and the premises upon which the proposed sign is to be erected, altered, or relocated.
2. Within 10 working days of receiving a complete and correct application, issue a permit if the sign complies with the requirements of this Ordinance and all other ordinances of the City. If the work authorized under a Sign Permit is not started within six months after the date of issuance, the Sign Permit shall become null and void.

#### 13.1.3.4 | INSPECTION

The Planning Department may inspect, at such times as deemed appropriate, each sign or other advertising structure regulated by this Ordinance. The purpose of the inspection is to ascertain whether the structure is secure, in need of repair or removal, or not in

conformance with the issued Sign Permit or is otherwise in violation of the provisions of this Ordinance.

#### 13.1.3.5 | REVOCATION OF PERMIT

All rights and privileges acquired under the provisions of this Ordinance are revocable at any time by the Planning Department. Upon revocation of a Sign Permit, the applicant shall remove the sign or other advertising structure without cost or expense to the City. In the event of the failure, neglect, or refusal on the part of the applicant to remove the signage, it shall constitute a Zoning Violation and the City may proceed to remove or otherwise abate the violation and charge the expense to the applicant or property owner. If left unpaid, the cost to the City for removal and/or abatement of the violation shall become a lien on the property.

#### 13.1.4 | CONSTRUCTION AND MAINTENANCE

##### 13.1.4.1 | 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.

##### 13.1.4.2 | 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.

##### 13.1.4.3 | MAINTENANCE

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

1. A sign shall have no more than 20 percent of its surface area covered with disfigured, cracked, ripped, peeled paint, poster paper, or other material for a period of more than 30 days.
2. A sign shall not stand with bent or broken sign facing, with broken supports, loose appendages, or struts, or more than 15 degrees from vertical for a period of no more than 10 successive days.
3. A sign shall not have weeds, trees, vines, bird nests, or vegetation growing upon it or obscuring the view of the sign from the street or road right-of-way from which it is to be view 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.

#### 13.1.5 | NO VARIANCES

Neither the Board of Zoning Appeals nor any other administrative body shall have the power or authority to vary the expressed terms or requirements of this Chapter, 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. Any request to modify a sign standard shall require a zoning ordinance text amendment to change the standard citywide, in accordance with the procedures outlined in Chapter 4.8.3.1.B (Zoning Text Amendments) of this Ordinance.

## 13.2 DESIGN STANDARDS

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### 13.2.1 | DESIGN REVIEW AND CONFORMANCE

Compliance with the following design standards is required for all new permanent signs included replacement signs for which a permit is required as per [Table 17](#) (Permitted Signs) of this Chapter including principal ground signs, directory ground signs, institutional ground signs, awning signs, suspended signs, projecting signs, wall signs, and canopy signs. The Planning Department shall, prior to the issuance of a sign permit as required by [Chapter 13.1.3](#) (Sign Permits Required) of this Ordinance, review such proposed signs and approve or deny as to conformance with the design standards contained in this Ordinance.

### 13.2.2 | DESIGN PRINCIPLES

Signs should be designed with consideration to the effect the sign will have upon the character of the surrounding area. Signs can complement or detract from the character of the building. Therefore, particular attention should be given to the way in which the sign will be read and whether its design, size, materials, shape, illumination, location, configuration, and character are appropriate to its intended audience or whether a more appropriate sign could better serve its intended purpose and, at the same time, be less visually disruptive.

### 13.2.3 | DESIGN GUIDELINES

#### 13.2.3.1 | GENERAL DESIGN

- A. Signs should not be a material, color(s), or design that attracts attention excessively and disrupts the public environment.
- B. Signs should not be in the shape of a product or motif (i.e., soda bottle, hamburger, or boot).
- C. Signs should be primarily for identifying the business and not predominantly for advertising products sold or services rendered.

- D. Sign materials must be durable, low maintenance, and of similar quality to the principal structure.

### 13.2.3.2 | WALL SIGN DESIGN

- A. Wall signage should be consistent in size within each development and should be proportional to the building on which each sign is placed. A sign which meets the maximum size limitations may not be appropriate to the scale of the buildings, its architectural features and the character established by the adjacent buildings.



- B. Wall signs should match the architectural character of buildings within the development and area and of the building on which the sign is to be placed in terms of style, location, configuration, materials, and color.
- C. Wall signs should not obstruct or crowd architectural elements or details such as cornices, pilasters, windows, and other features which define the design of the building.

### 13.2.3.3 | GROUND SIGN DESIGN

- A. Appropriate materials for ground sign background, frame, support, and ornamentation includes brick, natural stone (including panels and imitation stone), and EIFS or similar material when used in combination with brick or stone.



- B. Ground signs must be monument style. (See definition.) Ground signs must be placed on a brick or stone masonry base of at least 1.5 feet in height. Any sign posts must be concealed within the base and structure of the sign, (e.g., with brick columns). The base should be constructed of the recommended materials listed previously in [Chapter 13.2.3.1.A](#). The base should be complemented with shrubs, flowers, and/or other landscaping. This landscaping should be of a low-growing variety so as not to block

the visibility of the sign. This landscaping should also be designed to hide or shield any external light source.

- C. The frame and other supporting structure of the sign should be as minimal in mass as possible to support the sign and complement the architecture of the principal building. The frame and structure should not cause the overall size of the sign and structure to exceed the permitted maximum size by more than 120 percent. For example, if 60 square feet of sign face is allowed, the total area of the sign and structure should not exceed 132 square feet.



- D. Ground signs should be placed in the middle of the lot to the extent practical so that visibility of motorist exiting the driveway will not be impeded and so that it will not block, or be block, by the sign on the adjacent lot and so that any future sign on the adjacent lots can achieve the minimum separation required by this Chapter.

### 13.3 MASTER SIGNAGE PLAN

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No permit shall be issued for a principal ground sign or wall sign for a new multi-tenant commercial building 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 Planning Department as conforming with this Chapter.

- A. The owners shall submit to the Planning Department a Master Signage Plan containing the following:
1. An accurate plot plan of the zone lot, at such scale as the Planning Department may reasonably require.
  2. Location of buildings, parking lots, driveways, and landscaped areas on such zone lot.
  3. 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 formula set forth in [Table 18](#) of this Ordinance.
  4. An accurate indication on the plot plan of the proposed location of each present and future permanent sign of any type, whether requiring a permit or not, except that incidental signs need not be shown.

5. Detailed drawings and color renderings of the proposed signage showing dimensions and design sufficient to determine compliance with the requirements of this Chapter, including the design standards contained in Chapter 13.2 (Design Standards).
  6. The Master Signage Plan shall be signed by all owners or their authorized agents in such form as the Planning Department may require.
- B. Any sign design guide and/or Master Signage Plan submitted and approved with any Planned Development or Site Plan for the proposed development may be accepted as the Master Signage Plan required by this Chapter if said plan is determined by the Planning Department as being sufficient to conform to the intent of this Chapter.
  - C. The Master Signage Plan requirement may be waived by the Planning Department for buildings containing three or fewer tenants or when it is determined that the Master Sign Plans will not serve its intended purpose.
  - D. A Master Signage Plan may be amended by filing a new Master Signage Plan that conforms with all requirements of this Chapter.
  - E. 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.

## **13.4 GENERAL DEVELOPMENT STANDARDS**

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### **13.4.1 | SIGNS ALLOWED ON PRIVATE PROPERTY**

#### **13.4.1.1 | 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 17 (Permitted Signs).

##### **A. EXEMPT.**

If the letter “E” 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. *(Note that certain signs may still have specific conditions or standards that must be met in order to be exempt.)*

##### **B. PERMIT REQUIRED**

If the letter “P” 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.

13.4.1.2 | 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 17 (Permitted Signs), which number refers to a paragraph is [Chapter 13.5](#) (Sign Types). A sign of such type shall be permitted only subject to the requirements of those supplemental regulations.

TABLE 17: PERMITTED SIGNS

TABLE 17   ALL ZONING DISTRICTS   PERMITTED SIGNS										
SIGN TYPES	All R <sup>3</sup>	MFR	DN	O	NC	GC	MXC	HC	I	SPECIAL CONDITIONS
<b>GROUND SIGNS</b>										
Artistic Signature Sign						P	P			13.5.1.6
Directory			P	P		P	P	P	P	13.5.1.3
Incidental	E	E	E	E	E	E	E	E	E	13.5.1.5
Institutional	P	P	P	P	P	P	P	P	E	13.5.3
Principal Ground		P	P	P	P	P	P	P	P	13.5.1
Temporary Ground	E	E	P	P	P	P	P	P	P	13.5.4.2 & 3
<b>BUILDING SIGNS</b>										
Awning			P	P	P	P	P	P	P	13.5.2.3
Building Marker	E	E	E	E	E	E	E	E	E	13.5.2.4
Canopy			P	P	P	P	P	P	P	13.5.2.5
Incidental		E	E	E	E	E	E	E	E	13.5.2.7
Projecting			P	P	P	P	P	P	P	13.5.2.8
Suspended			P	P	P	P	P	P	P	13.5.2.9
Temporary	P <sup>2</sup>		P	P	P	P	P	P	P	13.5.4.1
Wall		P <sup>1</sup>	P	P	P	P	P	P	P	13.5.2.1 & 2
Window			P	P	P	E	E	E	E	13.5.2.11
<b>OTHER</b>										
Flags	E	E	E	E	E	E	E	E	E	13.5.1.4

**NOTES:**

1. Permitted for Assisted Living Facility, Bed and Breakfast and Independent Living Uses only.
2. Permitted for Institutional Uses only.
3. All R includes RR, ER, SR-1, SR-2, WR, and THR.

13.4.1.3 | NUMBER, DIMENSIONAL, AND LOCATIONAL LIMITATIONS

Although permitted under the previous paragraph, a sign designated by an “E” or a “P” in Table 17 (Permitted Signs) 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 18 (Number, Dimension, and Locations of Individual Signs) or, [Chapter 13.5](#) (Sign Types), whichever is less.
- B. The height of any ground sign does not exceed the number given for height in Table 18 (Number, Dimension, and Locations of Individual Signs) or [Chapter 13.5](#) (Sign Types), whichever is less.
- C. Each ground sign shall be set back far enough away from the street to be out of the road right-of-way. Should Hendersonville Transportation Plan dictate a greater right-of-way width than currently exists, the greater width shall apply. In no event shall any sign be placed any closer to the edge of the pavement (public or private) 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 one or the number resulting from the number permitted computation in Table 18 (Number, Dimensions, and Locations of Individual Signs) or as specified in [Chapter 13.5](#) (Sign Types).
- E. The area of ground sign(s) on an individual property does not exceed the area in square feet listed in Table 18 (Number, Dimension, and Locations of Individual Signs) or as specified in [Chapter 13.5](#) (Sign Types), whichever is less.

TABLE 18: NUMBER, DIMENSIONS, AND LOCATION OF INDIVIDUAL SIGNS

TABLE 18   ALL ZONING DISTRICTS   NUMBER, DIMENSIONS, AND LOCATIONS OF INDIVIDUAL SIGNS									
SIGN TYPES	All R <sup>4</sup>	MFR	DN	O	NC	GC	MXC	HC	I
<b>GROUND SIGNS<sup>3</sup></b>									
SIGN AREA (sq ft)	9	30	40 <sup>1</sup>	40	40	60 <sup>1</sup>	60 <sup>1</sup>	60 <sup>1</sup>	60 <sup>1</sup>
HEIGHT (ft)	4	5	6 <sup>2</sup>	6 <sup>2</sup>	5	8 <sup>2</sup>	8 <sup>2</sup>	8 <sup>2</sup>	8 <sup>2</sup>
SETBACK (ft)	See Chapter 13.4.1.3.C (Number								
<b>NUMBER PERMITTED</b>									
	1	2	2	2	2	2	2	2	2
<b>OTHER</b>									
AREA (sq ft)	2	See Chapter 13.5 (Sign Types)							

**NOTES:**

1. Eighty square feet is allowed for a ground sign advertising three or more tenants on a lot with three or more tenants.
2. Twelve feet is allowed for a ground sign advertising three or more tenants on a lot with three or more tenants.
3. Must have at least 400 feet of frontage to qualify for a second sign. Signs must be separated by at least 200 feet, as measured parallel to the street(s). Signs Must be 75 feet from signs on adjacent properties.
4. All R includes RR, ER, SR-1, SR-2, SR-3, WR, and THR.



Single Tenant



Multi-Tenant (where eligible)

### 13.4.2 | COMPUTATIONS

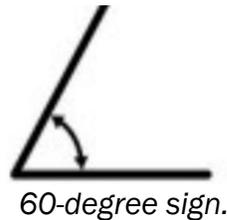
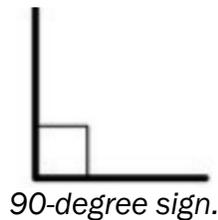
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#### 13.4.2.1 | COMPUTATION OF SIGN AREA OF INDIVIDUAL SIGNS

The area of a sign shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof. Sign area shall be established by drawing not more than eight straight lines that will encompass the extreme limits of the writing, representation, emblem, or other display. The sign area shall also include 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. The sign area shall not include 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.

#### 13.4.2.2 | 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.



### 13.4.2.3 | 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.

## 13.5 SIGN TYPES

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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 Chapter.

### 13.5.1 | GROUND SIGNS, PERMANENT

#### 13.5.1.1 | GROUND SIGN, PRINCIPAL

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

- A. Shall not exceed the applicable height specified for a ground sign in that district in Table 18 (Number, Dimension, and Location of Individual Signs).
- B. Shall not exceed in square feet the number given in that district in Table 18 (Number, Dimensions, & Locations). A ground sign located on a vacant lot shall not exceed 12 square feet until such time that a building permit is issued for consideration. Following the issuance of a building permit, the restrictions in Table 18 (Number, Dimensions, & Locations) shall apply.
- C. Setbacks shall conform to [13.4.1.3.C](#) (Permitted Characteristics).
- D. One permanent principal ground sign may be permitted for each 200 feet of street frontage per lot with a maximum of two such signs. 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. Permanent 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 of separation.

*NOTE: Temporary banners are not permitted as principal ground signs.*

### 13.5.1.2 | GROUND SIGN, CHANGEABLE COPY

The use of changeable copy, digital, on signage is subject to Design Review and may only be permitted in accordance with the following regulations:

#### A. Electronic Copy

Electronic changeable copy is only allowed in non-residential districts and as follows:

##### 1. **Location**

Electronic copy signs must be at least 150 feet from the nearest existing residence.

- A. Fuel price signs at service and gas station sites.
- B. Indoor theaters to display current and future showings.
- C. Public/Quasi-Public uses on land with at least 400 feet of continuous street frontage.

##### 2. **Maximum Area**

Electronic copy can represent no more than 80 percent of the maximum allowable sign area.

##### 3. **Display Duration**

Changes to message are limited to no more than one time per 5 minutes. The message transition must be instant and not fade between messages (minimal one sequence change interval).

##### 4. **Light Color**

Light color shall be static and must not give the appearance of animation. No changes in light color may be permitted without Design Review and approval.

##### 5. **Light Intensity**

The intensity of the sign lighting may not exceed 500 nits over ambient lighting conditions when measured at the nearest property line. All electronic copy must be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient lighting conditions or that can be adjusted to comply with the 500 nits limitation.

##### 6. **Malfunctioning Sign**

A malfunctioning sign shall be programmed to shut down.

##### 7. **Nonconforming Sign**

The sign is not a nonconforming sign (nonconforming signs are not allowed to convert electronic/digital changeable copy, unless the sign as an element of its non-conformity already has such electronic/digital changeable copy. (Such as Twitty City sign.)

##### 8. **Resolution**

The sign resolution shall be of high-resolution quality, 8mm minimum.

**B. Non-Electronic Manual Copy**

Non-electronic changeable copy is allowed in all districts and can represent no more than 50 percent of the total allowable sign area, except for the following uses which are allowed up to 75 percent of the maximum allowable sign area to be changeable copy:

1. All Public/Semi-Public uses,
2. Indoor theaters and cinemas, and
3. Fuel price signs.



**13.5.1.3 | DIRECTORY SIGN**

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

**A. SHOPPING CENTERS:**

Directory signs in shopping centers may be located near entrances to parking areas, but at least 50 feet from any public road 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 may contain logos or business names with arrows or other directional information.

**B. 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 [Master Signage Plan](#). Such sign shall be located away from any public road right-of-way, so that drivers can conveniently pull up to and rear 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 16 square feet in area and six feet in height.

**13.5.1.4 | FLAG**

A 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. The poles must be installed in concrete at least three feet deep.
- B. There may be no more than two flags per pole with a maximum of three total allowed flags.

- 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 35 feet in height. Flagpoles on buildings shall not extend more than 15 feet above the highest point of the building or roof.

13.5.1.5 | 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 nine square feet in size.

13.5.1.6 | MAJOR REGIONAL RETAIL DEVELOPMENT ARTISTIC SIGNATURE SIGNAGE

Major Regional Retail Developments (see criteria below) that are located within a proposed or approved Planned Development may request a major regional retail artistic signature sign to be placed no farther than 2,000 feet from the Highway 386 right of way.

1. Major Regional Retail Development shall meet all of the following criteria:
  - A. More than 15 acres within one lot or contiguous lots within the same Planned Development.
  - B. All buildings under one ownership.
  - C. More than 20 individual retail business storefronts.



D. More than 2,000 feet of property lot line along Highway 386 right of way.

2. Major Regional Retail Artistic Signature Sign shall meet all of the following criteria in the consideration:

- A. The sign is appropriate in scale and design to fit into the proposed location.
- B. A Master Sign Plan has been submitted that will control the size, type, color, and style of all individual business signs.

- C. Documentation has been provided that TDOT finds the sign acceptable within the regulations.
- D. The sign is no further than 2,000 feet from Highway 386 right of way.
- E. Lighting to be used.
- F. There is an overwhelming and clear benefit to the City of Hendersonville.
- G. A detailed Site Plan has been submitted.



*Note: For existing Planned Developments (such as the Streets of Indian Lake), the process that a request would follow would be the same as a major amendment to a Final Development Plan (Planning Commission recommendation with Board of Mayor and Aldermen final action).*

### 13.5.1.7 | MINOR REGIONAL RETAIL DEVELOPMENT ARTISTIC SIGNATURE SIGNAGE

Minor Regional Retail Developments (see criteria below) may request a major regional retail artistic signature sign.

1. Minor Regional Retail Development shall meet all of the following criteria:

- A. More than 7.5 acres within one lot or contiguous lots within the same Planned Development.



- B. All buildings under one ownership.
- C. More than 10 individual retail business storefronts.
- D. More than 400 feet of property lot line along a state highway right of way.

2. Minor Regional Retail Artistic Signature Sign shall meet all of the following criteria in the consideration:

- A. The sign is appropriate in scale and design to fit into the proposed location.

- B. A Master Sign Plan has been submitted that will control the size, type, color, and style of all individual business signs.

C. There is an overwhelming and clear benefit to the City of Hendersonville.

D. A detailed Site Plan has been submitted.

*Note: For existing Planned Developments, the process that a request would follow would be the same as a major amendment to a Final Development Plan (Planning Commission recommendation with Board of Mayor and Aldermen final action).*

### 13.5.2 | WALL SIGNS, PERMANENT

#### 13.5.2.1 | WALL SIGN, COMMERCIAL AND 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 allowed per wall of a building shall not exceed one square foot per linear foot of the wall to which the sign is attached, plus a setback bonus of one additional square foot for each foot of building setback beyond the required minimum, up to a maximum of two square feet per linear foot of building frontage.

For multi-tenant buildings, the setback bonus shall be allocated among tenants based on the percentage of the building's total square footage each tenant occupies. Any deviation from this formula must be explicitly stated in the Master Signage Plan. Under no circumstances shall the total allocated setback bonus exceed 100 percent of the total signage area allowed for the entire building.

- C. Where a wall of a building in a commercial or industrial district faces and is within 100 feet of a residential district, the size and lighting limitations applicable to institutional uses in that zoning district shall apply to the sign(s) on that wall only.

*NOTE: Temporary banners are not permitted as permanent Wall Signs.*

#### 13.5.2.2 | WALL SIGN, RESIDENTIAL

##### A. SINGLE-FAMILY DWELLINGS

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:

1. The sign shall not exceed two square feet in area.

2. The sign shall not be illuminated.

## B. MULTI-FAMILY DWELLINGS

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, for which wall sign shall be subject to the following:

1. No such sign shall exceed six square feet in area.
2. Each sign may be illuminated only by direct, external illumination.
3. The sign shall not contain any commercial message other than information about leasing units in the project on the site. Non-residential uses in MFR, DN, and MXR 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.

### 13.5.2.3 | WALL SIGN, CHANGEABLE COPY

Changeable copy signs are not allowed on building signs, including canopy signs.

Changeable Electronic Copy signs may be allowed as a wall sign for Indoor Theaters to display current and future showings with approval from the Planning Commission.

### 13.5.2.4 | AWNING SIGN

An awning sign shall not cover more than 30 percent of the awning, nor shall it exceed the size allowed for a wall sign. Awnings shall not have back-lighting or internal illumination. Down-lighting, such as goose-neck lights, is permitted. The size of awning signs in combination with wall signs shall not exceed the total area allowed for wall signs as specified by [13.5.2.1](#) (Wall Sign, Commercial, and Industrial).

### 13.5.2.5 | BUILDING MARKER

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

- A. Shall not exceed six square feet in area.
- B. Shall contain no logo or commercial message.
- C. Shall be made of permanent material, such as bronze or masonry, and shall be permanently affixed to or made part of the building.
- D. Only one sign allowed per building.

### 13.5.2.6 | CANOPY SIGN

Signage and/or company logos may be placed upon canopies but shall be limited to cover no more than the lesser of 40 square feet or 20 percent of the total size of the canopy area. Signage and/or logos may be placed on each side of the canopy.

### 13.5.2.7 | PROJECTING SIGNS

The size of a projecting sign shall not exceed 25 square feet. A projecting sign shall be at least 10 feet above any sidewalk, parking lot, driveway, or other vehicular or pedestrian way and shall not exceed 25 feet in height. No projection sign shall extend further from the face of the building wall than six feet. No projection sign shall extend beyond the top of the building wall upon which it is mounted.



### 13.5.2.8 | SUSPENDED SIGNS

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

- A. One suspended sign allowed per entrance, and the sign may have copy on both sides.
- B. Shall not exceed four square feet in face area on one side.
- C. Shall not be illuminated.
- D. Shall be at least 10 feet above any sidewalk, parking lot, driveway, or other vehicular or pedestrian way.

*NOTE: Temporary banners are not permitted as suspended signs.*

### 13.5.2.9 | WALL MURALS

Wall murals may be allowed, subject to Planning Commission approval.

#### A. DESIGN STANDARDS

The following criteria shall be utilized by the Planning Commission to evaluate and review for mural approval:

1. Shall be an original work of art.
2. Shall be designed and constructed under the supervision of a qualified artist/muralist or other qualified professional who has sufficient knowledge and

experience in the design and execution of such projects, as well as with the application of the selected medium.

3. Shall exhibit excellence in design, content, material, and application while incorporating high-quality materials that will enhance the overall development and appearance of the site.
4. Materials shall be securely attached to the building or structure to which it is applied.
5. Materials shall be durable and weather resistant to prevent premature deterioration or other unintended change in appearance.
6. Materials shall be appropriate for its outdoor location and climate, with special considerations for longevity and if possible, graffiti-resistant.
7. Materials used may be, but are not limited to, paint and other artistic mediums such as tile or mosaic.
8. Colors should be complementary and harmonious with the exterior colors of the building or structure.
9. Design, location, scale, and content should be in keeping with and enhance the building, wall, windows, fence, or other surface on which it is located, as well as the local environment.

