CITY OF HENDERSONVILLE

ZONING ORDINANCE

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ARTICLE I
AUTHORITY AND ENACTMENT

The City Council of the City of Hendersonville, State of North Carolina (NC), in pursuance of the authority granted by the North Carolina General Statutes (NCGS), Article 19, Chapters 160A-381 through 160A-393, hereby ordain and enact into law the following Articles and Sections.

Conflict of Laws. Except as expressly provided or clearly implied, these Articles and Sections are not intended to modify, supersede or repeal any other ordinance, rule, regulation or other provisions of law. The requirements of these Articles and Sections are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of these Articles and Sections imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for health, safety and welfare shall control.

ARTICLE II
TITLE

This Ordinance shall be known as the "Zoning Ordinance of the City of Hendersonville, North Carolina."

ARTICLE III
JURISDICTION

Section 3-1 Zoning Jurisdiction. The provisions of this Ordinance shall be applicable to all land within the corporate limits of the City of Hendersonville, North Carolina, and within the "Extraterritorial Jurisdiction of the City of Hendersonville."

ARTICLE IV
ESTABLISHMENT OF DISTRICTS

Section 4-1 Use Districts Named. For the purpose of this Ordinance, the City of Hendersonville, NC, and the area comprising its extraterritorial zoning jurisdiction are divided into use districts. Following is a list of the use districts authorized by this ordinance:

R-40	Estate Residential District
R-40CZD	Estate Residential Conditional Zoning District
R-20	Low-Density Residential
R-20CZD	Low-Density Residential Conditional Zoning District
R-15	Medium-Density Residential
R-15CZD	Medium-Density Residential Conditional Zoning District
R-10	Medium-Density Residential
R-10CZD	Medium-Density Residential Conditional Zoning District
R-6	High-Density Residential
R-6CZD	High-Density Residential Conditional Zoning District
C-1	Central Business District
C-1CZD	Central Business Conditional Zoning District
C-2	Secondary Business District
C-2CZD	Secondary Business Conditional Zoning District
C-3	Highway Business District
C-3CZD	Highway Business Conditional Zoning District
C-4	Neighborhood Commercial
C-4CZD	Neighborhood Commercial Conditional Zoning District
MIC	Medical, Institutional and Cultural District
MICCZD	Medical, Institutional and Cultural Conditional Zoning District
I-1	Industrial District
I-1CZD	Industrial Conditional Zoning District
PMDCZD	Planned Manufacturing Development Conditional Zoning District
RCT	Residential Commercial Transition District
RCTCZD	Residential Commercial Transition Conditional Zoning District
PRDCZD	Planned Residential Conditional Zoning District
PCDCZD	Planned Commercial Conditional Zoning District
PMHCZD	Planned Manufactured Housing Conditional Zoning District
HHH	Hyman Heights Historic Overlay District
EC	Entry Corridor Overlay Districts
CMU	Central Mixed Use District
CMUCZD	Central Mixed Use Conditional Zoning District
DHH	Druid Hills Historic Overlay District
PICZD	Planned Institutional Conditional Zoning District
GHMU	Greenville Highway Mixed Use District
GHMUCZD	Greenville Highway Mixed Use Conditional Zoning District
HMU	Highway Mixed Use District
HMSCZD	Highway Mixed Use Conditional Zoning District
UVCZD	Urban Village Conditional Zoning District
URCZD	Urban Residential Conditional Zoning District
MSH	Main Street Historic Overlay District
CHMU	Commercial Highway Mixed Use District
CHMUCZD	Commercial Highway Mixed Use Conditional Zoning District

Section 4-2 District Boundaries. The boundaries of these districts have been previously established as shown on a map "Official Zoning Map, City of Hendersonville." This map has been rendered digitally and this digitally rendered map replaces the above-mentioned "Official Zoning Map, City of Hendersonville." It shall be the duty of the Planning Director to maintain the digitally-rendered zoning map and to faithfully modify in accordance with map amendments which may be adopted by City Council in the future. In maintaining the digitally-rendered zoning map, the Planning Director is authorized to make minor adjustments to the map where to do so would cause zoning boundaries to match property lines, streets, streams, or other zoning boundaries, or where circumstances otherwise make it clear that such adjustment fulfills the intent of previous zoning map amendments.

Section 4-3 Rules Governing Boundaries. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

4-3-1 Boundaries indicated as approximately following the center lines of streets, highways, alleys, streams, rivers or other such bodies of water, shall be construed to follow such center lines.