## B. PROHIBITIONS

All criteria not expressly permitted in accordance with the [Chapter 13.5.2.8.A](#) above are prohibited. Such criteria include, but are not limited to:

1. Applied to any surface that was unlawfully established.
2. Constitute or create a traffic hazard for passing motorists.
3. Obscure or detract from the significant architectural features of the said structure or have an adverse effect on properties or facing properties.
4. Compromise the proper function of any building or use or diminish public safety.
5. Installed in locations that conflict with setback requirement of the district in which it is located.
6. Be above a height that is or would be nonconforming to current building height limitations.
7. Contain a logo or trademarked symbol, except for official government seals.

8. Include commercial text or products displaying, mimicking, or construed as symbolizing a specific brand.
9. Incorporate recognized signs of hatred or discrimination against any race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, gender identity or expression, or sexual orientation.
10. Contain obscene content or material harmful to minors, as defined by law.
11. Consist of any reproduction, copy, or mass-produced work of visual art of any type.



#### 13.5.2.10 | WINDOW SIGN

Window signs are permitted on the first floor of buildings provided that they cover no more than 20 percent of the gross glass area on any one side of the building. Within the O and NC zoning district, window signs may cover up to five percent of the gross glass area of all windows on street-facing sides of a building. Window signs shall not be illuminated except that each

business establishment shall be permitted one illuminated window sign not exceeding two square feet in size. The form of illumination may include exposed neon and LED lighting.

### 13.5.3 | INSTITUTIONAL SIGNS

#### 13.5.3.1 | RESIDENTIAL GROUND SIGNS

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

- A. Shall not exceed four feet in height plus two feet of additional height for each additional five feet of setback beyond the minimum required setback up to a maximum height of eight feet.
- B. Shall not exceed 40 square feet in size.
- C. Up to 80 percent of the surface area on each side of the sign may be a changeable copy sign. Electronic message signs allowed only as per [13.5.3.1.D](#) below.
- D. May be illuminated by external light only except that internal illumination may be permitted under the following conditions:
  1. The sign must be at least 150 feet from the nearest existing residence.

2. Lights must be turned off no later than 10:00 PM and may not be turned back on until after 7:00 AM.
3. All electronic messages must be displayed as illuminated text against a black or non-illuminated background. Black or dark text against an illuminated or bright background is prohibited. Messages may only be text and of one color. No pictures of any sort may be depicted as part of the display.
4. The illumination of the sign must not exceed 0.3 foot-candles over ambient lighting conditions, day or night. Measurement shall be as prescribed in the document "Recommended Brightness Levels for On-Premise Electronic Message Centers" published by the International Sign Association. All LED signs shall be equipped with a sensor device that automatically determines the ambient illumination conditions. Maximum illumination from dusk to dawn shall not exceed 500 nits. A sleep mode shall be included in each sign and shall be programmed to comply with the time limitations of this Ordinance. A malfunctioning sign shall be programmed to shut off.
5. The sign must be of high-quality resolution (i.e., 8mm minimum).

E. Shall be a monument style sign.

#### 13.5.3.2 | RESIDENTIAL WALL SIGNS

In residential zoning districts, an institutional Wall Sign may be permitted at a place of worship, educational facility, hospital, amenity centers, residential clubhouses, or other institution, that is a permitted use in that location, subject to the following:

- A. Shall not exceed 40 square feet in area per wall.
- B. May only be illuminated if more than 100 feet from an adjacent residential lot.

#### 13.5.3.3 | NON-RESIDENTIAL SIGNS

In non-residential zoning districts, an institution may erect a Ground Sign that would otherwise be associated with a business in the same location, or it may erect the institutional sign permitted under these provisions, but it may not erect or maintain both on the premises at the same time.

#### 13.5.4 | TEMPORARY SIGNS

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

##### 13.5.4.1 | TEMPORARY WALL SIGNS (BANNERS)

One banner or other temporary building sign per business shall be permitted in commercial, office, and industrial zones. Such signs shall:

- A. Not exceed 40 square feet in size.
- B. Shall be securely attached flat against the wall of the building.
- C. Shall not be erected on poles or any other means of support other than the wall of the principal building on the property.
- D. May remain in place for not more than 60 days per year. This time period may be separated into four periods of no more than 15 days each.
- E. A sign permit is required.

#### 13.5.4.2 | TEMPORARY GROUND SIGNS (COMMERCIAL AND INDUSTRIAL ZONES)

- A. One temporary ground sign per lot shall be permitted.
- B. Signs shall not exceed 12 square feet in size and six feet in height.
- C. Signs may remain in place for 45 days per year, which may be separated into three periods of no more than 15 days.
- D. A sign permit is required

#### 13.5.4.3 | TEMPORARY GROUND SIGNS (RESIDENTIAL ZONES)

- A. One temporary ground sign per lot shall be permitted.
- B. Signs shall not exceed nine square feet in size and four feet in height.
- C. Signs may remain in place for 45 days per year, which may be separated into three periods of no more than 15 days.
- D. Permit is required for temporary commercial ground signs displayed in residential zoned areas.
- E. Temporary sign displaying residential message shall include 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 45-day periods specified in the above paragraph. No permit is required.

*TABLE 19: RESIDENTIAL & COMMERCIAL TEMPORARY GROUND SIGNS*

TABLE 19  RESIDENTIAL AND COMMERCIAL TEMPORARY GROUND SIGNS				
SIGN TYPES	MAX SIZE	MAX HEIGHT	TIME ALLOWED	PERMIT NEEDED?
Residential Districts				
Temporary Commercial Sign	9 sq ft	6 ft	45 Days*	Yes
Temporary Residential Sign	9 sq ft	4 ft		No
Temporary Banner	Not Permitted			
Commercial/Industrial Districts				
Temporary Ground	12 sq ft	6 ft	45 Days*	Yes
Temporary Banner**	40 sq ft	Meets size	60 Days*	Yes
* Days can be separated into 15-day periods.				
**Banners time limit may be extended at the discretion of the Planning Director for active construction sites.				

F. Temporary sandwich board type signage is permitted during business hours and must be stored inside during non-business hours. One sign is allowed per business and the sign may not exceed 10 square feet in size or five feet in height and not block the sidewalk or the visibility of motorists. Such sign shall be within 10 feet of the front of the building and shall conform to the setback requirement. No other temporary signs shall be displayed on the property while a sandwich board sign is in place.

### 13.6 PROHIBITED SIGNS

Unless otherwise permitted by a specific provision of this Chapter, the following sign types are prohibited in all zones:

**1. 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. Tarps, banners, or other similar temporary measures to cover an open frame or obsolete business name or text shall not be used on any sign.

**2. Animated. (Including Video Signs)**

Signs that blink, flash, shimmer, glitter, rotate, oscillate, move, or which give appearance of blinking, flashing, shimmering, glittering, rotating, or oscillating.





### 3. Beacons.

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.

### 4. General Advertising for Hire

Permanent or temporary billboards or signage that publicize or promote other off-site business or causes using methods of advertising (in contrast to self-promotion, on-site sales, or on-site advertising).

### 5. Human Directional Signs

Sign holders, spinners, twirlers, or other forms of advertising using human billboards.

### 6. Pole Signs

A sign that is mounted on a freestanding pole or other support structure placed on or anchored to the ground that is independent from any building or other structure.

### 7. Roof Signs

- A. Signs that extend above the roofline or parapet (whichever is higher) of a building with a flat roof, including signs affixed to a roof-top mechanical equipment.
- B. Signs that extend above the deck line of a mansard roof.
- C. Signs on rooftops that are only visible from above.

### 8. Signs Located in the Public Right-of-Way or on Public Property

Other than official government signs or warning signs required by law, no inanimate sign can be placed in the public right-of-way, on any public utility pole or fire hydrant, or on public property unless authorized by the City.



### 9. Signs affixed to Trees

No sign may be affixed to or cut into any public or private tree or other living vegetation.

## 10. Signs on Terrain

No sign may be cut, burned, marked, or displayed in any manner on a street, sidewalk, rock, outcropping, cliff, or hillside.

## 11. Search Lights and Klieg Lights

When used as attention-attracting devices for commercial sales or special events.

## 12. Signs Creating Traffic Hazards or Affecting Pedestrian Safety

No signs may be placed, located, or situated in such a manner as to constitute a safety hazard or to impede the public use of the public right-of-way, such as:

- A. Signs placed, mounted, erected, or installed in any manner that obstructs use of any door, window, or fire escape;
- B. Signs mounted or displayed in such a manner that blocks or impedes the normal pedestrian use of public sidewalks. A minimum unobstructed width of four feet must be maintained on sidewalks at all times;
- C. Signs located in such a manner as to constitute a traffic hazard or obstruct the view of traffic, fire hydrants, any authorized traffic sign, or signal device;
- D. Signs that may create confusion with any authorized traffic sign, signal, or device because their color, location, or wording, or use of any phrase, symbol, or character interferes with, misleads, or confuses vehicular drivers in their use of roads or conflicts with any traffic control sign or device; or,
- E. Signs at or near any street intersection that distract or will obstruct the free and clear vision of drivers and pedestrians. Other than traffic control signals, no sign may be installed or displayed in the vision clearance triangle at intersections, as determined by the City.



## 13. Signs for Prohibited Uses

A sign displaying a commercial message promoting a business that is either a prohibited use or has not been established as a legally permitted use.

## 14. Signs that Produce Noise or Emissions

Signs that produce visible smoke, vapor, particles, odor, noise, or sounds that can be heard at the property line, excluding voice units at menu board signs and devices for servicing customers from their vehicles, such as drive-up windows at banks.

## 15. String Lights

Exception of high-quality lighting for approved outdoor seating for restaurants.

## 16. Vehicles Signs

Signs contained in, attached to, suspended from, or painted or displayed on any vehicle or trailer regularly parked within 50 feet of the edge of pavement of any street more than half the business day in order to display, demonstrate, advertise, or attract the attention of the public.

## 17. Wind Movement Devices

Balloons, inflatable signs, streamers, pennants, and other attention-getting devices, made of plastic, lightweight fabric, or similar material, designed to rotate or move with the wind.



## 13.7 EXEMPTIONS

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The following exemptions are established to allow specific types of temporary signs that serve important public purposes, including political expression, real estate transactions, and development promotion, while maintaining the aesthetic, safety, and regulatory objectives of this Chapter. These exemptions are intended to balance constitutional protections, community needs, and economic interests with the City's interest in minimizing visual clutter and ensuring public safety. The signs permitted under this Section are subject to specific conditions to prevent abuse and ensure consistency with the overall intent of this Sign Ordinance. All exempt signs shall comply with applicable state laws, including but not limited to Tennessee Code Annotated § 2-7-143 for election signs, and shall not be construed to permit signs that create hazards, obstruct visibility, or otherwise conflict with the provisions of this Chapter.

### 13.7.1 | ELECTION SIGNS

Temporary election signs may be displayed on private property to express support of, opposition to, or any other opinion on a political candidate or an election issue. The

restriction of not more than one temporary ground sign per lot or parcel per calendar year contained in [13.5.4.3](#) is waived for election signs under the following conditions:

- All election signs shall be limited to 60 days before the first day of voting begins pursuant to the provisions governing early voting for a general election to one day after the official election day (*reference: TCA 2-7-143 (2022)*).
- Candidates which win a primary and remain on the ballot for an additional election shall be allowed to re-erect their signs or leave the signs in place for an additional 61-day period under the above stated terms.
- Shall not regulate the shape or quantity of political campaign posters or signs placed on private property that is located more than 100 feet from a polling place if the signs or posters are placed on the property by the owner or any lawful resident of the property (*reference: TCA 2-7-143 (2017)*).

*NOTE: This is for reference only and is superseded by permitted local guidelines as allowed in TCA2-7-143.*

- Election signs shall not exceed 16 square feet in size and four feet in height in residential zones and 32 square feet in size and six feet in height in commercial and industrial zones (*reference: TCA 2-7-143 (2017)*).
- May only place signs on property with permission of the property owner or lease holder.
- No sign shall be placed any closer to the edge of the pavement than 12 feet or in such a location which blocks the visibility of motorists.

*NOTE: Signs displayed in violation of the Sign Ordinance will immediately be removed by the Planning Department Staff.*

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

### 13.7.2 | REAL ESTATE SIGNS

One temporary sign advertising the sale, auction, rental, or lease of real estate may be displayed on private property which is for sale, auction, rental, or lease. The maximum in residential zones is nine square feet in size and four feet in height. The maximum in commercial and industrial zones is 20 square feet in size and eight 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 frontages. 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.

13.7.2.1 | OPEN HOUSE SIGNS

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 or three feet in height. These open house signs shall be allowed on Friday, Saturday, and Sunday only, and removed by 10:00 AM Monday. Such off-premises directional sign may not be placed on public property but may be placed on private property with the permission of the owner of that property.

13.7.2.2 | AUCTION SIGNS

Furthermore, there may be four off premise auction signs not exceeding nine square feet in size nor four feet in height placed not more than ten days in advance of the auction and removed within three days after the auction. Such signs may not be placed on public property but may be placed on private property with the permission of the owner of that property. No more than one such sign is allowed per lot.

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

13.7.3 | REAL ESTATE DEVELOPMENT SIGNS

As an accessory use to an approved Subdivision or Site Plan, each new subdivision or development (residential, commercial, or industrial) shall be allowed one temporary real estate development sign to advertise lots for sale within the subdivision or to advertise the development of a commercial or industrial lot.

Such sign shall carry no other commercial message whatsoever and shall not exceed 32 square feet in size or 10 feet in height and shall be placed at least 30 feet from the edge of any street, public or private. For a Residential Site, the sign shall be removed when 90 percent of the lots are built upon, but not later than five years unless an extension is granted by the Planning Commission. For a Commercial Site, the development sign must be removed once the permanent sign is installed – not to exceed two years – or prior to issuance of Permanent Use and Occupancy.

No additional real estate signs are allowed on a lot with a Real Estate Development Sign. A permit is required for Real Estate Development Signs.

**13.8 NONCONFORMING SIGNS**

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

### 13.8.1 | CONTINUATION

Subject to the exceptions hereinafter set forth, any existing business or multi-tenant commercial building with one or more nonconforming signs may continue to operate and maintain the signage after the effective date of this Ordinance, provided that nonconforming signs shall not be:

1. Changed to or replaced with another nonconforming sign except changing the sign face or panel. Also, the copy of nonconforming changeable copy signs may be changed.
2. Structurally altered so as to extend their useful life.
3. Expanded.
4. Relocated.
5. Reestablished after damage of more than 50 percent of the value at the time of such damage or destruction.
6. Modified in any way that would increase the degree of nonconformity 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 50 percent of the current market value of the existing sign structure.

### 13.8.2 | RESTORATION

Nonconforming signs shall be brought into compliance with this Ordinance if at any time such signs are altered, repaired, restored, or rebuilt, such that the cost of alteration or repair, including changes in the face, exceeds 50 percent of the replacement cost of the sign at the time of application for a permit for such alteration or repair, unless the alteration or repair is caused by involuntary damage or casualty or is desired by the owner of the business existing on the effective date of this Ordinance, in which case the 50 percent threshold will not apply and the signs may be altered or repaired to any extent. For purposes of this subsection, all permits within any six consecutive calendar months shall be aggregated for purposes of measuring the 50 percent threshold herein.

### 13.8.3 | CHANGE OF USE

Upon any change in the "Use Classification," as defined in this Ordinance, all nonconforming signs shall be brought into compliance with current sign regulations, except in the case of multi-tenant premises, as provided in Section 13.8.1 of this Ordinance (e.g., a retail center with a dental office as a tenant). These provisions shall not apply solely due to the sale or transfer of ownership of the premises, provided the new occupant or tenant does not change the existing "Nonconforming Use Classification."

#### 13.8.4 | ABANDONMENT OF NONCONFORMING SIGN

Whenever an existing nonconforming sign has been abandoned, or the use of the property associated with the nonconforming sign has been discontinued for a period of 365 consecutive days, the sign shall lose its nonconforming status and associated allowances and must be removed. If not removed, the property owner will be in violation of this Section and may be cited.

#### 13.8.5 | VOLUNTARY REPLACEMENT

Existing signs within nonresidential zoning districts that were legally permitted but exceed the current applicable maximum allowable height may voluntarily request one or more of the following:

1. A City-issued zoning permit to replace the existing nonconforming sign with a conforming ground sign at no sign permit fee to the applicant.
2. Approval for a replacement ground sign that complies with the provisions of subsection 13.5.1.1 of this Ordinance but retains the overall square foot area of the existing nonconforming sign.
3. Grant funding provided by the City to reimburse a portion of the cost of the new replacement sign if available.

Planning staff will review any request pursuant to the provisions above to determine if one or more of the requests can be approved.

#### 13.8.6 | TRANSITIONAL PROVISIONS

##### 1. EXISTING SIGNS

All signs legally permitted and/or erected prior to the effective date of this Ordinance 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 or applicable State or federal law.

##### 2. EXISTING PERMITS

All holders of permits for signs issued legally prior to the effective date of this Ordinance may erect the signs that are the subject of such permits within the times allowed by such permits. Such signs will 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 subject sign would conform to all the requirements of this Ordinance.

## 13.9 NEW VIOLATIONS

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Any person, firm or corporation, whether as principal, owner, agent, tenant, employee, or otherwise, who violates any provisions of this Chapter, is subject to an administrative fine pursuant to Chapter 4.13 (Violations) of this Zoning Ordinance.

### A. 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.

# CHAPTER 14 | NONCONFORMING USE STANDARDS

- 14.1 | PURPOSE
- 14.2 | GENERAL STANDARDS OF APPLICABILITY
- 14.3 | NONCONFORMING USES
- 14.4 | NONCONFORMING STRUCTURES
- 14.5 | NONCONFORMING LOTS OF RECORD
- 14.6 | NONCONFORMING SIGNS
- 14.7 | INVOLUNTARY NONCONFORMITIES

## 14.1 PURPOSE

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The purpose of this Chapter is to provide for the regulation of nonconforming buildings, structures, lots or uses; and to specify those circumstances and conditions under which nonconforming buildings, structures, and uses may be continued or shall be eliminated.

The districts established in this Ordinance are designed to guide the future use of land in Hendersonville by encouraging the development of desirable residential, commercial, and industrial areas with appropriate groupings of compatible and related uses and thus promote and protect the public health, safety, and general welfare.

As a necessary corollary, in order to carry out such purposes, nonconforming uses which adversely affect the development of such areas must be subject to certain limitations. The provisions governing nonconforming uses set forth in this article are therefore established to contain the existing undesirable conditions resulting from such incompatible nonconforming uses, which are detrimental to the achievement of such purposes. While such uses are generally permitted to continue, this Ordinance is designed to restrict any expansion of such uses beyond the site which the use occupied upon the effective date of this Ordinance.

In the case of buildings or other structures not complying with bulk regulations of this Ordinance, the provisions governing nonconforming buildings or other structures set forth in this Chapter are established in order to permit the continued use of such buildings or other structures, but to limit the creation of additional nonconformities or an increase in the degree of nonconformity.

These provisions are thus design to preserve the character of the districts established in this Ordinance in light of their suitability to particular uses, and thus to promote public health, safety, and general welfare.

## 14.2 | GENERAL STANDARDS OF APPLICABILITY

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### 14.2.1 | *AUTHORITY TO CONTINUE*

Any structure, lot, or use that existed as a lawful nonconformity at the time of this adoption of this Ordinance, and any building, structure, lot, or use that has been made nonconforming

because of the terms of this Ordinance or its subsequent amendments, may continue subject to the provisions of this Chapter so long as it remains otherwise lawful. A structure or use that is illegal at the time of the adoption of this Ordinance, remains illegal if it does not conform with each and every requirement of this Ordinance, as described in [Chapter 1.5.1](#) (Existing Illegal Uses and Structures).

#### *14.2.2 | BURDEN ON PROPERTY OWNER TO ESTABLISH LEGALITY*

In all cases, the burden of establishing the legality of a nonconformity under the provisions of this Ordinance shall be upon the property owner of the nonconforming parcel, structure, or use.

#### *14.2.3 | SAFETY REGULATIONS*

All police power regulations enacted to promote public health, safety, convenience, comfort, and general welfare including, but not limited to, all building, fire, and health codes shall apply to nonconforming structures.

### **14.3 NONCONFORMING USES**

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#### *14.3.1 | ORDINARY REPAIRS AND MAINTENANCE*

Normal maintenance and incidental repair may be performed on any structure that is devoted in whole or in part to a nonconforming use, provided it will not create any new nonconformity or increase the degree of nonconformity.

#### *14.3.2 | STRUCTURAL ALTERATIONS AND REPLACEMENTS*

Structural alterations or complete replacement of any structure devoted to a nonconforming use is not permitted unless otherwise specifically allowed within this Chapter and subject to compliance with other terms of this Ordinance.

#### *14.3.3 | EXPANSION OF USE*

A nonconforming use of land or a structure that the nonconforming use occupies may be expanded, extended, or enlarged. Such activity shall include, without limitation:

1. Expansion of any structure devoted entirely to a nonconforming use.
2. An expansion, extension, or enlargement of a use or its accessory uses to any land area or structure on the same lot or parcel.
3. An expansion, extension, or enlargement of such use, including its accessory uses, within a structure or on the same lot, to any portion of the floor area or lot that was not occupied by such nonconforming use. Said expansion may also occur on an adjoining lot

or parcel, but only if it was under the same ownership as the lot or parcel where the nonconforming use is located prior to the effective date of this Ordinance.

#### *14.3.4 | RELOCATION*

A nonconforming use of land or a structure that the nonconforming use occupies shall not be relocated, in whole or in part, to any other location on the same lot or parcel. The nonconforming use may only be relocated to another lot or parcel if the use conforms to all regulations of the zoning district in which it is relocated including all use regulations.

#### *14.3.5 | CHANGE OF USE*

A nonconforming use shall not be changed to any other nonconforming use. For the purpose of this Chapter, a use is defined as a use as listed on any single line within the tables of permitted and conditional uses within this Ordinance. For example, a nonconforming retail use may change to another nonconforming retail use, but not to a motor vehicle dealership or to an office if those uses are not conforming to the zone district.

When such a nonconforming use has been changed, in whole or in part, to a permitted use, the whole or part which has been made to conform may not be changed back to a use that is not permitted. A change of use shall be deemed to occur when an existing nonconforming use has been terminated and another use has commenced. Any change of use in violation of this Ordinance shall be deemed an abandonment of the previously existing lawful nonconforming use.

#### *14.3.6 | DISCONTINUATION OR ABANDONMENT*

If a nonconforming commercial or industrial use is discontinued for a continuous period of 30 months, or the structure that the nonconforming use occupies becomes vacant and remains unoccupied for a continuous period of 30 months, or if any nonconforming residential use, including mobile or manufactured home, or other non-commercial or non-industrial use is discontinued for a continuous period of 12 months, or the structure that it occupies becomes vacant and remains vacant for a continuous period of 12 months, such use shall be deemed to be abandoned and shall not be reestablished or resumed regardless of the intent to resume or to continue the use.

An exception shall apply in the event of a completed sale. The new deed holder shall have a period of 12 months to either occupy the property, actively market it for lease, or commence substantial renovations before the property is deemed to have lost its nonconforming status. Furthermore, a property shall not be deemed abandoned, nor lose its nonconforming status, if such abandonment is the result of legal proceedings that prevent the owner from occupying, leasing, or selling the property. The loss of nonconforming use status shall not, in itself, affect the nonconforming sign status as set forth in Chapter 13.8 of this Ordinance.

Any subsequent use or occupancy of such land or structure shall comply with all regulations of the zoning district in which such land or structure is located. The period of such discontinuance caused by government action, acts of God, or other acts without any

contributing fault by the user, shall not be included in calculating the length of discontinuance for this Chapter.

Note: See [Chapter 13.8](#) *Nonconforming Signs for Issues Relating to Signs*.

#### **14.3.7 | DAMAGE OR DESTRUCTION**

In the event that any structure and/or property that is devoted in whole or in part to a nonconforming use is damaged or destroyed, the structure and/or property may be repaired, reconstructed, or restored and the nonconforming use continued, provided that no new nonconformities are created and that the existing degree of nonconformity is not increased.

A building permit shall be obtained for such rebuilding, restoration, repair, or reconstruction of a commercial or industrial building within 30 months, and for residential and other non-commercial and non-industrial buildings, within one year of the date of damage or destruction, and construction shall be completed within one year of issuance of the building permit.

In the event that the permit is not obtained within the time limits specified above, or that repairs or restoration are not completed within one year of the issuance of the building permit, then the nonconforming use shall not be continued.

### **14.4 NONCONFORMING STRUCTURES**

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#### **14.4.1 | ORDINARY REPAIRS AND MAINTENANCE, STRUCTURAL ALTERATIONS AND ADDITIONS**

Ordinary repairs and maintenance, structural alterations and additions to nonconforming structures, including buildings and fences, are permitted. The nonconformity may remain. However, the degree of nonconformity shall not be increased.

For the purpose of this Chapter, structural alteration may include the removal of a structure down to the foundation and re-construction or replacement of the structure on the same foundation with the same nonconformity within six months of removal. The degree of nonconformity shall not be increased.

#### **14.4.2 | RE-CONSTRUCTION AND REPLACEMENT**

Nonconforming buildings and structures shall not be re-constructed or replaced except in conformity with this Ordinance.

#### **14.4.3 | RELOCATION**

A nonconforming structure shall not be relocated, in whole or in part, to any other location on the same zoning lot or parcel unless it is made to comply with all terms of this Ordinance. A nonconforming structure may be relocated to another zoning lot or parcel if the structure

conforms to all regulations of the zoning district in which it is relocated. (See limitations on relocating buildings.)

#### **14.4.4 | DAMAGE**

When a building or structure is damaged or destroyed, by any means not within the control of the property owner or tenant, it may be repaired and reconstructed provided that no new nonconformities are created and that the existing degree of nonconformity is not increased. A building permit shall be obtained for such rebuilding, restoration, repair, or reconstruction within 30 months of the date of damage or destruction, and the construction shall be completed within one year of issuance of the building permit. In the event that the building permits is not obtained within one year, or that repairs are not completed within one year of the issuance of the building permit, then the structure shall not be restored unless it conforms to all regulations of the district in which it is located. These time limits shall not apply to repair and re-construction on nonconforming lots.

### **14.5 NONCONFORMING LOTS OF RECORD**

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This Chapter regulates lots of record which at one time were conforming, but which no longer conform to the lot area requirements of the zoning district in which they are located. Notwithstanding limitation imposed by other provisions of this Ordinance, uses allowed by this Ordinance may be established on any single nonconforming lot of record existing prior to the effective date of this Ordinance, or the date the lot of record became nonconforming. This provision shall apply even though the lot of record fails to comply with the standards for lot area and width. All other standards shall apply, including yard, lot coverage, pervious area, and parking standards.

### **14.6 NONCONFORMING SIGNS**

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The provisions for nonconforming signs are contained within [Chapter 13.8](#) (Nonconforming Signs).

### **14.7 INVOLUNTARY NONCONFORMITIES**

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#### **A. Involuntary Nonconformance of a Lot, Structure, or Use.**

Notwithstanding any other provision of this Chapter, no lot, structure, or use will be considered nonconforming as a result of a conveyance of any interest in the subject lot to a public entity through eminent domain proceedings, under threat of eminent domain proceedings, or to meet a requirement of any public entity having jurisdiction.



# CHAPTER 15 | WIRELESS TELECOMMUNICATIONS FACILITIES AND TOWERS

- 15.1 | LIMITS
- 15.2 | PURPOSES
- 15.3 | SPECIAL PROVISIONS FOR AMATEUR RADIO STATIONS
- 15.4 | DEVELOPMENT OF TOWERS
- 15.5 | APPLICATION
- 15.6 | SETBACKS
- 15.7 | STRUCTURAL REQUIREMENTS
- 15.8 | SEPARATION OF TOWERS
- 15.9 | METHOD FOR DETERMINING TOWER HEIGHT
- 15.10 | ILLUMINATION
- 15.11 | EXTERIOR FINISH
- 15.12 | LANDSCAPING AND SCREENING
- 15.13 | TELECOMMUNICATIONS FACILITIES ON ANTENNA SUPPORT STRUCTURES
- 15.14 | MODIFICATIONS OF TOWERS
- 15.15 | CERTIFICATE AND INSPECTIONS
- 15.16 | MAINTENANCE
- 15.17 | CRITERIA FOR SITE PLAN DEVELOPMENT MODIFICATIONS
- 15.18 | ABANDONMENT
- 15.19 | SPECIAL CONDITIONS FOR LOCATION OF TELECOMMUNICATION FACILITIES WITHIN RESIDENTIAL DISTRICTS
- 15.20 | SMALL CELL WIRELESS FACILITIES

## 15.1 LIMITS

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

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

The City’s regulation of Telecommunication Facilities and Towers 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.

## 15.2 PURPOSES

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The general purpose of this Chapter is to regulate the placement, construction, and modification of Telecommunications Facilities and Towers 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:

1. To regulate the location of Telecommunications Facilities and Towers in the City and adjoining planning jurisdiction;
2. To protect residential areas and land uses from potential adverse impact of Telecommunications Facilities and Towers;
3. To minimize adverse visual impact of Telecommunications Facilities and Towers through careful design, siting, landscaping, and innovative camouflaging techniques;
4. To promote and encourage shared use/colocation of Towers and Antenna Support Structures as a primary option rather than construction of additional single-use Towers;
5. 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;
6. To avoid potential damage to property caused by Telecommunications Facilities and Towers 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
7. To ensure that Telecommunications Facilities and Towers are compatible with surrounding land uses.

### **15.3 SPECIAL PROVISIONS FOR AMATEUR RADIO STATIONS**

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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:

1. No tower shall be placed within any required front, side, or rear setback area.
2. Towers shall be placed behind the rear building line of the principal structure on the lot if there is a principal structure on the lot.
3. All towers shall be properly grounded as per National Electric Code 810, Section C.
4. Amateur towers greater than 100 feet in height are subject to the following provisions:
  - A. At no time shall the fall radius of the tower include any habitable structure not owned by the amateur.

- B. The applicant shall provide documentation of ownership, lease, or permanent easement rights for the entire fall radius of the tower.
  - C. The tower shall be equipped with guards or other devices to prevent it from being climbed without authorization of the amateur.
  - D. The applicant shall submit documentation to the Codes Department sufficient to show that all provisions of this Chapter have been met.
5. 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.
  6. Temporary towers may be erected for a maximum of forty-eight (48) hours for special events or emergencies upon approval by the Codes Department.
  7. There shall be no more than one tower per lot.

## **15.4 DEVELOPMENT OF TOWERS**

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1. 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.
2. A Tower shall be a permitted use in the following zoning districts:
  - INDUSTRIAL DISTRICTS
3. A Tower shall be a conditional use in the following zoning districts:
  - RESIDENTIAL DISTRICTS
    - RR, ER, SR-1, SR-2, SR-3, DN, and MFR Residential Districts on publicly owned property and property whose principle use is a church and subject to the special provisions of [Chapter 15.19](#) (Special Conditions for Location of Telecommunication Facilities within Residential Districts).
  - COMMERCIAL DISTRICTS
    - General Commercial Districts
    - Heavy Commercial Districts

4. Towers are exempt from all the maximum height restrictions of the zoning districts where located. Towers shall be permitted to a height of 150 feet. Towers may be permitted in excess of 150 feet in accordance with [15.17](#) (Criteria for Site Plan Modifications).
5. No new Tower shall be built, constructed, or erected in the City 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 to be installed by the Applicant on the Tower within six months of the completion of the Tower construction.

## 15.5 APPLICATION

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An application to develop a Telecommunications Tower containing the information indicated within this Chapter 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 subchapter. Applications shall be reviewed by the City in a prompt manner. 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:

1. The name, address, and telephone number of the Owner and lessee of the parcel of land upon which the Tower is situated.
2. The legal description, map parcel number, and address of the parcel of land upon which Tower is situated.
3. The names, addresses, and telephone numbers of all owners of all other Towers or usable Antenna Support Structures within a one-mile radius of the proposed new Tower site, including city-owned property.
4. A description of the design plan proposed by the Applicant in the City. The 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 establish why design alternatives, such as the use of microcell, cannot be utilized to accomplish the provision of the Applicant's telecommunication services.
5. 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.
6. An affidavit accompanied by written technical evidence from a licensed Engineer 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.

7. Written, technical evidence from a licensed Engineer that the proposed structure meets the standards set forth in [Chapter 15.7](#) (Structural Requirements), of this Ordinance.
8. Written, technical evidence from a licensed Engineer 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.
9. 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.
10. Antennas or towers for municipal services (not including cell towers) located on property owned, leased, or otherwise controlled by the a government entity (municipality) shall be exempt from the requirements of this Ordinance, provided a license or lease authorizing such antennas for the governing authority on an approved tower. The antenna and tower and associated authorizing license or lease shall be approved by the Board of Mayor and Aldermen.

## **15.6 SETBACKS**

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1. All Towers up to 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 100 feet in height shall be set back one additional foot per each foot of Tower height in excess of 100 feet.
2. Setback requirements for Towers shall be measured from the base of the Tower to the property line of the parcel of land on that it is located.
3. Setback requirements may be modified, as provided in [Chapter 15.17](#) (Criteria for Site Plan Development Modifications) when placement of a Tower in a location that will reduce the visual impact can be accomplished. For example, adjacent to trees that may visually hide the Tower.
4. Towers located in any zone other than residential shall be setback from all residentially zoned property a minimum of 200 feet.
5. Setback of towers located in residential zones shall be at least 200 feet from all property lines.

## **15.7 STRUCTURAL REQUIREMENTS**

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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.

## **15.8 SEPARATION OF TOWERS**

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For the purpose of this Chapter, 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.

## **15.9 METHOD OF DETERMINING TOWER HEIGHT**

---

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

## **15.10 ILLUMINATION**

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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 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.

## **15.11 EXTERIOR FINISH**

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

## **15.12 LANDSCAPING AND SCREENING**

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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 100 percent opaque. The planting bed for the evergreen screen shall be a minimum of eight feet in width and the plantings shall be a minimum of six feet in height at the time of planting.

### **15.13 TELECOMMUNICATIONS FACILITIES ON ANTENNA SUPPORT STRUCTURES**

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Any Telecommunications Facilities which are not attached to a Tower may be permitted on any Antenna Support Structure at least 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.

1. That the height from grade of the Telecommunications Facilities shall not exceed the height from grade of the Antenna Support Structure by more than 20 feet.
2. That any Telecommunications Facilities and their appurtenances, located above the primary roof of an Antenna Support Structure, are set back one foot from the edge of the primary roof for each one foot in height above the primary roof of the Telecommunications Facilities. This setback requirement shall not apply to Telecommunications 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 18 inches from the side of such an Antenna Support Structure.

### **15.14 MODIFICATION OF TOWERS**

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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 nonconforming structure. Such nonconforming structures may be modified or demolished and rebuilt without complying with any of the additional requirements of this Chapter, except for Chapter 15.8 (Separations of Towers); Chapter [15.12](#) (Landscaping and Screening); Chapter [15.15](#) (Certification and Inspections); and Chapter [15.16](#) (Maintenance) provided:

1. 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.
2. An Application for a development permit is made pursuant to this Chapter allowing the modification or demolition and rebuild of an existing nonconforming Tower. The grant of a permit made pursuant to this Chapter shall not be considered a determination that the modified or demolished and rebuilt Tower is conforming.
3. The height of the modified or rebuilt Tower and Telecommunications Facilities attached, thereto, do not exceed the maximum height allowed in 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 Ordinance prior to enactment of this Chapter.

## **15.15 CERTIFICATIONS AND INSPECTIONS**

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"The City reserves the right to enter the property upon which a Tower is located to inspect the Tower for the purpose of determining whether it complies with the Building Code and Zoning Ordinance. The City may require the Tower owner to provide a stamped certification from a licensed Engineer that the Tower is structurally sound and in conformance with the requirements of the City's Building Code and Federal and State law. Such certifications may not be required more often than once every 5 years."

## **15.16 MAINTENANCE**

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1. 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, injures, or nuisances to the public.
2. Tower owners shall install and maintain Towers, Telecommunication 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.
3. All Towers, Telecommunication 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.
4. All maintenance or construction of Towers, Telecommunication Facilities, or Antenna Support Structures shall be performed by licensed maintenance and construction personnel.

5. All Towers shall maintain compliance with current RF emission standards of the FCC.
6. 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.

## **15.17 CRITERIA FOR SITE PLAN DEVELOPMENT MODIFICATIONS**

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1. 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 colocation, 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:
    - A. That the Tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties.
    - B. Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification.

- C. 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.
2. In addition to the requirements of subparagraph [15.17.1](#) of this Chapter, in the following cases, the Applicant must also demonstrate, with written evidence, the following:

In the case of a requested modification to the setback requirement established in [Chapter 15.6](#) (Setbacks), that the setback requirement cannot be met on the parcel of land upon which the Tower is proposed to be located and the only alternative is for the applicant to locate the Tower at another site which is closer in proximity to a residentially zoned lot land.

- A. 2. In the case of a request for modification of the separation requirements from residentially zoned lots of [Chapter 15.6](#) (Setbacks) the applicant shall provide 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.
  - B. 3. In the case of a request for modification of the landscape screening requirements in Chapter 15.12 (Landscaping and Screening), the applicant has explored and proposed alternative methods of screening.
3. 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:
- A. In the case of a request for modification of the height limit for Towers and Telecommunication Facilities or to the minimum height requirements for Antenna Support Structures that the modification is necessary to:
    - 1. Facilitate colocation 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 a licensed Engineer 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.

## **15.18 ABANDONMENT**

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1. If any Tower shall cease to be used for a period of 365 consecutive days, the Planning Department shall notify the Owner, with a copy to the applicant, that the site has been abandoned. The Owner shall have 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 Planning Department shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the Owner shall, within 75 days, dismantle and remove the Tower.

2. To secure the obligation set forth in this Chapter, the Applicant and/or Owner shall post a surety. Such amount shall be determined by the Planning Department based on the anticipated cost of the removal of the Tower.

## **15.19 SPECIAL CONDITIONS FOR LOCATION OF TELECOMMUNICATION FACILITIES WITHIN RESIDENTIAL DISTRICTS**

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

### *15.19.1 | PROPERTY ALLOWED*

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.

### *15.19.2 | 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.

### *15.19.3 | TOWER DESIGN*

Every new tower located within any residential zoning district shall:

1. Not be illuminated unless otherwise required by federal law or regulations; and
2. Be at least 1,500 feet from any other structure. (See Section 15.8 Separation of Towers.)

### *15.19.4 | PROTECTION AGAINST CLIMBING*

Every tower shall be protected against unauthorized climbing.

### 15.19.5 | COLOR

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

### 15.19.6 | EQUIPMENT ENCLOSURE

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.

## 15.20 SMALL CELL WIRELESS FACILITIES

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The deployment of small cell facilities within existing buildings or on top of existing buildings where the facilities will be completely screened from view of adjacent streets without modification to the building shall not require Site Plan review.

The deployment of small cell facilities within existing buildings or on top of existing buildings where screening of small cell equipment will require modification to the building shall proceed only in accordance with Chapter [12.3.6.6.i](#) (Architectural Character and Building Elements).

The deployment of small cell facilities within public road right-of-way is not subject to this Ordinance.

### 15.20.1 | GENERAL DESIGN AND CONSTRUCTION STANDARDS

1. Collocation on a Potential Support Structure (PSS) is encouraged whenever possible.
2. Antennas on Existing or Replaced PS: The antenna(s) associated with installation on existing or replaced PSS must have concealed cable connections, antenna mount, and other hardware. An antenna must be able to fit within an enclosure of no more than six (6) cubic feet in volume.

#### A. Pole Top Cannister

Preferred antennas shall be cannister type mounted to the top of pole; shrouding shall be used to conceal cable connections and transition to the pole, creating an aesthetic uniform look. Pole top cannisters shall not exceed 18 inches in Diameter and 36 inches in height. Under no circumstances shall antenna volume exceed six cubic feet.

## B. Panel

Not Preferred but where necessary: Panel antennas may be approved at the sole discretion of the City. Panel antennas shall either be cylindrical in shape or shrouded in a common cylinder or three-sided banner to conceal connections and cabling. Panel antennas shall not measurably interfere with street or sidewalk lighting.

Panel antennas shall be mounted as close to the Pole as possible to minimize visual impact. Panel antennas shall not exceed 24 inches in height and 15 inches in width and 12 inches in depth. Under no circumstances shall antenna volume exceed six cubic feet.

## 3. Height Limits

A new or existing PSS shall not exceed the height limitations imposed by this Ordinance for the type of structure to which the small cell facility is attached, except the light poles may extend to 30 feet in height to accommodate small cell facilities.

## 4. Equipment Mounted on Existing or Replaced PSS

All equipment mounted on a PSS – must be installed as flush to the pole as possible. All pole mounted equipment shall be located as close together and if possible on the same side of the pole. Standard color for all equipment shall be black or shall match the color of the pole to where it is attached. Equipment such as transformers, insulators, disconnects, and cables used for Electrical Distribution shall be mounted and located in accordance with electrical utility standards.

## 5. Pole-Mounted Equipment Shrouds

When pole-mounted equipment is either permitted or required, all equipment other than the antenna(s), electric meter, and disconnect switch must be concealed within an equipment shroud. Equipment shrouds may not exceed more than 24 inches from the face of the pole. The equipment should be non-reflective and be colored black or painted to match the existing pole. Equipment shrouds should be mounted flush to the pole. All pole-mounted equipment must be installed as flush to the pole as possible. Any standoff mount for the equipment shroud may not exceed four inches. Shroud or shroud material should be weather resistant such that rust or other side of visible oxidation should not occur.

## 6. Ground – Mounted Equipment

New ground-mounted equipment is not permitted, unless the applicant shows clear and convincing evidence that the equipment cannot be feasibly installed

- A. As a pole-mounted installation,
- B. in an environmentally controlled underground vault, or

C. Within an existing street feature (e.g., bus stop shelter, bench, rubbish disposal bin, etc.) for a valid technical reason. Increased costs shall not be considered as valid evidence. If ground-mounted equipment is used, the applicant must conform to the following requirements:

1. Self-Contained Cabinet or Shroud

The equipment shroud or cabinet must contain all the equipment associated with the facility other than specific equipment that by the nature of its technology is required to be above ground such as cameras, antennas, lighting, and traffic signaling. The equipment must be concealed from view, cables shall route internally through a tubular pole or concealed in conduit on a pole and run underground between the pole and the ground-mounted cabinet.

2. Concealment

The Ground-mounted Equipment shall incorporate concealment elements into the proposed design to better align itself with surrounding aesthetic, architecture, similar structures, or public safety elements. Concealment may include, but shall not be limited to, strategic placement in less obtrusive locations, containment within a brick or stone enclosure, or placement within existing or replacement of street furniture.

7. Utility Lines and Cabling

Distribution and service lines must be underground. For new or replacement metal poles, underground cables and wire must transition directly into the pole base without any external junction box. For existing PSS, cables and wires shall transition neatly into the pole, and transitions shall be shrouded or otherwise concealed. All construction techniques must comply with federal, state, and local laws and regulations, utility standards, industry standards, and inspection requirements.

8. Electric Meter

Site Operators shall use the smallest and least intrusive electric meter available. Whenever permitted by the electric service provider, the electric meter base should be painted to match the PSS.

15.20.2 | *POLE / ATTACHMENT GUIDELINES*

15.20.2.1 | TYPE 1 | ATTACHMENT TO EXISTING PSS

A | DECORATIVE POLE WITH OR WITHOUT LUMINAIRE

All Utility, Wireline, or Wireless Service Provider equipment shall be mounted behind a shroud. Only two shrouds, including the disconnect and antenna, shall be installed at each location. No ground-mounted equipment, including backup power supply, shall be allowed. The lighting design shall match the existing site lighting.

15.20.2.2 | TYPE 2 | ATTACHMENT TO NEW PSS

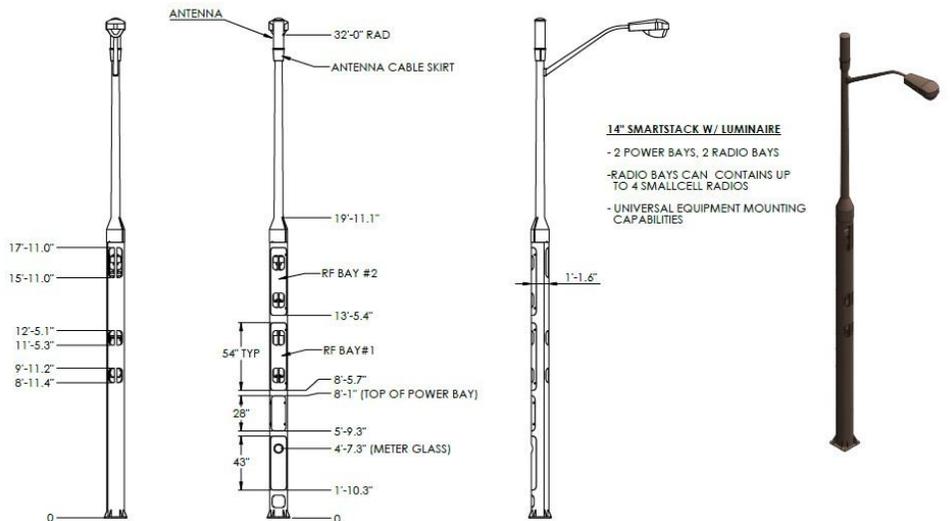
A | INTEGRATED PSS

In cases where it can be demonstrated that the existing PSS is insufficient, or other criteria dictate a new PSS or replacement of existing PSS to accommodate the Wireless Service Provider equipment, the equipment, upper pole, luminaire, mast arm, luminaire if applicable, antenna enclosure, and all hardware and electrical equipment necessary for a complete assembly shall be integrated into a single Pole. Mast Arm and Luminaire must be the same make and model as unit(s) being replaced. Pole shall be of similar aesthetic and architectural features (i.e., square, round, fluted) as of the PSS being replaced.

B | INTEGRATED PSS WITH LUMINAIRE

A Type 2 Integrated PSS with luminaire should only be located where an existing PSS can be removed and replaced, or at a new location where it has been identified that a light is necessary. In no case shall these Poles exceed 14 inches in diameter.