4-3-2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

4-3-3 Boundaries indicated as approximately following city limit lines shall be construed as following such city limit lines.

4-3-4 Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, highways, or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel there to and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.

4-3-5 Where physical features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by Subsections 4-3-1 through 4-3-4 above, the Board of Adjustment shall interpret the district boundaries.

Section 4-4 Conditional Zoning Districts. It is recognized that certain types of zoning districts would be inappropriate at particular locations in the absence of special conditions. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of this Zoning Ordinance and the Comprehensive Plan. Conditional zoning districts are created for the purpose of providing an optional rezoning choice where the owner of the property proposes to rezone property, and in order to, among other reasons, carry out the purposes of the Comprehensive Plan, proposes to impose special limitations and conditions on the use of the property proposed for rezoning. In light of this purpose, applicants for rezoning to conditional zoning districts are strongly encouraged to meet with neighboring residents and property owners and to attempt to address their concerns, if any, in their application.

4-4-1 Purpose. The conditional zoning district approval process is established to address those situations when a particular use may be acceptable but the general zoning district which would allow that use would not be acceptable. It allows City Council to approve a proposal for a specific use with reasonable conditions to assure the compatibility of the use with surrounding properties. Any use permitted under this process must also conform to the development regulations for the corresponding general zoning district. A conditional use zoning classification will be considered only upon request of the owner(s) of all property to be included in the proposed district.

4-4-2 Conditional Zoning Districts. For the R-40, R-20, R-15, R-10, R-6, C-1, C-2, C-3, C-4, I-1, MIC, CMU, RCT, GHMU, HMU and CHMU zoning district classifications, there are hereby established parallel conditional zoning district classifications designated R-40CZD, R-20CZD, R-15CZUD R-6CZD, C-1CZD, C-2CZD, C-3CZD, C-4CZD, I-1CZD, MICCZD, CMUCZD, RCTCZD, GHMUCZD, HMUCZD and CHMUCZD pursuant to NCGS Section 160A-382.

4-4-3 Uses permitted. Within a Conditional Zoning District only those uses authorized by Article V as permitted in the parallel zoning district with which the Conditional Zoning District corresponds shall be permitted, and all other requirements of such parallel zoning district classifications shall be met. Specific conditions may be proposed by the petitioner or the city or its agencies but only those conditions mutually approved by the city and the petitioner may be incorporated into the zoning regulations or permit requirements.

4-4-4 Processing of Applications. All applications for rezoning to a conditional zoning district shall be submitted and processed under a rezoning to a conditional zoning district in accordance with the provisions of Section 7-4, below.

Section 4-5 Classification of Uses. The range of uses allowed in each district established in this ordinance is summarized in Table 4-5, which is a part of this section. In the event of a conflict between Table 4-5 and the text of this ordinance, the text shall control.

The Table of Uses orders uses into the following four classifications. All uses must comply with regulations of general application in the Zoning Ordinance, including, without limitation, those in Articles VI, VII, and XV. In addition, uses must comply with specific development standards as noted below:

a) **Permitted by Right (P).** A use which is permitted by right must comply with the development standards for the relevant zoning district.

b) **Permitted By Right Subject to Special Requirements (SR).** Same as above except that the use must comply with one or more additional standards not required of other permitted uses in the district. These additional standards are either incorporated into the description of the use or, when they are too lengthy, a reference is given to their location in the Ordinance.

c) **Conditional Use (C).** A use which may be authorized only by means of a conditional use permit issued by the Zoning Board of Adjustment pursuant to Article X, below.