**FIGURE 5: SCHEMATIC OF INTEGRATED LIGHTING POLE DESIGN**



**EXAMPLE 1: Collocation on Existing Street Light or Metal Utility Pole:**

In most cases for safety, structural, and serviceability reasons, an existing metal pole will likely be replaced with one that as close as possible matches the original it replaces. However, in some cases, the foundation and construction of an existing pole is sufficient to allow for collocated equipment. In those cases, equipment shrouds shall be

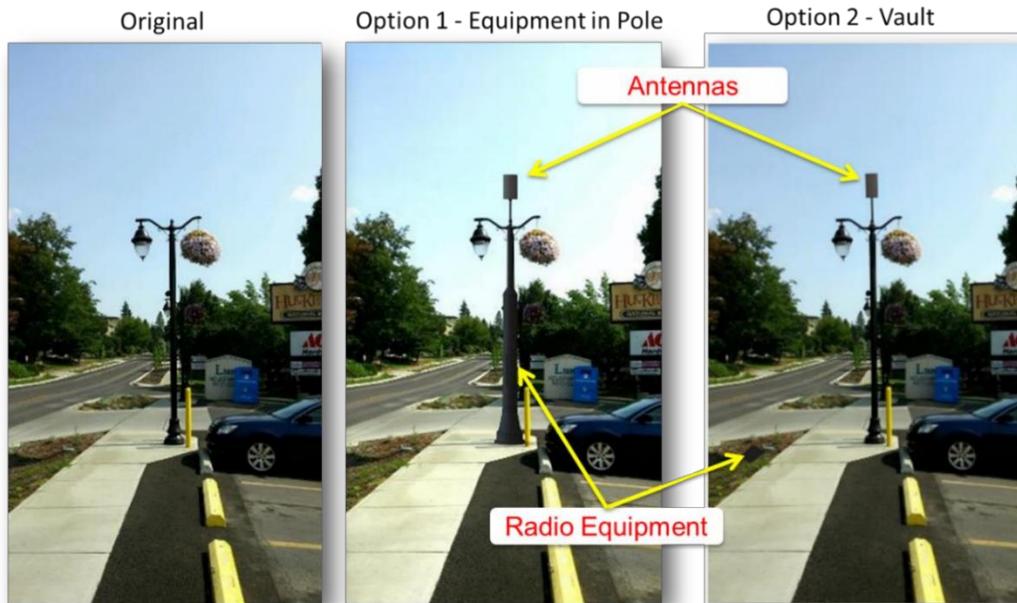


utilized on small cell installations on existing PSS. Top mounting of antennas or antenna canisters are desired for the first installation on an existing streetlight or metal utility pole.



**EXAMPLE 2: Existing Pole Replacement:**

Existing poles, including light poles, may be replaced with a pole of compatible style when and where applicable. Applicants are encouraged to work with the property owner and City of Hendersonville staff to design and develop a pole that will be able to internally house the required antenna(s) and electronics, which shall be integrated into the design the replacement pole. If the newly designed pole cannot accommodate the electronic equipment internally, an underground vault or a caged equipment configuration shall be utilized.



### 15.20.3 | DEFINITIONS

**POTENTIAL SUPPORT STRUCTURE (“PSS”)** – Means a pole or other structure used for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, including poles installed solely for collocation of a small wireless facility. When PSS is modified by the term: “new”, then “new PSS” means a PSS that does not exist at the time the application is submitted, including but not limited to, a PSS that will replace an existing pole. The fact that a structure is a PSS does not alone authorize an applicant to collocate on, modify, or replace the PSS until an application is approved and all requirements are satisfied pursuant to this Ordinance.

**SMALL WIRELESS FACILITY** – Means a wireless facility with:

- An antenna that can fit within an enclosure of no more than six cubic feet in volume; and
- Other wireless equipment in addition to the antenna that is cumulatively no more than 28 cubic feet in volume, regardless of whether the facility is ground-mounted or pole-mounted. Other wireless equipment does not include an electric meter, concealment element, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, or a vertical cable run for the connection of power and other services; and
- Includes a micro wireless facility.



# CHAPTER 16 | DEFINITIONS

16.1 | PURPOSE

16.2 | INTERPRETATION

16.3 | GENERAL TERMS

## 16.1 PURPOSE

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This Chapter of the Ordinance contains definitions for general terms and various generic uses permitted within the zoning districts and used throughout the Ordinance.

## 16.2 INTERPRETATION

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The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

1. The singular number includes the plural, and the plural the singular.
2. The present tense includes the past and future tenses, and the future tense includes the present.
3. The word “shall” and “must” are mandatory, while the words “may” or “should” are permissive.
4. The terms “shall not” “must not” and “may not” are prohibiting.
5. The masculine gender includes the feminine and neuter.
6. Whenever a defined word or term appears in the text of this Ordinance, its meaning shall be construed as set forth in the definition. Any word appearing in parenthesis, between a word and its definition herein, shall be construed in the same sense as that word. Words not defined shall be interpreted in accordance with the definitions considered to be normal dictionary usage.

## 16.3 GENERAL TERMS

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### ABUT

To have a common district boundary or zoning lot boundary. For the purposes of this Ordinance, a zoning lot line shall be considered to abut a zoning district even

though it may be separated by any portion of a street, parkway, sidewalk, public way, alley, waterway, or railroad right-of-way. The terms adjacent, adjoining, and contiguous shall have the same meaning as abutting.

### ACCESSIBILITY RAMP

A ramp or similar structure which provides wheelchair or similar access to a building.

**ACCESSORY BUILDING OR STRUCTURE**

A building or structure located on the same lot as, and of a nature customarily incidental and subordinate to, the principal building, the use of which is clearly incidental and subordinate to the principal building.

**ACCESSORY USE**

A use that is customarily incidental and subordinate to the principal use of a lot or building and located on the same lot as the principal use or building.

**ADD-USE**

Adding uses within Planned Developments limited to permitted and conditional uses for the underlying zoning classification.

**ADDITION OR ENLARGEMENT**

Any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or floor area.

**ADULT ORIENTED ESTABLISHMENT**

A use type with the same meaning as the term “adult-oriented establishment” as used in T.C.A Section 7-51-1102, and in construing this term, the definitions contained in T.C.A. Sections 7-51-1102(1) – (6) and (9) – (26), are likewise incorporated by reference and made a part of this Ordinance.

**ALLEY**

A right-of-way that normally affords a secondary means of access to abutting property. A street shall not be considered an alley.

**ALTERATION**

Any change in the size, shape, character, occupancy, or use of a building or structure.

**AMATEUR (HAM) RADIO EQUIPMENT**

An amateur (HAM) radio station licensed by the Federal Communications Commission (FCC), including equipment such as, but not limited to, a tower or alternative tower structure supporting a single, radiating antenna platform and other equipment.

**ANIMAL HOSPITAL**

An establishment for the care and treatment of the diseases and injuries of animals and where animals may be boarded during their convalescence. Includes veterinary clinics. An Animal Hospital shall not include Kennel.

**ANTENNA SUPPORT STRUCTURE**

Any building or structure other than a Tower which can be used for location of Telecommunications Facilities.

**APPLICANT**

Any person who applies for a permit or any approval required by this Ordinance.

**APPURTENANCE**

An architectural feature of a structure that is higher than the remainder of the building it accompanies, such as a chimney, cupola, spire, or parapet wall.

**ARCHITECTURAL FEATURE**

A part, portion, or projection that contributes to the aesthetics of a structure, exclusive of signs, that is not necessary for the structural integrity of the building or to make the structure habitable.

**ARBOR**

A freestanding structure used in a garden to support vines or climbing plants; also called a Trellis.

**ART GALLERY**

A commercial establishment engaged in the sale, loan, and/or display of paintings, sculpture, video art, or other works. Art Gallery does not include Cultural Facility, such as a library, museum, or non-commercial gallery that may also display paintings, sculpture, video art, or other works.

**ASSISTED LIVING FACILITY**

A facility that provides daily assistance and long-term residence for disabled or elderly individuals. This includes a combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living, such as dressing, grooming, bathing, etc. An Assisted Living Facility shall not include Independent Living Facility, Community Residence, or Nursing Home.

**ATTENTION-ATTRACTING DEVICE**

Any device or object visible from any public street which is primarily designed to attract the attention to the public to a business, 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, 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 or other devices/objects designed to attract attention. Approved traffic control devices are not considered to be attention-attracting devices for purposes of this Ordinance.

**AWNING**

A structure made of canvas, canvas-like, or other materials affixed to and supported by a building and covering a sidewalk adjacent to a building or a drive-up service window. For Awnings with advertising see Sign, Awning.



**BALCONY**

A platform which projects from the exterior wall of a building above the ground floor, is exposed to the open air, has direct access to the interior of the building, and is not supported by posts or columns extending to the ground.

**BANQUET HALL**

An establishment which is rented by individuals or groups to accommodate private functions, such as banquets, weddings, anniversaries, and other similar celebrations. Such use may or may not include kitchen facilities for the preparation or catering of food, the sale of alcoholic beverages for on-premises consumption only during scheduled events and not open to the general public, and/or outdoor gardens or reception facilities.

**BAY WINDOW**

A window that projects outward from the building that does not rest on the building foundation or on the ground.

**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 LINE**

The inner edge of any required yard or setback, and the corresponding outer edge of the buildable area.

**BUILDING PERMIT**

An official document issued by the City which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or structure.

**BUILDING, PRINCIPAL**

A non-accessory building in which a principal use of the lot on which it is located is conducted.

**BUILDING, RESIDENTIAL**

A building which is arranged, designed, used, or intended to be used for residential occupancy by one or more families or households. This shall include, but is not limited to, the following types: single-family dwellings, townhome dwellings, and multi-family dwellings.

**BUILDING, TEMPORARY**

Any building not designed to be permanently located, placed, or affixed in the place where it is or where it is intended to be placed.

**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. *NOTE: Does not include canopies.*

**BULK**

A term encompassing the regulation of the size and location of a structure as it relates to its lot and to other structures.

The term Bulk includes, but is not limited to, the following:

1. Size and height of buildings.
2. Location of exterior walls at all levels in relation to setback lines, lot lines, streets, or other buildings.
3. All open spaces allocated to buildings.
4. Amount of lot area provided per dwelling unit.

**BUSINESS**

An occupation, employment, or enterprise that occupies time, attention, labor and materials, or where merchandise is exhibited or sold, or where services are offered.



**CALIPER**

The American Association of Nurserymen (AANS) standard for trunk measurement of nursery stock, as measured at six inches above the ground for trees up to and including four inch caliper size, and as measured at 12 inches above the ground for larger sizes.

**CANOPY**

A permanent, usually open-air structure that may be attached on one side to a building and supported on the other side by columns or that may be adjacent to a building for the purpose of providing shelter for automobiles. This includes canopies over fuel pumps, remote banking facilities, and drop off areas. *NOTE: This is not a building wall.*

**CAR WASH**

A commercial establishment engaged in the washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment, whether automatic or by hand.

**CARNIVAL/CIRCUS**

A travelling or transportable group or aggregation of rides, shows, games, and/or concessions.

**CEMETARY**

Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, and necessary sales and maintenance facilities. Mortuaries may be included when operated within the boundary or such cemetery.

**CHIMNEY**

A vertical shaft of reinforced concrete, masonry, or other material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid, or gaseous fuel.

**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.

**COMMERCIAL VEHICLE**

Any vehicle operated for the transportation of person or property in the furtherance of any commercial enterprise, for-hire or not-for hire. This definition shall not include a commuter van, a vehicle currently being used for ride-sharing or a recreational vehicle that is not being used commercially.

**COMMON OWNERSHIP**

Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, or associate owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

**COMMUNITY GARDEN**

A place where community residents may grow vegetables, fruits, herbs, flowers, and similar plants for their personal consumption.

**COMMUNITY RESIDENCE**

A group residence consisting of a group home or specialized residential care home licensed, certified or accredited by the appropriate state or federal agencies, and serving as a single housekeeping unit for the housing of unrelated persons with functional disabilities who share responsibilities, meals, recreation, social activities, and other aspects of residential living. Community Residence includes a residence which services persons as an alternative to incarceration for a criminal offense, or persons whose primary reason for placement is substance or alcohol abuse. It does not include a nursing facility, medical facility, residential medical rehab facility, or physical rehab facility.

**1. COMMUNITY RESIDENCE, SMALL**

A community residence providing living accommodations for no more than eight residents, including live-in staff. Visiting staff who do not reside within the community residence shall not be counted for purposes of establishing the number of residents. Facilities meeting the definition of a Family as per Tennessee State Law shall not be considered as Community Residence, Small.

**2. COMMUNITY RESIDENCE, LARGE**

A community residence providing living accommodations for more than eight residents.

**COMPOST PILE**

A collection of decaying plant product for the purpose of producing a stabilized humus-like material that is potentially

beneficial to plant growth and usable as soil conditioner, top soil, growing medium additive, or other similar use.

**COMPREHENSIVE PLAN**

The Comprehensive Plan of the City of Hendersonville, as adopted and amended by the Planning Commission and/or Board of Mayor and Aldermen. This includes the Land Use and Transportation Plan, Town Center Plan, Hendersonville Tomorrow, Hendersonville Horizons, and any other such plans which may be adopted in the future.

**CONDITIONAL USE**

A use that owing to some special characteristics attendant to its operation or installation is permitted in a zoning district only after review by the Board of Zoning Appeals. A use is a conditional use if it is designated as such in this Ordinance.

**CONFORMING STRUCTURE**

Any structure that complies with all the regulations of this Ordinance, governing bulk for the zoning district in which such building or structure is located or is designed or intended for a conforming use.

**CONNECTOR**

A connector is what is plugged into a vehicle to charge it. Multiple connectors and connector types (such as CHAdeMO and CCS) can be available on one EV charging port, but only one vehicle will charge at a time. Connectors are sometimes called plugs.

**CONTIGUOUS**

Adjoining or abutting.

**CONTRACTOR OFFICE AND STORAGE YARD**

Any land or buildings used primarily for the storage of equipment, vehicles (3 or more), machinery, building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any construction trade or craft.

**COUNTRY CLUB**

See Social Club.

**CULTURAL FACILITY**

A use that is open to the public and provides cultural services and facilities including, but not limited to, museums, cultural centers, historical societies, aquariums, and libraries operated by a public, private, or non-profit organization.

**CUPOLA**

An architectural feature that consists of a small dome and a shaft that supports it.



**DATA CENTER**

A building, dedicated space within a building, or a group of buildings used to house computer systems and associated components, such as telecommunications and storage systems for the remote storage, processing, or distribution of large amounts of data. Does not include Call Center.

**DAY**

When used in this Ordinance, Day should mean one calendar day.

**DAY CARE CENTER, ADULT**

A facility, other than within a residential dwelling unit, providing care for more than three elderly and/or functionally impaired

adults in a protective setting for less than 24 hours per day. Adult Day Care Center does not include a program operated by a Place of Worship that provides care for elderly and/or functionally impaired adults in a protective setting for less than 24 hours per day.

**DAY CARE CENTER, CHILD**

A facility, other than within a residential dwelling unit, providing care for more than three children in a protective setting for less than 24 hours per day. Child Day Care Center does not include a program operated by an Educational Facility (all types) or Place of Worship, that provides care for children three year of age or older for less than 24 hours per day.

**DAY CARE HOME, ADULT**

A dwelling in which a permanent occupant of the dwelling provides care in a protective setting for up to 12 elderly and/or functionally impaired adults who do not spend the night at the dwelling.

**DAY CARE HOME, CHILD**

A dwelling in which a permanent occupancy of the dwelling provides care for up to 12 children from multiple households. The number counted includes the family’s natural or adopted children and all other persons under 12 years in age.

**DECK**

A raised platform structure built above grade, which is open to the sky and attached to the principal building. Deck should not include Terrace.

**DENSITY**

The number of dwelling units per gross acre of land, including all streets and open space. The following is breakdown of density defined by the Zoning Ordinance:

<u>UNITS PER ACRE</u>	<u>DENSITY TYPE</u>
>1	VERY LOW
1	LOW
2	LOW
3	LOW
4	MEDIUM
5	MEDIUM
6	MEDIUM
7	MEDIUM
8	HIGH
9	HIGH
10	HIGH
11	HIGH
12	HIGH
13	HIGH
14	HIGH
15	HIGH

**DESK SERVICE RECEPTION**

Desk Service would be a person at the front desk to assist guests check in and out 24 hours a day and also would be there to assist anyone with concerns or issues any time of day or night. Typically hotel or motels have this service.

**DISTRICT**

A contiguous portion of the City within which certain uniform regulations and/or requirements apply under the provisions of this Ordinance. Sometimes referred to as a zone or zoning district.

**DOG HOUSE**

An accessory structure designed for the containment of dogs and similar animals.

**DOG RUN**

An enclosed outdoor area intended for the exercising and/or containment of dogs and similar animals.

**DOME AIR-SUPPORTED STRUCTURE (DOME OR BUBBLE)**

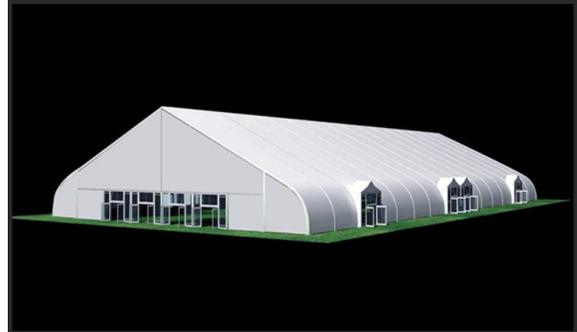
Dome structure supported by continuous supply of air, resulting in a complete open-

span interior that is unobstructed by columns or support beams. Can be designed for permanent, seasonal, or temporary installation. Designed, engineered, and constructed to meet or exceed all local windspeed and snow load requirements and conform with applicable International Building Code.



**DOME MEMBRANE-COVERED FRAME-SUPPORTED STRUCTURE**

A non-pressurized dome structure with Architectural Fabric envelope supported by steel (or other metal) framework, with no columns or support beams within the internal floor space. Can be designed for permanent, seasonal, or temporary insulation. Designed, engineered, and constructed to meet or exceed all local wind speed and snow load requirements and conform with applicable International Building Code.



**DOME TENSILE MEMBRANE STRUCTURE**

A membrane structure having a shape that is determined by tension in the membrane and the geometry of the support structure. Typically, the structure consists of both flexible elements (e.g., struts, masts, beams, arches, etc.) and the anchorage (e.g., supports and foundations, etc.). Can be designed for permanent, seasonal, or temporary installation. Designed, engineered, and constructed to meet or exceed all local wind speed and snow load requirements and conform with applicable International Building Code.





**DRIPLINE**

An imaginary line encircling a tree corresponding to the furthest extension of the tree foliage.

**DRIVE-THROUGH FACILITY**

Premises used to provide or disperse products or services through an attendant, window or automated machine, to persons remaining in motor vehicles in a designated stack aisle. A Drive-Through Facility may be in combination with other uses, such as a Financial Institution, Personal Services Establishment, Retail Goods Establishment, or Restaurant.

**DRIVEWAY**

A paved or unpaved strip of land providing vehicular access between the street and a parking lot or garage of private or public property.

**DRIVING RANGE**

An area equipped with distance markers, clubs, balls, and tees for practicing the

striking of golf balls, which may include a snack-bar and pro-shop.

**DWELLING**

A building, or portion of a building, used exclusively for residential purposes, including single-family, modular, townhome, and multi-family dwelling, but not including manufactured or mobile dwellings, trailers, recreational vehicles, campers, tents, hotels/motels, rooming houses, or automobiles.

**DWELLING, ACCESSORY APARTMENT**

An Accessory Apartment is a dwelling unit within the principal dwelling on the lot or within an addition to the principal dwelling. It contains independent living facilities, including a kitchen and bedrooms. To qualify as an attached addition, the connection must be made by a common wall or roof line as a room at least seven feet by 10 feet in size. (Structures connected by breezeways, hallways, porte cocheres, and similar are defined as detached accessory buildings.)

**DWELLING, DETACHED ACCESSORY**

An Accessory Dwelling is a dwelling unit in a separate structure from the principal dwelling on the lot. It contains independent living facilities, including a kitchen and bedrooms. It is detached from the principal dwelling and may be above a detached garage provided the garage in is located in the rear yard of the principal dwelling, that is behind the rear plane of the principal dwelling. The accessory dwelling and the principal dwelling may be connected by a breezeway, hallway, or similar structure. Under such conditions, the Accessory Dwelling is still considered an Accessory Dwelling (detached) and not an Accessory Apartment (attached).

**DWELLING, MANUFACTURED**

A structure, transportable in one or more sections, which, in the travelling mode, is eight feet or more in width, or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure and commonly referred to as a double-wide mobile home; except that “manufactured home” includes any structure that meets all the requirements of this definition, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under this T.C.C. Title 68.

**DWELLING, MOBILE**

A structure manufactured before June 15, 1976, that is not constructed in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, compiled in 42 U.S.C. § 5401 et seq. It is a structure that is transportable in one or more sections that in the travelling mode is eight feet or more in width and 40 feet or more in length, or, when erected on site, is 320 or more square feet and that is built on a chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes any plumbing, heating, air conditioning, and electrical systems contained in the structure and commonly referred to as a single-wide mobile home.

**DWELLING, MODULAR**

A dwelling unit constructed on-site in accordance with the municipal building

code and composed of components substantially assembled in a manufactured plant and transported to the building site for final assembly on a permanent foundation and is not a manufactured or mobile dwelling. (See § T.C.A. Section 68-126-304).

**DWELLING, MULTI-FAMILY**

A building containing two or more individual dwelling units with varying arrangements of party walls and entrances where each dwelling unit has an individual entrance to a common hallway or the outdoors. Dwelling, Multi-Family shall not include Dwelling, Townhome.

**DWELLING, SINGLE-FAMILY**

A building containing one individual dwelling unit, which is located on an individual lot and is not attached to any other dwelling unit (includes Modular Dwelling per § TCA Section 68-126-304). Dwelling, Single-Family shall not include Manufactured, Mobile Dwelling.

**DWELLING, TOWNHOME**

A structure consisting of no less than two dwelling units, with no other dwelling, or portion of other dwelling, directly above or below, where each unit has a separate entrance and direct ground level access to the outdoors. These units are connected to other dwelling units by a single party wall with no opening. These units also include what is commonly referred to as duplexes or two-family dwellings. Dwelling, Townhome shall not include Dwelling, Multi-Family. Dwelling, Townhome refers to the design of a building and does not reflect the type of ownership of the individual units.

**DWELLING UNIT**

A dwelling unit consists of a room or group of rooms, which include permanently

installed bathroom and kitchen facilities, and are arranged, designed and used exclusively as living quarters for one family or household.



**EASEMENT**

An interest in land that provides for a specified use of that land by a person(s) other than the fee owner.

**EAVE**

The projecting edges of a roof overhanging the wall of a building.

**EDUCATIONIONAL FACILITY, COLLEGE/UNIVERSITY**

A post-secondary institution for higher learning that grants associate or bachelor degrees. The institution may also have research facilities, and/or professional schools that grant master and doctoral degrees. Also included are residential dormitories, fraternity and sorority houses, student unions, cafeterias, auditoriums, and sporting facilities. Educational Facilities, College/University also includes theological schools for training ministers, priests or rabbis. Educational Facilities, College/University shall not include Educational Facilities, Vocational.

**EDUCATIONAL FACILITY, PRIMARY/SECONDARY**

A public, private, or parochial school offering instruction at the elementary, junior, and/or senior high school levels. In addition to classrooms, other facilities may include auditoriums, cafeterias, and sporting facilities. Boarding facilities may also be allowed.

**EDUCATIONAL FACILITY, VOCATIONAL SCHOOL**

A school established to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum. Educational Facilities, Vocational School shall not include Educational Facilities, College/University.

**EMERGENCY ELECTRICAL GENERATOR**

A device for generating electrical energy.

**ENCROACHMENT**

The extension or placement of any structure or component of a structure into a required yard.

**ENGINEER**

Any Engineer licensed by the State of Tennessee.

**ENTRANCE WAY**

The doorway into a building along with the architectural treatments that accompany it.

**ERECT**

To build, construct, attach, hang, place, suspend, or affix.

**EV CHARGING PORT (also called a Port)**

An EV charging port provides power to charge only one vehicle at a time even though it may have multiple connectors. The unit that houses EV charging ports is sometimes called a charging post, which can have one or more EV charging ports.

**EV CHARGING PEDESTAL**

A pole, box, or similar structure containing one or more EV charging ports.

**EXOTIC ANIMAL**

Any member of a species of animal, reptile, or bird, warm or cold-blooded, that is not indigenous to the environs of the City or is not classified or considered as wildlife, livestock, or domestic animal, and including snakes, alligators, lizards, tigers, and similar animals normally kept in zoos.



**FALL-OUT SHELTER**

An underground accessory building specifically designed for the protection of life from radioactive fall-out.

**FALL RADIUS**

The area in which a 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 structural engineer licensed in Tennessee.

**FAMILY**

One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage that no such Family shall contain over five persons but further provided that domestic servants employed on the premises shall be housed on the premises without being counted as family. A fraternity, sorority, club, or institutional group shall not be considered a Family. The term Family shall include groups of eight or fewer unrelated disabled persons and may include three additional persons acting as support staff or guardians. (See T.C.A., Title 13, Chapter 24).

**FARM**

Land on which the raising of crops or livestock, including orchards, vineyards, nurseries, or animal husbandry, along with

any buildings or structure necessary to conduct such activities, but excluding feed lots, stock yards, slaughtering operations and commercial hog farms, poultry houses, silos, grain elevators, plant nurseries, and logging operations.

**FENCE**

An artificially constructed barrier of wood, masonry, stone, wire, metal, or other combination of materials of 24 inches or more in height erected to enclose, screen, or separate areas.

**FENCE, OPEN**

A fence, including any gates, designed and constructed so that the surface area of any segment of such fence contains at least 50% open space as compared to solid materials.

**FENCE, SOLID**

A fence, including gates, made entirely of opaque material.

**FINANCIAL INSTITUTION**

A bank, savings and loan, credit union, mortgage office, or automated teller machine (ATM). A Financial Institution shall not include a payday or title loan agency.

**FIRE ESCAPE**

A fireproof stairway, ladder, or chute on the outside wall of a building intended to be used to help occupants escape from the building in case of fire or other calamity.

**FLAG**

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

**FLAGPOLE**

A freestanding structure on a lot used for the sole purpose of displaying flags.

**FLOOR AREA, GROSS**

Gross Floor Area, when prescribed as the basis of measurement in this Ordinance shall be the sum of the gross horizontal area of the plans of the several floors of a building, as measured from the interior surface of the exterior walls.

**FLOOR TO AREA RATIO (FAR)**

The numerical value obtained by dividing the gross floor area of a building or buildings by the lot area on which such building or buildings are located, as measured from the outside face of the walls.

**FOOTCANDLE**

A unit of illumination. It is equivalent to the illumination at all points that are one-foot distant from uniform source of one candlepower.

**FUNERAL HOME**

A building used for the preparation of the deceased for burial display of the deceased and rituals before burial or cremation. A Funeral Home includes chapels located within the building used for the display of the deceased and the conducting of rituals before burial or cremation.



**GARAGE**

A building, either attached or detached, used or designed to be used for storage of automobiles and accessory storage related to the use of the principal dwelling.

**GAZEBO**

A freestanding outdoor structure that is open-sided and designed for recreational use and not for habitation.

**GENERAL BUSINESS SERVICES**

Commercial cleaning, pest exterminating, radio and television production and broadcasting, printing, photo finishing, photographic studios, mailing, interior design services, and similar business services. General Business Services shall not include a payday or title loan agency.

**GOLF COURSE**

A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse, restrooms, and shelters as accessory uses. A Driving Range may be included as part of a Golf Course.

**GOVERNMENT FACILITY AND OFFICES**

Land, buildings, or structures owned, operated and/or occupied by a governmental agency to provide a governmental service to the public including public recreational facilities. Government Facilities and Offices does not include Public Safety Facility or Public Works Facility or school buildings which would be considered Education Facilities.

**GRADE**

The mean level of the finished surface of the ground adjacent to the exterior walls of the building. The mean grade shall be calculated from the grade elevations at the four points of intersection of an imaginary line drawn parallel to both the rear and front yard setback lines across the front and rear facades, where the imaginary line intersects the side yard setback. Where applicable, for structures other than the principle building, Grade may refer to the mean level of the finished

surface of the ground adjacent to the structure.

### **GREEN ROOF**

The creation of contained green space on the roof of a structure, where plants are not planted in the ground but applied as another layer of the roofing system.



### **HEALTH/FITNESS CENTER**

An establishment that provides exercise facilities such as running, jogging, aerobics, weight lifting, court sports and swimming, as well as locker rooms, showers, massage rooms, saunas, and other related accessory uses.

### **HEAVY RETAIL, RENTAL, AND SERVICE ESTABLISHMENT**

This use includes retail, rental, and/or service establishments that may have permanent outdoor service or storage areas, or partially enclosed structures including, but not limited to, large-scale home improvement centers, building supplies, lumberyards, retail nurseries, garden supply, heavy equipment sales, rental and leasing, truck rental, recreational vehicles, and playground equipment sales and rental.

### **HEDGE**

A row of closely planted shrubs, bushes, or other kind of plant forming a boundary or fence.

### **HEIGHT**

The vertical distance from grade to the highest point of a structure. See Building Height.

### **HELISTOP**

Any area used or to be used for the landing or take-off of helicopters, or other steep-gradient aircraft capable of hovering, but does not afford refueling, maintenance, or repair facilities, and accommodates only a single helicopter.

### **HIGH IMPACT FACILITY**

Facilities and activities which have a high impact upon surrounding land due to nuisance characteristics, traffic generation, and other characteristics. These include airports, energy generating facilities, railroad yards, detention and/or correctional facilities, and similar activities.

### **HOME FOR THE AGED**

Residential home represented and held out to the general public as a home which accepts primarily aged persons for relatively permanent, domiciliary care, providing room, board and personal services to four or more non-related persons. Minimum lot size is two acres and maximum number of living units is five units per acre. See [Chapter 10.3.1](#).

### **HOME OCCUPATION**

An occupation carried on in a dwelling unit by the resident, where the use of the dwelling unit for the occupation is secondary to the use of the dwelling unit for residential purposes.

### **HORIZONTAL PROPERTY REGIME**

Whenever a developer, the sole owner, or the co-owners of a building (or property) expressly declare, through the recordation of a master deed or lease, or by plat that shall set forth the particulars enumerated by § TCA Section 66-27-101 thru 123, their desire to submit their property to the regime established by this chapter, there shall be thereby established a horizontal property regime. (*Horizontal Property*

*Regime must adhere to all lot and bulk standards that would otherwise be required with subdividing property).*

**HOSPITAL**

An institution providing health services primarily for inpatient, medical, or surgical care for the sick or injured, and including the related facilities located within a Hospital, such as laboratories, outpatient departments, training facilities and classrooms, central service facilities, and staff offices are integral to the facility.

**HOT TUB**

An artificial container of water designed with a mechanical air injection system and/or circulating device for recreational use.

**HOTEL/MOTEL**

An establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone and desk service. Related ancillary uses may include, but shall not be limited to, conference and meeting rooms, restaurants, bars, and recreational facilities. Payment is on a daily or weekly basis and the length of stay does not exceed one month for more than 25% of the rooms. A Hotel/Motel shall not include Multi-Family Dwellings.

**HOUSEHOLD**

The person or persons living together in a dwelling unit.



**ILLICIT DISCHARGE**

Any discharge to the municipal separate storm sewer system that is not composed

entirely of stormwater and not specifically exempted under Hendersonville Municipal Code 18-208.2.

**IMPERVIOUS SURFACE**

The portion of a site occupied by structures, pavement, or other surfaces that do not allow for the absorption of water.

**INCOMPATIBLE USE**

A use that is incapable of direct association with certain other uses because it is contradictory, incongruous, or discordant.

**INDEPENDENT LIVING FACILITY**

A residential complex containing dwellings where the occupancy is limited to person who are 55 years of age or older or, if two persons occupy a unit, at least one shall be 55 years or older. Such facilities may include common areas for meals and socializing, offer minimal convenience services, but exclude institutional care such as medical or nursing care. An Independent Living Facility shall not include Assisted Living Facility, Community Residence, Nursing Home, or Home for the Aged.

**INDOOR ENTERTAINMENT FACILITY**

Predominately spectator uses conducted within an enclosed building including, but not limited to, movie theaters and sport or game matches or exhibitions. An Indoor Entertainment Facility includes accessory uses, such as snack bars or refreshment stands, which are designed and intended primarily for the use of patrons. Indoor Entertainment shall not include Indoor Recreation or Living Entertainment. Indoor Entertainment is distinguished for Indoor Recreation in that the predominant use is spectator-oriented and not participatory.

**INDOOR RECREATION FACILITY**

Predominantly participant uses where recreational activities or games of skill are conducted within a wholly enclosed building including, but not limited to, a bowling alley, pool hall, miniature golf course, arcade, indoor tennis courts, indoor sports arenas, indoor swimming pools, indoor ice rink, or similar uses. An Indoor Recreation Facility shall include accessory uses, such as snack bars or refreshment stands that are designed and intended primarily for the use of patrons. Indoor Recreation Facility may also include those establishments that maintain a restaurant on-premises for patrons of the establishment. Indoor Recreation Facility shall not include Indoor Entertainment.

**INSTITUTIONAL USE**

An educational facility, place of worship, or other use operated by a public agency or non-profit organization and permitted as a use in one or more residential zoning districts. Child day-care centers, nursing homes, assisted living facilities, independent living facilities, cultural facilities, and marinas shall be considered institutional uses regardless of ownership or operation.

**INTENSITY OF USE**

Any factor such as square feet of gross floor area, number of dwelling units or number of employees used as a basis for required parking or loading facilities.



**KENNEL**

An establishment where pet animals owned by another person are temporarily boarded for pay or remuneration of any sort. Kennel shall include those facilities

where pet animals are boarded for the day. Kennel shall not apply to zoos or animal hospitals operated by veterinarians licensed under the law where the boarding of animals is accessory to medical treatment.

**KITCHEN FACILITY**

A space adapted to cooking or preparing food and containing one or more of the following: stove, oven, range, cook top, dishwasher, or trash compactor.



**LAND BANKING**

See Parking, Land Banked.

**LIGHT TRESPASS**

The spilling of light, whether directly, indirectly, or by glare onto a lot, parcel, or public way other than the lot or parcel on which the light fixture is located.

**LIVE ENTERTAINMENT**

A musical, theatrical, dance, cabaret, or comedy act performed live by one or more persons. Restaurants that regularly host such performances shall be considered Live Entertainment uses. Restaurants that include dancing by patrons and guests are considered Live Entertainment uses. A Live Entertainment establishment may possess a beer and liquor license and provide food for consumption on the premises.

**LOADING SPACE**

A space within a loading facility exclusive of driveways, aisles, maneuvering areas, ramps, columns, landscaping areas, office and work areas for the temporary parking of a commercial vehicle while loading or unloading goods or materials, and which

abuts upon a street, alley, or other appropriate means of access.

**LOGO**

A business trademark or symbol.

**LOT**

A parcel of land with distinct boundaries. A lot may be a lot of record or a parcel that is not of record but bounded within a legal description.

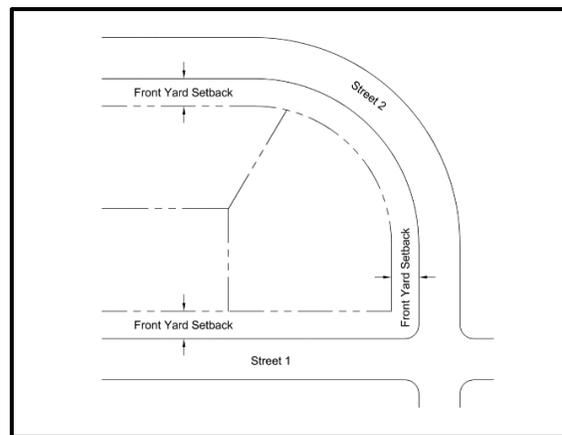
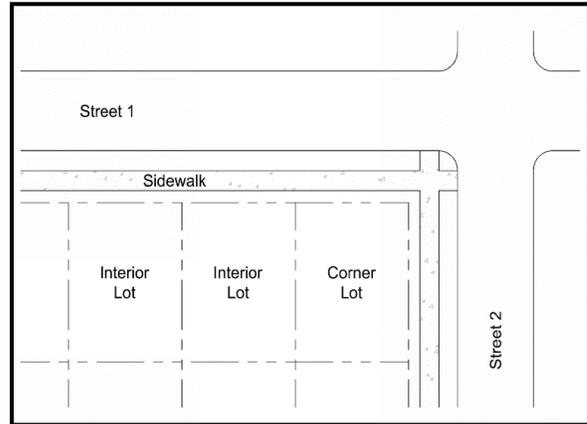
**LOT AREA**

The computed area contained within the boundary lines of a lot.

**LOT, CORNER**

A lot situated at the junction of and abutting two intersecting streets, and where the interior angle at the intersection of such two sides is less than 135 degrees. The point of intersection of the lot lines abutting the street is the corner of the lot in question. A lot that abuts a curved street or streets shall be considered a Corner Lot if the tangents to the curve at the curve's point of beginning between the side lot lines, or at the points of intersection of the side lot lines with the lot line abutting the street, intersect at an interior angle of less than 135 degrees. In such cases, the corner of the lot in question is that point on the lot line abutting a street nearest to the point of intersection of the tangents above described. (See Figure 10: Corner and Interior Lots).

FIGURE 6: CORNER AND INTERIOR LOTS



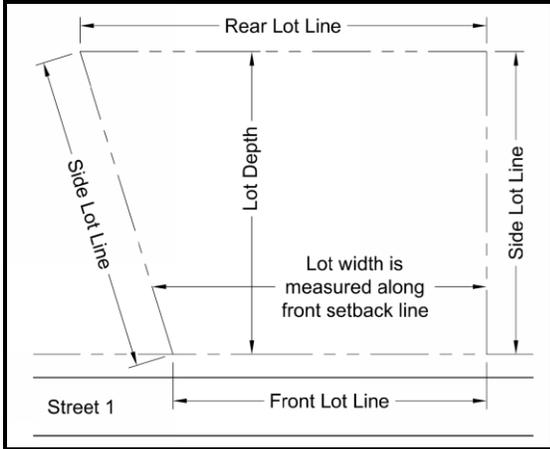
**LOT COVERAGE**

The portion of a lot that is occupied by buildings or structures, including accessory structures, expressed as a percentage of total lot area. Lot coverage shall not include driveways, parking spaces, patios, sidewalks, swimming pools, or water gardens and other similar impervious or semi-impervious surfaces.

**LOT DEPTH**

The distance between the front lot line and the rear lot line of a lot, determined by measuring from the deepest point of the rear lot line to the front lot line. (See Figure 11: Lot Width and Lot Depth).

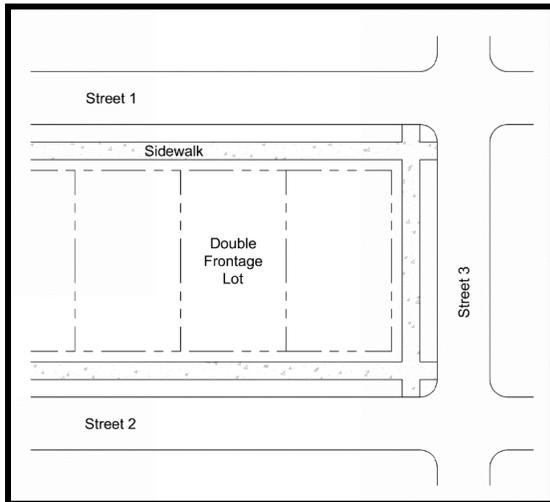
FIGURE 7: LOT WIDTH AND LOT DEPTH



**LOT, DOUBLE-FRONTAGE**

A lot having frontage on two streets at opposite ends of the lot, which is not a Corner Lot. (See Figure 12: Double-Frontage Lots).

FIGURE 8: DOUBLE-FRONTAGE LOT



**LOT, INTERIOR**

A lot other a corner lot or a double-frontage lot. (See Figure 10: Corner and Interior Lots).

**LOT LINE**

A property boundary line of any lot. Where any portion of the lot extends into an abutting street or alley, the lot line shall be deemed to be the established or existing street or alley right-of-way line.

**LOT LINE, FRONT**

The lot line which abuts an existing or dedicated street. For the purposes of this Ordinance, the Front Lot Line of a Corner Lot shall be the shortest street frontage of the lot.

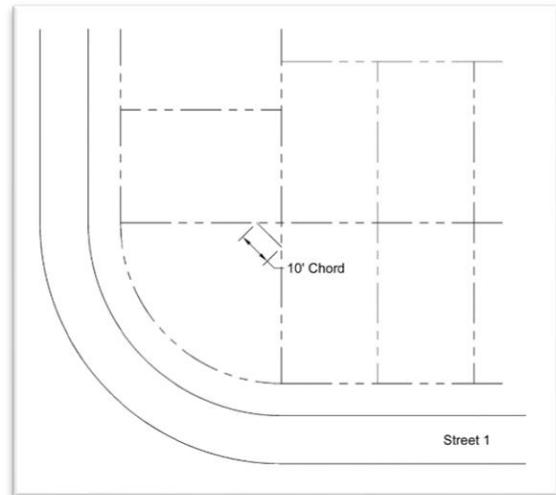
**LOT LINE, INTERIOR**

A lot line that does not abut a street or alley.

**LOT LINE, REAR**

The boundary of a lot which is most distant from and is, or is approximately, parallel to the front lot line. In the case of an irregular or triangular shaped lot and for purposes of determining the rear yard dimension, the rear lot line shall be deemed to be a line 10 feet in length, within the lot, which is parallel to and at a maximum distance from the front lot line. The 10-foot chord for an irregular lot is shown in Figure 13: Rear Lot Line Chord for Irregular Lots.

FIGURE 9: REAR LOT LINE CHORD FOR IRREGULAR LOTS



**LOT LINE, SIDE**

Any boundary of a lot that is not a front lot line or a rear lot line.

**LOT OF RECORD**

A single lot which is part of a subdivision or re-subdivision which has been recorded in the Office of the Register of Deeds of Sumner County, TN.

**LOT WIDTH**

The minimum horizontal distance between the side lot lines of a lot measured at the required front yard setback line. (See Figure 11: Lot Width and Lot Depth).

**LOT, ZONE**

A single tract of land located within a single block which, at the time of filing for a building permit, is designated by the owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A Zone Lot may or may not coincide with a Lot of Record.

**LUMINAIRE**

A complete lighting unit extending from a support structure, parallel to the ground, consisting of a light source and all necessary mechanical, electrical, and decorative parts. A Luminaire does not include a pole or other support.



**MANUFACTURING, HEAVY**

Manufacturing uses that involve the generation outside the property of noise, odor, vibration, or dust. Examples include but are not limited to the following: manufacture or assembly of machinery, equipment, instruments, vehicles, appliances, communications equipment, computer or electronic equipment, precision items, and other electrical items; the processing of food and related products, dry cleaning plants, lumber mills, pulp and paper mills, and the

manufacture of other wood products; and electric power generation plants. Specifically prohibited are rendering, petroleum refining, and manufacture of chemicals, fertilizers, paint, and turpentine.

**MANUFACTURING, LIGHT**

The mechanical transformation of predominantly previously prepared materials into new products, including the assembly of component parts and the creation of products for sale to the wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building, do not include processing of hazardous gases and chemicals, and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor, or vibration. Examples include, but are not limited to: production of small machines or electronic parts and equipment; woodworking and cabinet building; publishing and lithography; computer design and development; research, development, testing facilities and laboratories; apparel production; assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item.

**MECHANICAL EQUIPMENT**

Mechanical equipment shall include heating, ventilating, and air conditioning (HVAC) units. Emergency Electrical Generators are not considered Mechanical Equipment.

**MEDIA PRODUCTION FACILITY, MAJOR**

A pre-production and/or post-production studio complex that encompasses the production of audio, television, and movies located on a minimum of 10 contiguous acres of property and consisting of various production buildings/stages, production office space, dressing rooms, administrative/executive buildings, dining, shops, and limited on-site residential units that support the studio complex.

**MEDIA PRODUCTION FACILITY, SMALL**

A facility that provides indoor commercial and public communication / telecommunication uses, including radio, recording studios, and television broadcasting located entirely indoors.

**MEDICAL/DENTAL CLINIC**

A facility operated by one or more physicians, dentists, chiropractors, or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis. Medical Clinics shall also include alternative medical clinics, such as acupuncture and physical therapy offices, which provides integrated care in the treatment of permanent or temporary neurologic and musculoskeletal disabilities. Massage establishments where such service is provided by a certified massage therapist or similar licensed professional shall not be considered a Physical Therapy Office, but rather a Personal Services Establishment.

**MEDICAL/DENTAL LABORATORY**

A business establishment engaged in the testing and analysis of material for medical or dental services, or in the construction, alteration, or repair of bridges, crowns, dentures, eyewear, contact lenses, orthodontic appliances, or any other prosthetic appliances. Direct

contact with patients for consultation, treatment, or other services are not included as part of the business activities.

**MINING AND QUARRYING**

Mineral and stone extraction and processing, including blasting, crushing, screening, conveying, stockpiling, and sale of stone, sand, gravel, and other similar mineral and natural resources.

**MODEL HOME**

A residential unit temporarily used for display purposes as an example of dwelling units available or to be available for sale or rental in a particular subdivision or other residential development. Model units may also incorporate sales or rental offices for dwellings within the development.

**MORTUARY**

An establishment where the deceased are prepared for burial. The facility may include a small chapel for the conduct of services prior to burial.

**MOTOR VEHICLE**

Any self-propelled wheeled vehicle designed primarily for transportation of persons or goods along public streets.

**MOTOR VEHICLE DEALERSHIP**

Any business establishment that sells or leases new or used automobiles, trucks, vans, trailers, recreational vehicles, boats, or motorcycles, or other similar motorized transportation vehicles. An automobile dealership may maintain an inventory of the vehicles for sale or lease either on-site or at a nearby location and may provide on-side facilities for repair and service of vehicles.

**MOTOR VEHICLE OPERATIONS FACILITY**

A privately-owned facility for the dispatch, storage, and maintenance of emergency

medical care vehicles, taxicabs, and other livery vehicles. This also includes wreckers, but storage of vehicles is not permitted (See Motor Vehicle Service and Repair, Major). Motor Vehicle Operations Facility shall not include Public Works Facility or Public Safety Facility, where the vehicles of the fire, police, or other municipal departments are dispatched, stored, and/or maintained.

**MOTOR VEHICLE RENTAL ESTABLISHMENT**

Rental of automobiles and light trucks and vans, including incidental parking and servicing of rental vehicles.

**MOTOR VEHICLE SALES, NEW**

The retail of motor vehicles or related equipment with no previous retail owner, transfer only between manufacturer and Motor Vehicle Dealership.

**MOTOR VEHICLE SALES, USED**

The retail of motor vehicles or related equipment that previously have had one or more retail owners or have been driven more than the limited use necessary in moving or road testing.

**MOTOR VEHICLE SALES, SALVAGE**

The retail of inoperable motor vehicles or related equipment that are sold for parts and not as an operating vehicle.

**MOTOR VEHICLE SERVICE STATION/FUEL CENTER**

A business where flammable or combustible liquids or gases used as fuel for motor vehicles are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Accessory uses may include retail sales including food and drinks for off-premises consumption as may be permitted by other laws.

**MOTOR VEHICLE SERVICE AND REPAIR, MAJOR**

Such use includes, but shall not be limited to, establishments involved in engine rebuilding, transmission repair, major reconditioning of worn or damaged motor vehicles or trailers, towing and collision service, including body, frame, or frame straightening or repair, and painting of motor vehicles.

**MOTOR VEHICLE SERVICE AND REPAIR, MINOR**

Such use includes, but is not limited to, minor repairs to motor vehicles, including repair or replacement of cooling, electrical, fuel and exhaust systems, brake adjustments, relining and repairs, wheel servicing, alignment and balancing, repair and replacement of shock absorbers, and replacement or adjustment of mufflers and tail pipes, hoses, belts, light bulbs, fuses, windshield wipers/wiper blades, grease retainers, wheel bearings, and the like. Motor Vehicle Service and Repair, Minor includes establishments where gasoline and/or fuel oil, and oil, grease, batteries, tires, and automobile accessories are sold in addition to the repair facilities.

**MOVIE THEATER**

A theater designed for showing movies or motion pictures.



**NONCONFORMING LOT**

A lot of record that does not meet the lot area or lot width requirements of this Ordinance for the zoning district in which it is located.

### **NONCONFORMING STRUCTURE**

Permitted structures that at one time conformed to applicable zoning regulations, but because of subsequent amendments to the Zoning Ordinance no longer conform to applicable yard, height, lot coverage, or other dimensional or bulk provisions or does not meet other on-site development standards, such as an insufficient number of parking spaces, of this Ordinance.

### **NONCONFORMING USE**

The use of land and structures that, as of the effective date of this Ordinance, are used for purposes that are not permitted or conditionally permitted in the zoning district in which they are located.

### **NURSING HOME**

A facility providing bed care and inpatient services on a 24 hour per day basis for persons required regular medical attention. This definition excludes a facility providing surgical or emergency medical services, or a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. A Nursing Home shall not include Independent Living Facility, Assisted Living Facility, Community Residence or Hospital.



### **OFFICE**

A use that engages in the processing, manipulation, or application of business information or professional expertise. Such an office may or may not offer services to the public. An Office is not materially involved in fabricating, assembling, or warehousing of physical products for the retail or wholesale market, nor is an office engaged in the repair of products or retail services. It is

characteristics of an Office that retail or wholesale goods are not shown on the premises to a customer. Examples include, but are not limited to, professional offices for non-profit organizations, advertising, accounting, investments services, insurance, contracting architecture, engineering, legal services, and real estate services. Office does not include government offices, which are considered Government Facility and Offices.

### **OPEN SPACE**

Land area without commercial or residential buildings. It is mostly pervious to water and green. Open space may be natural and passive such as wooded areas and fields or it may be active and improved with formal lawns and landscape areas. It may also include hardscape features such as plazas, walking trails, and boardwalks. Open Space may include other amenities such as gazebos, amphitheaters, fountains, and other water features. It may also consist of lakes, ponds, and streams.

### **OPEN SPACE, COMMON**

Open space that is held in common ownership by, and for the benefit of, all owners and tenants of a development and their guests and is maintained by an association of the owners and tenants of a development and their guests and is maintained by an association of the owners and tenants.

### **ORDINANCE, THIS**

This Zoning Ordinance, as from time to time amended.

### **OUTDOOR ENTERTAINMENT FACILITY**

Predominantly spectator uses conducted outdoors in open or only partially enclosed facilities. Typically uses include, but are not limited to, fairgrounds, outdoor

stadiums, outdoor theaters, rodeos, music arenas, theme parks, and amusement parks.

Outdoor Entertainment Facilities shall include accessory uses, such as snack bars or refreshment stands that are designed and intended primarily for the use of patrons. Outdoor Entertainment Facility shall not include Outdoor Recreation Facility.

### **OUTDOOR RECREATION FACILITY**

Predominantly participant uses that take place outside of a building including, but not limited to, miniature golf courses, golf driving range, swimming pools, tennis courts, ball fields, skateboard parks, and other similar facilities. Outdoor Recreation Facilities shall include accessory uses, such as snack bars or refreshment stands that are designed and intended primarily for the use of patrons. Outdoor Recreation Facilities may also include those establishments that maintain a restaurant on-premises for patrons of the establishment. Outdoor Recreation Facility shall not include Outdoor Entertainment Facility, Parks, Golf Courses, and Racetracks. Any such activity that occurs in a private pool within a residential area will be deemed as a commercial activity (i.e., rental private home pool).

### **OUTDOOR DISPLAY**

Part of a lot used for outdoor display of goods accessory to the principal use.

### **OUTDOOR STORAGE**

The keeping of any goods, material, merchandise, or equipment not within an enclosed building. An item shall be deemed to be in storage if it is being maintained or repaired on premises.

### **OWNER**

A titleholder of record, or if title is held in trust, the beneficiary of the trust. A long-term lessee may also be deemed an owner, provided that at time of application, not less than twenty (20) years remain on the lease.



### **PARAPET WALL**

That wall of a wall which extends above the roof line.

### **PARKING, LAND BANKED**

Designated land on a site to be held and preserved for an additional parking. See [Chapter 11.2.5](#) (Land Banked Future Parking).

### **PARKING, OFF-STREET**

The storage space for an automobile on premises other than streets, alleys, or rights-of-way.

### **PARKING, ON-STREET**

The storage space for an automobile that is located within the road right-of-way.

### **PARKING LOT (PRINCIPAL USE)**

An open, hard-surfaced area, other than street or public way, available to the public, to be used for the storage, for limited periods of time, of operable passenger automobiles and commercial vehicles. Such storage may be for compensation, free or as an accommodation to residents of a multi-family dwelling, or clients and customers of a business.

### **PATIO**

An impervious surface at finished grade designed and intended for recreational use by people and not as a parking space.

**PAYDAY / TITLE LOAN AGENCY**

Any building, room, space, or portion thereof where a business operates that makes loans in exchange for possession of the certificate of title to property or a security interest in titled property, as regulated by T.C.A., Title 45, Chapter 15.

**PENNANT**

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

**PERGOLA**

A freestanding structure usually consisting of parallel colonnades supporting an open roof of girders and cross rafters. A Pergola is built as an outdoor sitting area with lattice or open slat roof for partial shade.

**PERMITTED USE**

A use permitted in a zoning district upon satisfaction of the standards and requirements of this Ordinance. A permitted use does not require special administrative review and approval.

**PERSON WITH A DISABILITY**

A person has a “disability” for purposes of the Americans with Disabilities Act (ADA) if she or he: 1) has a physical or mental impairment that substantially limits a major life activity; 2) has a record of such an impairment; or 3) is regarded as having such an impairment. A person must satisfy at least one of these three parts of the definition to be considered an individual with a disability.

**PERSONAL SERVICES ESTABLISHMENT**

An establishment or place of business primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, beauty shops,

barbershops, tanning salons, massage parlors, shoe repair, laundromats, pet grooming establishments, dry cleaners and tailors.

**PERVIOUS SURFACE AREA**

The portion of a site not occupied by buildings, pavement, or other surfaces and which allows the absorption of water into the ground.

**PLACE OF WORSHIP**

A building, together with its accessory buildings and uses, where persons regularly assemble for religious purposes and related social events. The main building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

**PLANNED DEVELOPMENT**

The subdivision and/or development of a land area as a single unified development, where certain Zoning Ordinance regulations, such as bulk and use standards, may be modified to allow for more flexible planning in conformance with the planned development standards and approval processes.

**PLANT NURSERY**

The growing, storage, and sale of garden plants, shrubs, trees, vines, groundcovers, and other related landscaping materials. Such uses may include greenhouses, outdoor storage of goods, materials, and equipment, irrigation systems and caretaker’s dwellings.

**PLAYGROUND**

An area developed for active play and recreation that may contain courts for such games as basketball or tennis, or recreational equipment such as trampolines.

**PORCH**

A structure, which can be enclosed or unenclosed, that projects from the exterior wall of a building, has direct access to the street level of the building, and is covered by a roof or eaves. An Unenclosed Porch is a porch that is open on two or more sides with rails. An Enclosed Porch is a porch that is enclosed by walls, screens, lattice, or other material on two or more sides. A screened-in porch shall be considered an Enclosed Porch.

**POTENTIAL SUPPORT STRUCTURE (“PSS”)**

A pole or other structure used for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, including poles installed solely for the collocation of a small wireless facility. When PSS is modified by the term: “new”, then “new PSS” means a PSS that does not exist at the time the application is submitted, including, but not limited to, a PSS that will replace an existing pole. The fact that a structure is a PSS does not alone authorize an applicant to collocate on, modify, or replace the PSS until an application is approved and all requirements are satisfied pursuant to this Ordinance.

**PREMISES**

A legal parcel, or leasehold interest in land, or a leased or owned space in a building where a use or activity is or will be conducted.

**PRINCIPAL USE**

The primary or predominant function or use of land or buildings as distinguished from an accessory use.

**PROPERTY LINE**

The lines forming the recorded boundary of a zoning lot or parcel of land.

**PUBLIC SAFETY FACILITY**

Facilities operated by public safety agencies including fire stations and other fire prevention and firefighting facilities, and police and sheriff substations and headquarters, including interim incarceration facilities. The vehicles of fire and police may be dispatched, stored, and/or maintained within the Public Safety Facility.

**PUBLIC WORKS FACILITY AND UTILITY**

All production, storage, transmission, and recovery facilities for water, sewer, electric, telephone, and other similar utilities owned or operated by any public agency or utility. This includes any municipal repair, storage, or production facility or public works yard, as well as any accessory office or meeting rooms. Municipal vehicles may be dispatched, stored, and/or maintained within the Public Works Facility. Public Works Facility and Utility does not include Public Safety Facility.

**PUMPKIN PATCH**

A retail sales operation, generally conducted wholly outdoors, that offers for sale on a temporary, limited basis, pumpkins and related holiday (Halloween) items.



**RECREATIONAL TRAINING SCHOOL**

A business establishment which provides training for recreational activities such as martial arts, baseball, soccer, cheerleading, gymnastics, and dancing.

**RECREATIONAL VEHICLE**

A vehicle, or similar means of human transportation, used primarily for recreational purposes. Recreational

Vehicle shall include, but not be limited to, the following:

**1. BOAT/RAFT**

Any unit that is used for travel on water

**2. CAMPER TRAILER**

A vehicle designed to be towed, has no self-propulsion capabilities, and is designed to be used for temporary habitation during travel or recreational use.

**3. MOTOR HOME**

A portable habitation designed and constructed as an integral part of a self-propelled vehicle.

**4. PICKUP COACH**

A structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary habitation during travel, recreational, or vacation uses.

**5. JET SKI**

A type of small personal watercraft that is a motorized vehicle used for travel over water.

**RECYCLING DROP-OFF CENTER**

A lawful collection site for the acceptance by donation, redemption, or purchase of recyclable materials from the public. Such a facility does not use power-driven processing equipment.

**RESEARCH AND DEVELOPMENT FACILITY**

An establishment where research and development is conducted in the following industries: biotechnology, pharmaceuticals, medical instrumentation or supplies, communications and information technology, electronics and instrumentation, and computer hardware and software. Research and Development Facilities do not involve the manufacture, fabrication, processing, or sale of product.

**RESTAURANT, CARRY OUT**

An establishment that sells ready to consume food or beverages where no provisions are made for consumption on the premises.

**RESTAURANT, FULL SERVICE**

An establishment where ready to consume food or beverages are prepared, served and primarily consumed on premises. Any facilities for carry-out shall be clearly subordinate to the principal use of providing food for consumption on the premises.

**RESTAURANT, QUICK SERVICE**

An establishment designed for rapid food delivery to customers seated in automobiles or from a counter or drive through window, for consumption on or off the premises. An establishment having a walk-up or drive through window and meeting four or more of the following characteristics shall be deemed a Quick Service Restaurant for zoning purposes:

1. A drive through window with a permanent menu board.
2. Fifty-five percent or less of the floor area devoted to customer seating.
3. Customers pay for food before consuming it.
4. A self-service condiment bar is provided.
5. Trash receptacles are provided for self-service bussing.
6. Packaging of food is done in disposable containers.

**RETAIL GOODS ESTABLISHMENT**

A commercial enterprise that provides physical goods, products or merchandise directly to the consumer, where such goods are typically available for immediate purchase and removal from the premises by the purchaser. Retail Goods Establishment shall not include Heavy

Retail, Rental, and Service Establishments.

### **RETAINING WALL**

A raised area of soil that is supported or enclosed around an edge or edges by stone or timber, designed to resist lateral earth and/or fluid pressures. This definition of Retaining Wall shall, for the purposes of this Ordinance, exclude terracing of 30 inches or less used as a landscape feature.



### **SATELLITE DISH ANTENNA**

A dish antenna designed for transmitting signals to a receiver or receiving station or for receiving television, radio, data, communication or other signals from other antennas, satellites, or other services.

### **SCRAP OPERATIONS**

Activities where automobiles and other vehicles are disassembled, and parts are removed and sold and/or residuals are reprocessed for shipping to be used in the fabrication of other finished goods. This use does not qualify for accessory use status.

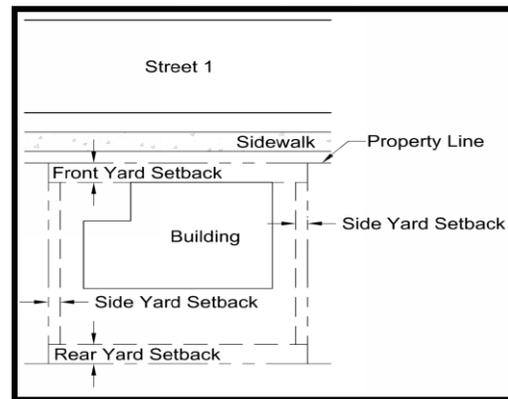
### **SELF-SERVICE STORAGE FACILITY**

A facility used only for the storage of property where individual renters control individual storage spaces and no commercial transactions are permitted other than the rental of the storage units.

### **SETBACK**

The minimum distance by which any building or structure must be separated from a property line. (See Figure 14: Setback).

FIGURE 10: SETBACK



### **SHADE TREE**

A deciduous tree planted primarily for its high crown of foliage or overhead canopy. A large shade tree is over 40 feet in height. Medium shade trees are between 25 and 40 feet in height. Small shade trees reach up to 25 feet in height.

### **SHED**

A small accessory building often purchased pre-built or as a kit in prefabricated sections not designed to be served by heat or plumbing, and not placed on a permanent foundation. A Shed is typically intended to store lawn, garden, or pool care equipment.

### **SHOPPING CENTER**

A group of retail and other commercial establishments that is planned, owned, and managed as a single property. The center's size and orientation are generally determined by the market characteristics of the trade area served by the center. The two main configurations of shopping centers are malls and strip centers.

### **SIGN**

Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or

identify the purpose of a person or entity, or to communicate information of any kind to the public.

**SIGN, ABANDONED OR OBSOLETE**

A sign which contains structural components but no display or sign copy for a period of 90 consecutive days or longer.

**SIGN, ANIMATED**

Any sign that uses movement or change in lighting to depict action or create a special effect or scene.

**SIGN, AWNING**

A sign attached to or incorporated into an awning.

**SIGN, BANNER**

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

**SIGN, BUILDING**

Any sign attached to any part of a building.

**SIGN, 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.

**SIGN, CANOPY**

Any sign or logo attached to any part of a canopy.

**SIGN, CHANGEABLE COPY**

A sign or portion of a sign designed to accommodate message changes composed of characters, letters, or illustrations that can be changed or rearranged, either manually or electronically, without altering the face or

surface of such sign. A sign whose content changes more than one time per 15 minutes shall be considered an animated sign for the purposes of this Ordinance.

**SIGN, DIRECTORY**

A ground or building sign that list tenants or occupant of a building or project with unit numbers, arrows, or other directional information.

**SIGN, ELECTION**

A sign expressing support for a candidate for public office or a ballot issue but bearing no commercial message.

**SIGN, FLASHING**

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.

**SIGN, GROUND**

Any sign not supported by a building.

**SIGN, HAND-HELD**

Any sign held or supported by a person, including sign spinners.

**SIGN, INCIDENTAL**

A sign, generally information, 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 of the zone lot on which the sign is located shall be considered incidental.

**SIGN, INSTITUTIONAL**

A sign identifying or advertising an institutional use permitted in a residential district, where the sign is located on the same property as the use.

**SIGN, MONUMENT**

A type of sign that is permanently affixed directly to the ground and mounted on a solid base, with no visible gap, void, or open space between the sign and the base, or between the base and the ground. Alternatively, it may be a sign elevated above ground level but supported by posts that are fully concealed from view by a continuous curtain wall or enclosure made of brick or similar material, creating the appearance of a solid base without visible separation.

**SIGN, NONCONFORMING**

Any sign that does not conform to the requirements of this Ordinance.

**SIGN, OBSCENE**

Any sign which contains words, suggestion of, or picture depicting Specified Anatomical Areas or Specified Sexual Activity.

**SIGN, PROJECTING**

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

**SIGN, REAL ESTATE**

A sign advertising property, building, or a portion of a building for sale, lease, or rent.

**SIGN, ROOF**

A sign that is placed above or supported on the top of a building.

**SIGN, SUSPENDED**

A sign that is suspended from the underside of a horizontal plan surface, such as an awning or porch, and is supported by such surface.

**SIGN, TEMPORARY**

Any sign that is used only temporarily and is not permanently mounted including but not limited to hand-held signs.

**SIGN, VEHICLE**

Signs contained in, attached to, suspended from, or painted or displayed on any vehicle or trailer regularly parked within 50 feet of the edge of pavement of any street more than half the business day in order to display, demonstrate, advertise, or attract the attention of the public.

**SIGN, WALL**

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 display only one sign surface.

**SIGN, WINDOW**

Any sign that is placed inside a window or upon the windowpanes or glass and is legible from any public or private street.

**SINGLE OWNERSHIP**

A lot where the owner does not own adjoining vacant property.

**SITE PLAN REVIEW**

The review of a Site Plan and other studies to assist in determining the manner in which the applicant intends to make use of the subject property and to confirm compliance with the standards of this Ordinance.

**SMALL CELLS**

Wireless transmitters and receivers with low radio frequency designed to provide network coverage to smaller focused areas. Small Cells are typically mounted on ground poles or buildings in a manner

that blends into the attached environment.

### **SMALL WIRELESS FACILITY**

A wireless facility with the following:

1. An antenna that can fit within an enclosure of no more than six cubic feet in volume; and
2. Other wireless equipment in addition to the antenna that is cumulatively no more than 28 cubic feet in volume, regardless of whether the facility is ground-mounted or pole-mounted. Other wireless equipment does not include an electric meter, concealment element, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, or a vertical cable run for the connection of power and other services; and
3. Includes a micro wireless facility.

### **SMOKE SHOP**

A retail establishment primarily engaged in the sale of tobacco products, electronic smoking devices (including e-cigarettes, vape pens, and related accessories), and smoking paraphernalia (e.g., pipes, rolling papers). This includes, but is not limited to, businesses commonly known as tobacco stores, vape shops, or retailers of nicotine delivery products, but excludes establishments where such sales are incidental (e.g., convenience stores, grocery stores).

### **SOCIAL CLUB OR LODGE**

A membership organization and its premises that holds regular meetings and caters exclusively to members and their guests for social, intellectual, recreational, or athletic purposes. A Social Club or Lodge may, subject to other regulations controlling such uses, maintain dining facilities, possess a liquor license, or

engage professional entertainment for the enjoyment of dues-paying members and their guests.

### **SPECIFIED ANATOMICAL AREAS**

Include the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola.
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

### **SPECIFIED SEXUAL ACTIVITY**

Includes the following:

1. Human genitals in a state of sexual stimulation or arousal.
2. Acts of human masturbation, sexual intercourse, or sodomy.
3. Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.
4. Flagellation or torture in the context of a sexual relationship.
5. Masochism, erotic, or sexually oriented torture, beating, or the infliction of pain.
6. Erotic touching, fondling, or other such contact with an animal by a human being.
7. Human excretion, urination, menstruation, vaginal, or anal irrigation as part of or in connection with any of the activities set forth above in numbers 1 - 6.

### **STACKING SPACE**

A space specifically designated as a waiting area for vehicles patronizing a drive-through business.

### **STEALTH FACILITY**

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.

### **STEPS AND STOOPS**

An exterior structure typically, but not necessarily, constructed of concrete and/or masonry, with a finished floor elevation higher than the adjacent ground level. A stoop typically has steps leading up to it and is utilized primarily as an access platform to a building. It does not have a roof.

### **STORY**

That portion of a building included between the upper surface of any floor and the upper surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. A basement with less than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground shall count as a story. The floor of a story may have split levels provided that there is not more than a four-foot difference in elevation between the different levels of the floor. A mezzanine floor shall be counted as a story when it covers over one-third of the area of the floor next below it, or if the vertical distance from the floor next below it to the floor next above it is more than 24 feet.

### **STREET**

A permanent public or private right-of-way or easement which is for common use as a means of access of motor vehicles to properties adjoining it.

### **STREET, FRONTAGE**

All of the property fronting on one side of a street between two intersecting streets, or in the case of a dead-end street, all of the property along the side of the street between an intersecting street and the end of such dead-end street.

### **STREET LEVEL**

The story of a building that has its floor at the closest level to the street, with direct pedestrian access to that story from the outside.

### **STRUCTURE**

Anything constructed or erected that requires location on the ground or attached to something having location on the ground.

### **SWIMMING POOL**

A receptacle for water and/or an artificial pool or water of 24 inches in depth, or with a surface area exceeding 250 square feet designated for recreational or fitness use by persons.



### **TELECOMMUNICATIONS FACILITY**

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: any satellite earth station antenna (dish) two meters in diameter or less which is located in an area zoned commercial or industrial; or any satellite earth station antenna (dish) one meter or less in diameter regardless of zoning district.

**TEMPORARY CONTRACTOR TRAILER**

This use includes security trailers, construction equipment sheds, contractor trailers, and similar uses incidental to a construction project and sales of homes within a newly constructed development.

**TEMPORARY USE**

Any use placed on land or in a building for short duration, and which may not conform to the standards required if it were to be in place for an indefinite period of time.

**TENT**

Any temporary structure or enclosure, the roof of which or one-half or more of the sides are constructed of silk, cotton, canvas, fabric, or similar pliable material.

**TERRACE**

A raised impervious surface designed and intended for recreational use by people and not as a parking space. A Terrace shall be distinguished from a Deck in that the raised impervious surface is built upon a solid base, such as an earthen mound.

**THOROUGHFARE**

A thoroughfare, arterial or collector street as designed in the Land Use and Transportation Plan.

**TITLE LOAN AGENCY**

See Payday / Title Loan Agency definition.

**TOWER**

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.

**TRAILER**

Any non-self-propelled, wheeled vehicle, designed for carrying persons or property when drawn by a motor vehicle.

**TRANSITION YARD**

Land area with landscape plantings and other components used to visibly separate one use from another, or to shield or block noise, lights, or other nuisances.

**TRELLIS**

A freestanding structure used in the garden to support vines or climbing plants; also called an Arbor.



**USE**

The purpose or activity for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

**USE AND OCCUPANCY PERMIT**

A permit for the use and/or occupancy of a structure or portion of a structure after it is constructed, reconstructed, remodeled or moved, indicated that the proposed occupancy or use complies with all the provisions of the Zoning Ordinance.

**USE, CHANGE OF**

The replacement of an existing Use on a lot or parcel, or any portion thereof, by a new permitted Use type that is within a different Use Classification, but does not include a change of ownership, tenancy, or management associated with the existing Use.

**USE CLASSIFICATION**

A system of classifying Uses into a limited number of use types on the basis of common functional, product, or compatibility characteristics. All Uses types are grouped into the following Use Classifications: Residential, Government & Educational, Religious, Entertainment,

Office, Retail, Service, Heavy Retail & Service, Industrial, and Other.

**USE, PRINCIPAL**

The dominant use of land or a structure as distinguished from an Accessory Use.



**VACATION RENTAL**

A dwelling unit or other structure rented and/or used exclusively by a person or group of persons for lodging for terms of less than 30 days. Rented means any form of monetary or non-monetary consideration. A Vacation Rental is also a Short-Term Rental.

**VEHICLE USE AREA**

Any area of a lot or parcel not located within any enclosed structure and that is devoted to a use by or for motor vehicles, including parking, drive and access aisles, storage (including storage of marine craft), loading and service areas, and areas under fuel station canopies.

**VISION CLEARANCE TRIANGLE**

An unobstructed area at road or driveway intersections, defined by measured distances along each approach, ensuring clear sightlines for safety.



**WALL**

An upright structure of building material, such as masonry or plaster, serving to enclose, divide or protect an area.

**WAREHOUSE/DISTRIBUTION**

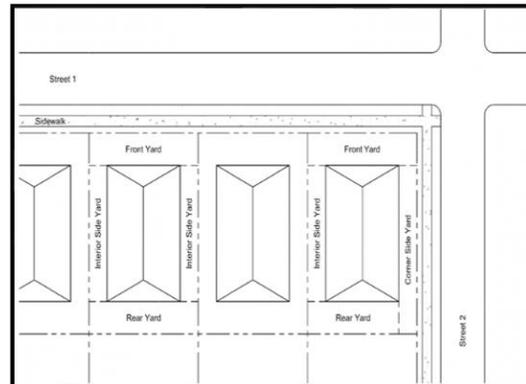
The storage, wholesale, and/or distribution of manufactured products, supplies, equipment, and other items.



**YARD, FRONT**

A yard extending the full width of the lot between side lot lines for the required minimum depth, as specified by the zoning district in which such lot is located, measured perpendicular to the front lot line. (See Figure 15: Yards).

FIGURE 11: YARDS



**YARD, INTERIOR SIDE**

A side yard that does not abut a street right-of-way. (See Figure 15: Yards).

**YARD, NON-REQUIRED**

The yard between the required yard and the principal building.

**YARD, REAR**

A yard extending between the side lot lines for the required minimum depth, as specified by the zoning district in which such lot is located, measured perpendicular to the rear lot line. (See Figure 15: Yards). In the case of an irregular or triangular shaped lot, the rear lot line shall be deemed to be a line 10 feet in length, within the lot, which is

parallel to and at a maximum distance from the front lot line. See Figure 13: Rear Lot Line Chord for Irregular Lots).

**YARD, REQUIRED**

A required open space on a lot that is unoccupied and unobstructed from its lowest level to the sky, except for obstructions specifically permitted by this Ordinance. A yard extends along a lot line for a depth specified by the zoning district in which such lot is located. (See Figure 15: Yards).

**YARD, SIDE**

A yard extending along a side lot line between the front and rear yard, for the required minimum depth, as specified for the district in which such lot is located, measured perpendicular to the side lot line. (See Figure 15: Yards).

**YARD, SIDE STREET**

A side yard on a corner lot that abuts a public street. (See Figure 15: Yards).



**ZONING AMENDMENT, TEXT**

A change in the wording, context, or substance of this Zoning Ordinance.

**ZONING AMENDMENT, MAP**

A change in the zone boundaries or area district boundaries upon the [Zoning Map](#).

**ZONING APPEAL**

A request for a review of the Planning Department’s interpretation of any provision of this Ordinance.

**ZONING DISTRICTS**

The districts into which the City of Hendersonville, Tennessee, has been

divided as set forth on the official [Zoning Map](#).

**ZONING INTERPRETATION**

An interpretation of the specific provisions of the Ordinance by the Planning Department in light of the general circumstances that the specific provision was intended to address.

**ZONING MAP**

A map entitled the official [Zoning Map](#) of Hendersonville, Tennessee, which is incorporated into this Ordinance, as part thereof, for the purpose of designating zoning districts.

**ZONING PERMIT**

A permit required by this Ordinance, issued by the Planning Department, and which is intended to signify compliance with this Ordinance.

**ZONING VARIANCE**

A decision of the Board of Zoning Appeals that permits an applicant to depart from the precise regulations of this Ordinance. A variance may be granted only in the specific instances authorized in this Ordinance and only in accordance with the standards of this Ordinance.

**ZONING VERIFICATION**

A zoning certificate verifying that one or more buildings, structures, or uses are consistent with the terms of this Zoning Ordinance for the purpose of carrying out and enforcing its provisions.



# APPENDICES

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- APPENDIX A | ANNEXATION, REZONING / PRELIMINARY DEVELOPMENT PLAN, FINAL DEVELOPMENT PLAN, SUBDIVISION REVIEW, AND SITE PLAN REVIEW PROCESS
- APPENDIX B | SUBDIVISION AND SITE PLAN LETTER OF CREDIT INSTRUCTIONS AND TEMPLATE
- APPENDIX C | *\*OPEN FOR FUTURE USE\**
- APPENDIX D | LANDSCAPE STANDARDS
- APPENDIX E | CONSENT FOR PROPERTY USE FOR MOBILE VENDOR
- APPENDIX F | AFFIDAVIT OF PUBLIC NOTICE



**APPENDIX A | ANNEXATION, REZONING / PRELIMINARY  
DEVELOPMENT PLAN, FINAL DEVELOPMENT PLAN,  
SUBDIVISION REVIEW, AND SITE PLAN REVIEW PROCESS**

**ANNEXATION PROCESS**

1	<b>Submit Letter Requesting Annexation</b>	
2	<b>Prepare Annexation Report, Resolution &amp; Plan of Services</b>	Send letter to School Board and Property Assessor 30 days prior to HPC Public Hearing.
3	<b>Submit Plan of Services to Planning Commission for Review &amp; Recommendation</b>	<b>Planning Commission meets on the 1st Tuesday of every month at 6:30 p.m.</b> Recommendation must be rendered within 90 days.
4	<b>Adopt Resolution to Call for Public Hearing on the Proposed Annexation</b>	Post the Resolution/Plan of Services in three (3) public places on the property to be annexed and in three (3) public places within the City (City Hall, Library, Fire Admin., etc.).
5	<b>Publish Public Hearing Notices</b>	Notice must indicate <b>time, place, and purpose</b> of the Public Hearing and <b>where the proposed Plan of Services is available to view</b> and a reference map of the area to be annexed will be provided. Publication requirements may be combined, provided both are published a minimum of 21 days in advance of the Public Hearing.
6	<b>Letter to Sumner County Planning &amp; Zoning Director (Optional)</b>	
9	<b>Mail Public Hearing Notice, Resolution &amp; Plan of Services</b>	Notice must indicate <b>time, place, and purpose</b> of the Public Hearing and <b>where the proposed Plan of Services is available to view</b> and a reference map of the area to be annexed will be provided. Publication requirements may be combined, provided both are published a minimum of 21 days in advance of the Public Hearing.
11	<b>Conduct Public Hearing</b>	A Public Hearing will be held at Planning Commission and BOMA for the Plan of Services. A Public Hearing will be held at BOMA for the Annexation.
12	<b>Adopt Resolution of Annexation</b>	The territory is immediately annexed upon adoption.
13	<b>Misc. Letters</b>	Send the adopted Resolution and Plan of Services to the following individuals: County Executive, County Elections Commission, County Tax Assessor, Office of Local Government - TN Comptroller, Sumner E911, and Hendersonville Tax Office  "Welcome Letter" to newly-annexed property owner(s).
14	<b>Record Resolution with Sumner County Register of Deeds</b>	Per TCA 6-51-121.
15	<b>Commence the Process of Satisfying Plan of Services</b>	

**NOTE:**  
If any discrepancy between this Flow Chart and State Law, State regulations shall rule.

**REZONING / PRELIMINARY DEVELOPMENT PLAN PROCESS**

<b>10-14 Weeks</b>	1	<b>Submit Preliminary Development Plan &amp; Application</b>		<b>4-6 Weeks</b>
	2	<b>Advertise for Planning Commission Public Hearing</b>	Must be 15 days in advance of the Planning Commission Meeting.	
	3	<b>HRPC Meeting &amp; Public Hearing</b>	<b>Planning Commission meets on the 1st Tuesday of every month at 6:30 p.m.</b> They can vote to recommend approval, denial, or deferral with Staff Comments.	
	4	<b>Prepare Ordinance</b>	The Ordinance is distributed by the following Friday to the BOMA General Committee along with Planning Staff summary memo, report, and copy of plans.	<b>6-8 Weeks</b>
	5	<b>BOMA General Committee Meeting</b>	<b>The BOMA General Committee meets on the 2nd Tuesday of every month at 6:30 p.m.</b> They can vote to recommend approval, denial, defer, or send on without a recommendation.	
	6	<b>BOMA Meeting (1st of 2 Required Readings)</b>	<b>The BOMA Meeting is on the 4th Tuesday of every month at 7:00 p.m.</b> BOMA can approve, deny, or defer. Planning Staff may give oral report and provide Staff summary memo, report from BOMA General Committee and copy of plans.	
	7	<b>Advertise for BOMA Public Hearing</b>	Must be 21 days in advance of the BOMA Meeting.	
	8	<b>BOMA Meeting (Public Hearing &amp; 2nd of 2 Required Readings)</b>	Public Hearing is held at the beginning of the Meeting (the Public and the Developer may speak). The 2nd Reading is later in the meeting (the Developer may speak).	
	9	<b>Mayor &amp; City Clerk Sign Ordinance</b>	<b>After Staff updates the official zoning map,</b> this concludes the process for a regular zoning map amendment (rezoning). For a rezoning to a Planned Development, proceed with Final Development process, as outlined in Chapter 8.8.4.	

**NOTE:**  
 If any discrepancy between this Flow Chart and the Subdivision Regulations, the Subdivision Regulations shall rule. Estimated time frames are based on an optimal flow and assuming approvals – actual timetables may be longer, depending on Project.

FINAL DEVELOPMENT PLAN PROCESS			
10-14 Weeks	1	Submit Final Development Plan & Application	
	2	Planning Commission Meeting	Planning Commission meets on the 1st Tuesday of every month at 6:30 p.m. They can vote to recommend approval, denial, or deferral with Staff Comments.
	3	Prepare Resolution	The Resolutions is distributed by the following Friday to the BOMA General Committee, along with Planning Staff summary memo, reports, and copy of plans.
	4	BOMA General Committee Meeting	The BOMA General Committee meets on the 2nd Tuesday of every month at 6:30 p.m. They can vote to recommend approval, denial, defer, or send on without a recommendation.
	5	BOMA Meeting (1 Reading Recorded)	The BOMA Meeting is on the 4th Tuesday of every month at 7:00 p.m. BOMA can approve, deny, or defer. Planning Staff may give oral report and provide Staff summary memo, report from BOMA General Committee and copy of plans.
	6	Revise Final Development Plan	Revisions should be made based on Staff Comments and/or BOMA Conditions of Approval. After revisions are approved, Applicant may proceed with the Subdivision Review or Site Plan processes.
			4-6 Weeks
			6-8 Weeks

**NOTE:**  
 If any discrepancy between this Flow Chart and the Subdivision Regulations, the Subdivision Regulations shall rule. Estimated time frames are based on an optimal flow and assuming approvals – actual timetables may be longer, depending on Project.

SITE PLAN REVIEW PROCESS				
	1	<b>Submit Site Plan for HPC Approval</b>	If a plat was required as part of the approval process, it must be recorded <b>before</b> the Building Permit is issued.	<b>Review/Approval</b>
	2	<b>Submit Corrected Sets (PDF &amp; DWG) to the Planning Department</b>	Plans should include all sheets that were in the original sets previously submitted to the Planning Department. They must comply with all staff comments and other conditions of approval that were made at the Planning Commission meeting. <b>All revisions must be clouded. All plan sheets must be stamped and sealed by the appropriate professional.</b>	
	5	<b>Apply for Building Permit with the Codes Department</b>	Building Permit approval requires sign-offs from these departments: Building, Plumbing, Mechanical, Electrical, Fire, Engineering, and Planning.  Please allow at least five (5) working days for building plan review. Review may take longer subject to workload. * Tree protection fencing must be installed prior to issuance of Building Permit*	<b>Construction</b>
	7	<b>Apply for Use and Occupancy Permit with the Planning Department</b>	Once construction is complete or nearly complete, apply for a Use and Occupancy Permit. A building or site may not be occupied by the public or used for business without a valid U&O Permit. Once all departments have completed their inspections and paperwork, you must come by the Planning office and pick up your U&O Permit. <b>A fee is required.</b>	
	8	<b>Submit Surety for Remaining Improvements</b>	If a Temporary U&O is needed, a letter of credit or cashier's check must be posted as a surety for all outstanding improvements. A letter of credit template may be obtained from the Planning Department. <b>A Final U&amp;O Permit may be issued when checklist has been completed.</b>	
	9	<b>Apply for Business License with the Finance Department</b>		<b>Acceptance</b>

**NOTE:**

If any discrepancy between this Flow Chart and the Subdivision Regulations, the Subdivision Regulations shall rule. Estimated time frames are based on an optimal flow and assuming approvals – actual timetables may be longer, depending on Project.

# APPENDIX B | SITE PLAN LETTER OF CREDIT INSTRUCTIONS AND TEMPLATE

## LETTER OF CREDIT INSTRUCTIONS

1. The Letter of Credit format must follow the template found on the City of Hendersonville website at LOC or [www.hvilletn.org](http://www.hvilletn.org) – Departments – Planning – [Letter of Credit](#). Use either the LOC of Site Plan.
2. The Planning Commission Approval date will need to be incorporated on the first page.
3. On the first page, this exact verbiage must be included:

*This Letter of Credit is valid for an initial period of one year and shall be automatically renewed for successive periods of one year without any effort on the part of the City. We reserve the right to revoke this Letter of Credit, but only after providing the Beneficiary with 90-days notice by certified mail, return receipt requested.*

4. The second page of the Letter of Credit is where the City often finds discrepancies. The intention of the verbiage is to either 1) have the Letter of Credit taken to a local bank, or 2) in the event of a larger corporation, provide the option for the City to take the originals to a local bank to call the LOC, and have the corporate office accept it via fax or email from the local branch. Therefore, the Letter of Credit will either need to state:
  - A. We hereby engage with you that all drafts drawn under and in compliance with the Terms of this Credit will be duly honored if drawn and presented for payment on or before the expiration date of this Credit at [FILL IN THE NAME AND ADDRESS OF THE LOCAL BRANCH WITHIN 75 MILES OF CITY HALL, HENDERSONVILLE, TN. The bank shall wire the funds to the City's account within two business days.  
**OR**
  - B. (To be used when the corporate office is not local & alternate method is necessary). The local branch bank shall simultaneously submit the Certificate of Default and Draft by facsimile or email to EMAIL OR FAX NUMBER OF THE RESPONSIBLE PARTY AT THE CORPORATE OFFICE. The City may elect to submit the Certificate of Default and Draft directly to the Bank at the above stated facsimile number or email address. The bank shall wire the funds to the City's account within two business days.

(MUST BE ON ORIGINAL BANK LETTER HEAD)  
IRREVOCABLE STANDBY **SITE PLAN** LETTER OF CREDIT NO. #

DATE:

IN FAVOR OF (BENEFICIARY):

City of Hendersonville  
Attn: Planning Department  
101 Maple Drive North  
Hendersonville, TN 37075

FOR ACCOUNT OF (APPLICANT):

AMOUNT:

NAME OF DEVELOPMENT:

We hereby establish our Irrevocable Standby Letter of Credit (hereinafter "Credit") in your favor available by your draft(s) drawn at SIGHT on (Name of Bank) and accompanied by the documents specified below:

1. Certificate of default, signed by the Chairman of the Hendersonville Planning Commission or the Mayor of the City of Hendersonville, certifying that: The applicant has not completed, in accordance with the Hendersonville Zoning Ordinance, the building and site improvements required by said Zoning Ordinance and the approved Site Plan for (name of business or project) approved by Hendersonville Planning Commission on (date approved), which approval was conditioned upon the completion of the said improvements. The certificate shall also state the approximate dollar amount of damage to the City which amount shall be identical to the face amount of the accompanying draft
2. Original Letter of Credit and Amendments if any.

This Letter of Credit is valid for an initial period of one year and shall be automatically renewed for successive periods of one year without any effort on the part of the City. We reserve the right to revoke this Letter of Credit, but only after providing the Beneficiary with 90-days notice by certified mail, return receipt requested.

PAGE ONE OF TWO (CONT. ON PAGE TWO)

PAGE TWO OF TWO OF IRREVOCABLE STANDBY LETTER OF CREDIT  
NO.# \_\_\_\_\_

All drafts must be marked: "Drawn under (Name and Address of Bank). Credit  
No.# \_\_\_\_\_."

Except so far as otherwise expressly stated this Credit is subject to the International Standby  
Practices/ISP98, International Chamber of Commerce Publication No. 590 or ICC  
Publication No. 600.

We hereby engage with you that all drafts drawn under and in compliance with the terms of  
this Credit will be duly honored if drawn and presented for payment on or before the  
expiration date of this Credit at **(name and address of local branch bank – must be within  
75 miles of City Hall, Hendersonville, TN).**

{OR: Include the following language if the alternative method of payment described therein  
is chosen by the Bank}.

The local branch bank shall simultaneously submit the Certificate of Default and Draft by  
facsimile or e-mail to **(Bank's Letter of Credit Department facsimile number or e-mail  
address)**. The City may elect to submit the Certificate of Default and Draft directly to the  
Bank at the above stated facsimile number or e-mail address. The bank shall wire the funds  
to the City's account within two business days.

\_\_\_\_\_  
Signed by Officer of Bank

\_\_\_\_\_  
Print Name and Title

**APPENDIX C | OPEN FOR FUTURE USE**

## APPENDIX D | LANDSCAPE STANDARDS

AD.1 | IRRIGATION

AD.2 | RECOMMENDED PLANT MATERIALS

AD.3 | TREE SELECTION SPECIFICATIONS

AD.4 | TREE PLANTING SPECIFICATIONS

AD.5 | PLANTING DETAILS

### AD.1 IRRIGATION

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With the initial Site Plan submittal, a schematic irrigation plan shall be provided which shows the information indicated below:

1. Plans shall be drawn to scale and shall show all existing and proposed physical features and boundaries of areas to be watered.
2. All areas of coverage shall be indicated.
3. Turf, shrub beds, and trees shall be zoned separately.
4. Indicate the type of irrigation (e.g., rotor, spray, drip, etc.) used in each zone.
5. Indicate the point-of-connection.
6. Plan shall be stamped by an IA Certified Irrigation Designer or a registered Landscape Architect.
7. The following note shall be added to the plan: "A detailed irrigation plan complying with all requirements of the Hendersonville Zoning Ordinance shall be submitted to the City for approval prior to an application for Building Permit."

Prior to application for a building permit, detailed irrigation plans shall be submitted which show the information indicated above, as well as:

1. Indicate piping routes, sizes, classes, and sleeves.
2. Piping shall be installed at a minimum depth of 12 inches.
3. Indicate valve locations, flow and size.
4. Indicate head locations, types and spray patterns. Precipitation rates shall be matched within a zone.

5. Indicate design pressure.
6. Ensure 100% head-to-head coverage at all times and don't exceed spacing of a nozzle's range.
7. System shall be zoned so as to not exceed the pressure and volume available at the water meter.
8. Zone valves should be located at middle portion on zone and center feed whenever possible.
9. Overspray of paved areas and structures shall be avoided.
10. A rain/freeze sensor shall be installed and located where it can receive direct rainfall.
11. Check valves and pressure regulators shall be employed to control low-head drainage and high pressure.
12. Controller type and location shall be indicated.
13. A backflow preventer shall be installed downstream of the meter and shall have an approved cover.
14. Indicate meter size and location.
15. Plan shall be stamped by an IA Certified Irrigation Designer or a registered Landscape Architect.

As an alternative to submitting a detailed irrigation plan for approval, the developer or contractor may choose to conduct a post-construction field performance audit, using the Irrigation Association's Certified Landscape Irrigation Program. The irrigation system shall meet all performance criteria listed above. The audit shall check the performance of the system for conformance with state and local requirements including meeting standards for the minimum precipitation rate and lower requirement including meeting standards for the minimum precipitation rate and lower quarter distribution uniformity (DU<sub>LQ</sub>) (and where possible, emission uniformity for drip/micro-irrigation systems). In addition, the audit shall also verify the installation of specified water management devices such as a rain shutoff device. Audits shall be performed by an IA Certified Irrigation Auditor.

## **AD.2 RECOMMENDED PLANT MATERIALS**

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The following plants are recommended for use in projects submitted to the City. Plants not on this list will be evaluated on a case-by-case basis by the City's landscape architect.

The use of certain cultivars or varieties within a species may be required where needed to obtain a particular growth characteristic. For instance, *Acer rubrum* may be inappropriate to use near powerlines, while *Acer rubrum* 'Armstrong' may fit the available space.

### CANOPY TREES

<i>Acer rubrum</i> – Red Maple	<i>Quercus acutissima</i> – Sawtooth Oak
<i>Acer saccharum</i> – Sugar Maple	<i>Quercus alba</i> – White Oak
<i>Betula nigra</i> – River Birch	<i>Quercus coccinea</i> – Scarlet Oak
<i>Carpinus betulus</i> – European Hornbeam	<i>Quercus falcata</i> – Southern Red Oak
<i>Carpinus caroliniana</i> – American Hornbeam	<i>Quercus imbricaria</i> – Shingle Oak
<i>Cercidiphyllum japonicum</i> – Katsuratree	<i>Quercus lyrata</i> – Overcup oak
<i>Cladrastis kentukea</i> – Yellowwood	<i>Quercus palustris</i> – Pin oak
<i>Diospyros virginiana</i> – Persimmon	<i>Quercus phellos</i> – Willow oak
<i>Ginkgo biloba</i> – Ginkgo	<i>Quercus prinus</i> – Chestnut oak
<i>Liriodendron tulipifera</i> – Tulip Poplar	<i>Quercus rubra</i> – Red oak
<i>Liquidambar styraciflua</i> 'Rotundiloba' – Sweetgum	<i>Quercus shubardii</i> – Shumard Oak
<i>Metasequoia glyptostroboides</i> – Dawn Redwood	<i>Tilia Americana</i> – American Linden
<i>Nyssa sylvatica</i> – Black Gum	<i>Tilia cordata</i> – Littleleaf Linden
<i>Pistacia chinensis</i> – Chinese Pistache	<i>Taxodium distichum</i> – baldcypress
	<i>Ulmus parvifolia</i> – Lacebark Elm
	<i>Zelkova serrata</i> – Zelkova

### ORNAMENTAL/UNDERSTORY TREES

<i>Acer buergerianum</i> – Trident Maple	<i>Magnolia stellata</i> – Star magnolia
<i>Acer griseum</i> – Paper Bark Maple	<i>Magnolia virginiana</i> – Sweetbay Magnolia
<i>Aesculus pavia</i> – Red Buckeye	<i>Malus</i> cultivars, disease resistant only, e.g. 'Adirondack', 'Callaway', 'Centennial', 'Donald Wyman', 'Prairiefire', 'Sugar Tyme'
<i>Amelanchier arborea</i> – Serviceberry	<i>Ostrya virginiana</i> – American Hophornbeam
<i>Cercis Canadensis</i> – Redbud	<i>Oxydendrum arboretum</i> – Sourwood
<i>Chionanthus virginicus</i> – Fringe tree	<i>Pinus thunbergia</i> – black pine
<i>Cornus florida</i> – Flowering Dogwood (anthracnose resistant cultivars)	<i>Prunus campanulata</i> – Okame Cherry
<i>Cornus kousa</i> – Kousa Dogwood	<i>Prunus subhirtella</i> var. <i>autumnalis</i> – Autumn Flowering Cherry
<i>Cornus mas</i> – Corneliancherry Dogwood	<i>Prunus yedoensis</i> – Yoshino cherry
<i>Crataegus viridis</i> 'Winter King' – Winter King Hawthorn	<i>Styrax japonica</i> – Japanese Snowball
<i>Franklinia alatamaha</i> – Franklin tree	<i>Syringa reticulata</i> – Lilac Tree
<i>Koelreuteria paniculata</i> – Golden Raintree	
<i>Lagerstroemia indica</i> – Crepe Myrtle	
<i>Magnolia x soulangiana</i> – Saucer magnolia	

### **BUFFER TREES**

Cedrus atlantica – Atlas cedar  
Cedrus deodara – Deodar Cedar  
Cryptomeria japonica – Cryptomeria  
Ilex attenuate ‘Fosteri’ – Foster holly  
Ilex x ‘Nellie R. Stevens’ – Nellie R.  
Stevens holly  
Ilex opaca – American Holly  
Juniperus virginiana – Eastern Red Cedar  
Magnolia grandiflora – Southern Magnolia  
Magnolia virginiana – Sweetbay Magnolia  
Picea abies – Norway Spruce

Pinus nigra – Austrian Pine  
Pinus sylvestris – Scots Pine  
Pinus taeda – Loblolly Pine  
Pinus thunbergii – Black Pine  
Pinus virginiana – Virginia pine  
Prunus caroliniana – Carolina Cherry  
Laurel  
Thuja occidentalis – Arborvitae  
Tsuga canadensis – Canadian Hemlock  
Tsuga caroliniana – Hemlock

### **BUFFER SHRUBS**

Eleagnus pungens – Fragrant olive  
Ilex aquifolium – English holly  
Ilex cornuta ‘Burfordii’ – Burford holly  
Ilex cornuta ‘Nellie R. Stevens’ – Nellie R.  
Stevens holly  
Ilex crenata – Japanese Holly

Prunus caroliniana – cherry laurel  
Prunus laurocerasis – English laurel  
Viburnum rhytidophyllum – leatherleaf  
viburnum  
Viburnum ‘Pragense’ – Prague viburnum

### **SUPPLEMENTAL BUFFER SHRUBS**

(These should be used in conjunction with buffer shrubs above:)

Aesculus parviflora – Bottlebrush Buckeye  
Aesculus pavia – Red Buckeye  
Aronia arbutifolia – Red chokeberry  
Forsythia x intermedia – Flowering  
forsythia  
Ilex verticillata – Winterberry

Viburnum dentatum – Arrowwood  
viburnum  
Hamamelis virginiana – Common  
witchhazel  
Hamamelis x intermedia

## **AD.3 TREE SELECTION SPECIFICATIONS**

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**AD.3.1** | Plants shall be so trained in development and appearance as to be unquestionable superior in form, compactness, and symmetry. They shall be sound, healthy, vigorous, well branched and densely foliated when in leaf, and free of disease and insect adult eggs, pupae, or larvae. They shall have healthy, well-developed root systems and shall be free from physical damage or other conditions that would prevent thriving growth.

**AD.3.2** | There shall be no circling or girdling roots. Circling roots should be cut in at least one (1) place.

**AD.3.3** | Trees should be rooted into the root-ball so that soil or media remains intact and trunk and root-ball move as one when lifted, but not root bound. The trunk should bend when gently pushed and should not be loose, so it pivots at or below soil line.

**AD.3.4** | The point where the top-most root in the root-ball emerges from the trunk shall be within two inches of the soil surface. It can be exposed and visible at the soil surface. If it is not within the top two inches of soil, gently remove the top layer of soil from the root-ball until the first major root flare is visible.

**AD.3.5** | The relationship between caliper, height, and root-ball size shall meet the ANSI Z60.1 standard, latest edition.

**AD.3.6** | There should be one dominant leader to the top of the tree with the largest branches spaced at least six inches apart. There can be two leaders in the top 10% of the tree if it is otherwise of good quality.

**AD.3.7** | The tree canopy should be symmetrical and free of large voids. Clear trunk should be no more than 40% of tree height unless otherwise specified in the planting specifications. Clear trunk shall be of sufficient height to clear surrounding uses that may be impacted by the future growth of the tree.

**AD.3.8** | Open trunk and branch wounds shall be less than 10% of the circumference at the wound and no more than two percent inches tall. Properly made pruning cuts are not considered open trunk wounds. There should be no conks or bleeding, and there should be no signs of insects or disease on more than five percent of the tree.

**AD.3.9** | If any of the above conditions are not met, trees may be rejected.

## **AD.4 TREE PLANTING SPECIFICATIONS**

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**AD.4.1** | The depth of the hole dug should be about 10% less than the distance from the top-most root (measured where it joins the trunk) to the bottom of the rootball. The width of the hole shall be at least two times the width of the root-ball.

**AD.4.2** | Cut away burlap and wiring so that at least one-third of the root-ball is exposed. Synthetic burlap shall be removed entirely. All twine and rope shall be removed from the base of the tree and from any branches.

**AD.4.3** | After planting, the topmost root shall be no more than two inches below the soil surface. Additional soil should be removed. The surrounding grade should be even with or slightly lower than the top root.

*Please note: some trees will arrive from the nursery with too much soil covering the first major root flare. This soil should be removed. The resulting soil line should be even with or above the surrounding grade.*

**AD.4.4** | Three inches of mulch shall be applied to cover the sides of the root-ball to a point even with the dripline. Do not add any soil to the top of the root-ball. Do not add any more than one inch of mulch to the top of the root-ball.

**AD.4.5** | In poorly drained soil, position the top of the root-ball 10% or more above the surrounding grade. No more than 20% of the root-ball should be above the surrounding grade.

## AD.5 PLANTING DETAILS

Illustration 1: TREE PLANTING DETAIL

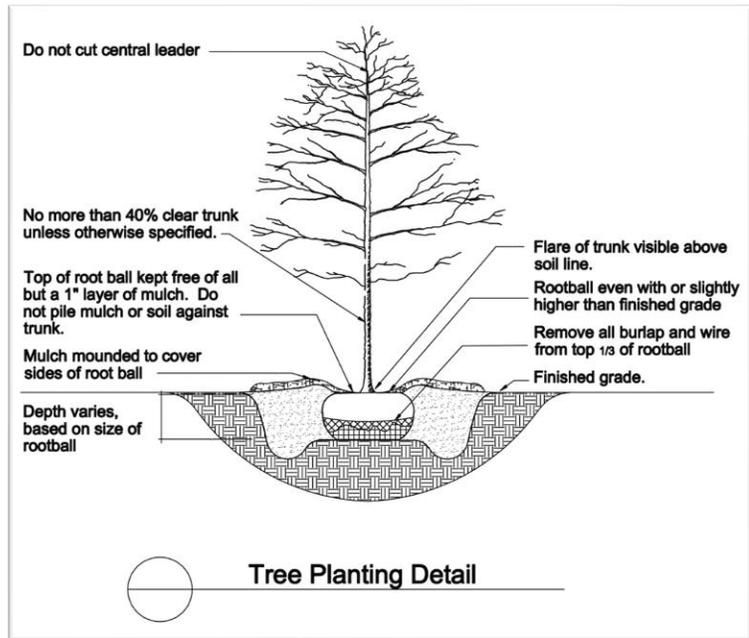


Illustration 2: TREE PLANTING DETAIL FOR PARKING LOT ISLAND OR MEDIAN

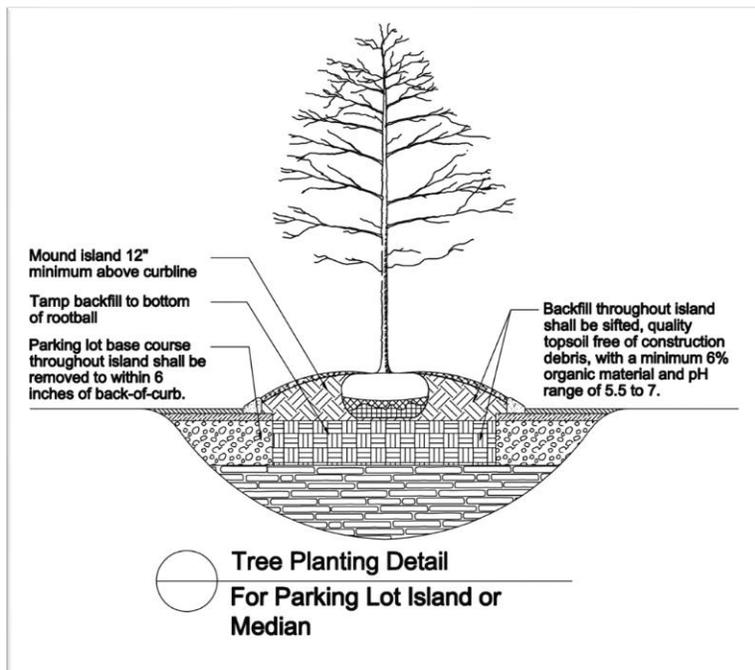


Illustration 3: TREE STAKING DETAIL

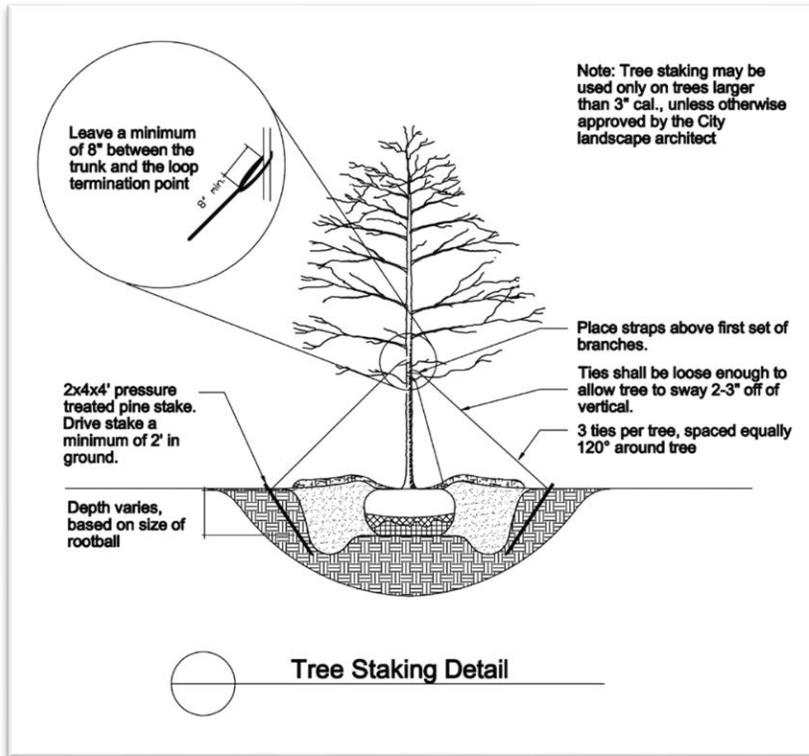
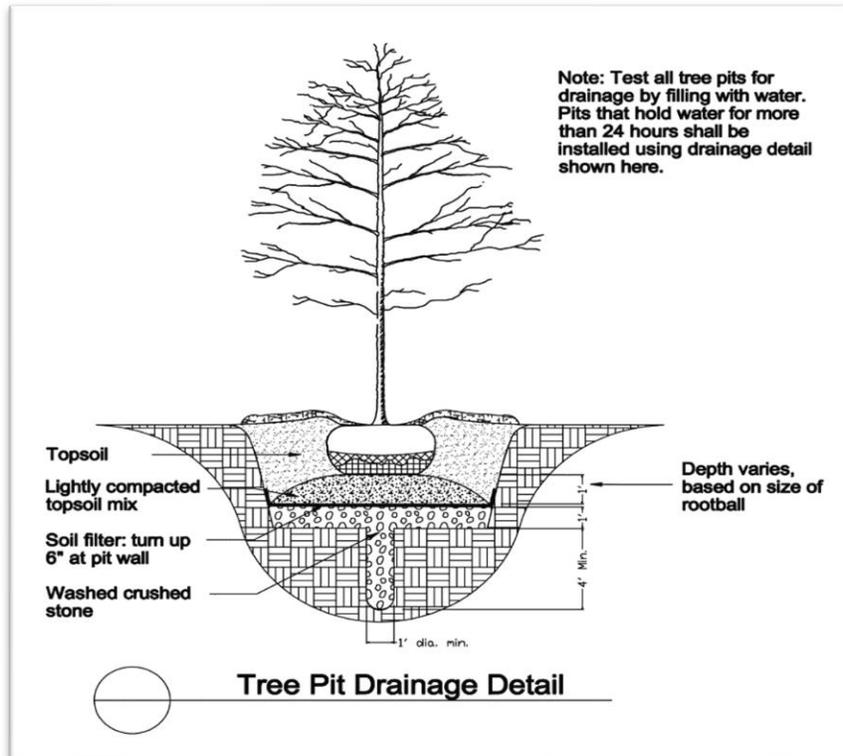
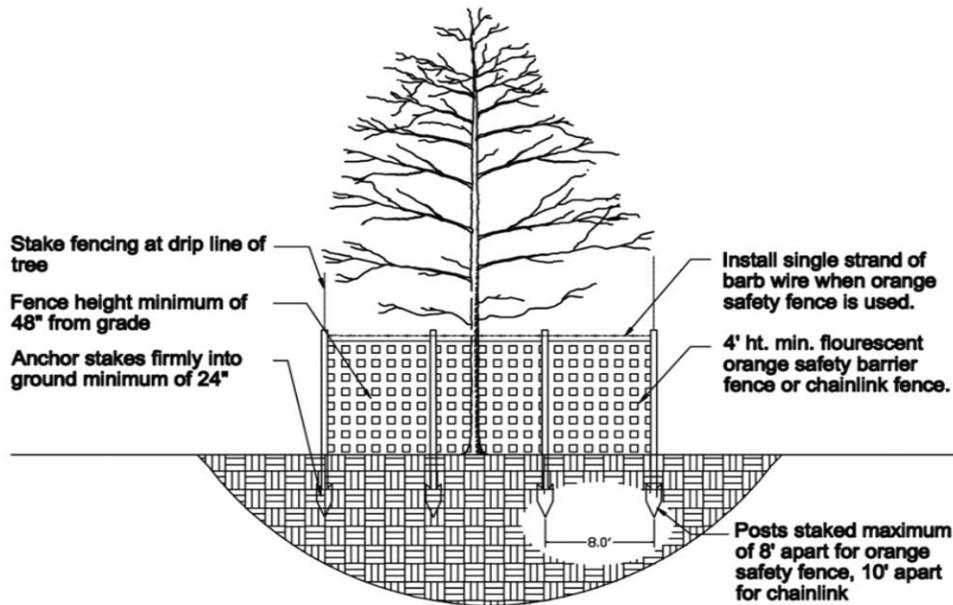
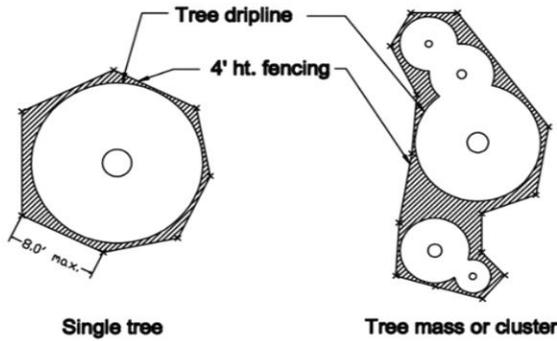


Illustration 4: TREE PIT DRAINAGE DETAIL

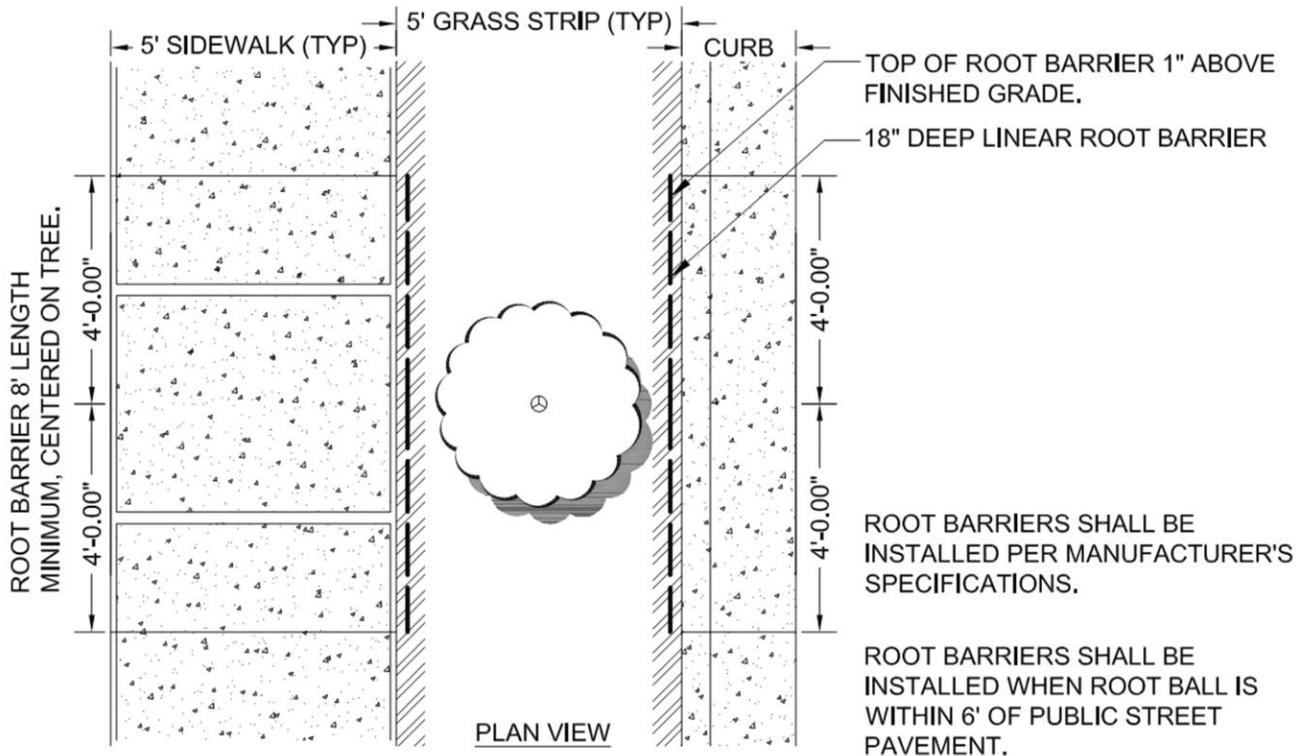


**Tree Protection Fencing Notes**

1. Tree protection fence shall be minimum of 4' tall and constructed of orange safety fabric or chainlink. Fence shall be mounted on vertical pipes driven 2' in the ground, at a maximum of 8' on center for safety fence or 10' for chainlink.
2. Tree protection fencing shall be erected at the dripline of the tree or 12' from the trunk, whichever is greater. Fence shall be installed prior to the start of any clearing, grading or other construction activity.



 **Tree Protection Fencing Detail**



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ROOT BARRIER DETAIL

**APPENDIX E | CONSENT FOR PROPERTY USE FOR MOBILE  
VENDOR TEMPLATE**

**CONSENT FOR PROPERTY USE FOR MOBILE VENDOR**

I, \_\_\_\_\_, give permission as the owner of property at  
(Property Owner)

\_\_\_\_\_, Hendersonville, TN, to allow \_\_\_\_\_  
(Property Address) (Business  
Owner)

to utilize my property for mobile vendor purposes, also known as the

\_\_\_\_\_. This permission is contingent on the acknowledgement of the  
(Business Name)  
City of Hendersonville restrictions on mobile vendors as stated in the Hendersonville

Zoning Ordinance Chapter 10.6.3.6, attached. The undersigned does further  
agree to comply with these restrictions at all times in regard to the property at

\_\_\_\_\_, Hendersonville, TN.  
(Property Address)

\_\_\_\_\_  
Property Owner's Signature

\_\_\_\_\_  
Business Owner's Signature

State of Tennessee  
County of \_\_\_\_\_

On this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared  
\_\_\_\_\_,  
to me known to be the persons described in and who executed the foregoing instrument,  
and acknowledged that they executed the same as their free act and deed.

\_\_\_\_\_  
Notary Signature (SEAL)  
Notary Public  
State of Tennessee

My Commission Expires: \_\_\_\_\_

**APPENDIX F | AFFIDAVIT OF PUBLIC NOTICE**

**AFFIDAVIT OF PUBLIC NOTICE**

\_\_\_\_\_ of \_\_\_\_\_, 20\_\_.

**PROJECT NAME:** \_\_\_\_\_

I certify that all required public notice for the above-referenced project have been appropriately advertised via mail, newspaper, and/or signage, per the City of Hendersonville Zoning Ordinance, Chapter 3.3. A copy of the completed public hearing record is attached.

\_\_\_\_\_  
Keith L. Free, MPA, AICP  
Planning Director, City of Hendersonville, Tennessee

**STATE OF TENNESSEE  
COUNTY OF SUMNER**

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, Keith Free, Planning Director of the City of Hendersonville, Tennessee, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who acknowledged that he executed the within instrument for the purpose therein contained.

Witness my hand and official seal at Hendersonville, Tennessee, this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

## APPENDIX G | RECORDS OF AMENDMENTS

\*Per [Chapter 2.6.1.5](#) – all corrections shall be logged in a publicly accessible amendment register maintained by the Planning Department.

\*Corrections made on 02/04/2026:\*

1. 8.6 – Residential Planned Developments – Table 9:

Reinserted the Townhouse Residential (THR) zoning district into the Planned Development table. This update corrects an inadvertent omission from a previous draft and clarifies that THR remains a permissible zone within Planned Developments.

2. 10.4.1.4.C.1. Corner Lots

To clarify side-yard setback requirements for accessory buildings on corner lots. The revision distinguishes between the interior and street-side property lines, permitting an encroachment of up to five feet only on the interior side.

3. 10.5.1 – Permitted Encroachments into Required Yards

To resolve internal cross-reference errors within the Development Code. This administrative update corrects numerical citations for several subsections—including fences, mechanical equipment, animals, porches, retaining walls, satellite dish antennas, and swimming pools—ensuring the code remains accurate and easy for the public to navigate.