d) **Limited (L)**

USE	R-40	R-20	R-15	R-10	R-6	PRDCZD	PMHCZD	RCT	MIC	C-1	C-2	C-3	C-4	CMU	PCDCZD	I-1	PMDCZD	PIDCZD	GHIMU	HMU	UVCZD	URCZD	CHIMU
Accessory dwelling units	SR	SR	SR	SR	SR	-	-	SR	SR	SR	SR	SR	SR	P	-	SR	P	-	P	SR	SR	-	SR
Accessory uses and/or structures	P	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P	P	P	P	P	L	P
Adaptive reuse						-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Adult care centers	-	-	-	-	-	P	P	SR	SR	SR	SR	SR	SR	SR	P	-	-	P	C	SR	SR	L	P
Adult care homes	SR	SR	SR	SR	SR	P	P	SR	SR	-	-	-	-	P	-	-	-	-	C	P	P	-	P
Adult establishments	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	P	-	-	-	-	-	-
Agriculture	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Agricultural supplies, bulk	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Amphitheaters, outdoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-
Animal hospitals & clinics	-	-	-	-	-	-	-	SR	-	-	SR	SR	-	SR	P	SR	P	-	-	SR	SR	-	P
Animal boarding facilities	-	-	-	-	-	-	-	-	-	-	C	C	-	-	P	C	P	-	-	-	-	-	-
Automobile car washes	-	-	-	-	-	-	-	SR	-	-	P	P	SR	P	P	P	P	-	-	P	-	-	P
Automobile sales & service	-	-	-	-	-	-	-	-	-	-	P	P	-	-	P	P	P	-	-	-	-	-	P
Automotive paint & body work	-	-	-	-	-	-	-	-	-	-	C	P	-	-	P	P	P	-	-	-	-	-	-
Banks & other financial institutions	-	-	-	-	-	-	-	SR	P	P	P	P	P	P	P	-	-	-	P	P	P	L	P
Bed & breakfast facilities	C	C	C	C	C	-	-	C	C	P	P	P	C	P	SR	-	-	-	P	P	P	P	-
Bottling plants	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Breweries	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Bus stations	-	-	-	-	-	-	-	-	-	-	C	C	-	P	-	P	P	-	-	C	-	-	C
Business services	-	-	-	-	-	-	-	SR	-	P	P	P	P	P	P	P	P	-	P	P	P	L	P
Camps	P	P	P	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Cemetaries, mausoleums, columbariums, memorial gardens, crematoriums	-	C	C	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Child care centers	-	-	-	-	-	P	P	C	C	C	C	C	C	C	P	-	-	P	C	SR	SR	L	SR
Child care home	SR	SR	SR	SR	SR	P	P	SR	SR	-	-	-	-	P	-	-	-	-	C	P	P	-	P
Cideries	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Cideries, hard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Civic centers	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-

USE	R-40	R-20	R-15	R-10	R-6	PRDCZD	PMHCZD	RCT	MIC	C-1	C-2	C-3	C-4	CMU	PCDCZD	I-1	PMDCZD	PIDCZD	GHIMU	HMU	UVCZD	URCZD	CHMU
Civic clubs & fraternal organizations	-	-	-	-	-	-	-	C	C	C	C	C	C	C	P	C	P	P	-	SR	C	L	SR
Concrete plants	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Congregate care facilities	-	-	-	-	-	-	-	-	SR	-	SR	SR	-	SR	P	SR	P	P	-	SR	SR	-	SR
Construction trades facilities	-	-	-	-	-	-	-	-	-	-	SR	SR	-	P	P	P	P	-	-	SR	-	-	P
Convenience stores with or without gasoline sales	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	-	-	-	P
Convenience stores without gasoline sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	P
Copy centers	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	L	-
Cultural arts buildings	-	-	-	-	-	-	-	-	C	C	P	P	-	P	-	-	-	P	P	P	P	L	P
Day care facilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	P
Day centers	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Dance & fitness facilities	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	-	-	P	P	P	L	P
Distilleries	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Dry cleaning & laundry (≤2,000SF)	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	-	-	P	P	P	-	-
Dry cleaning & laundry (≤6,000SF)	-	-	-	-	-	-	-	-	-	P	P	P	-	-	P	-	-	-	-	P	P	-	P
Dry cleaning & laundry	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-	-
Dry cleaning & laundry (pickup & drop off only)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	L	-
Electronic gaming operations	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-
Equipment rental & sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Exhibition buildings	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Exterminators	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Fairgrounds	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Farm equipment sales & service	-	-	-	-	-	-	-	-	-	-	P	P	-	-	P	P	P	-	-	-	-	-	-
Feed & grain stores	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Freight terminals (SIC groups 40, 41, 42)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-

USE	R-40	R-20	R-15	R-10	R-6	PRDCZD	PMHCZD	RCT	MIC	C-1	C-2	C-3	C-4	CMU	PCDCZD	I-1	PMDCZD	PIDCZD	GHMU	HMU	UVCZD	URCZD	CHMU
Food pantries	-	-	-	-	-	-	-	-	-	-	SR	SR	-	-	-	-	-	-	-	-	-	-	-
Food processing establishments	-	-	-	-	-	-	-	-	-	-	-	SR	-	-	P	SR	P	-	-	-	-	-	-
Funeral homes	-	-	-	-	-	-	-	-	-	-	P	P	-	P	P	P	P	-	P	P	P	-	P
Garage apartments	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	-	-	-
Golf courses	-	-	-	-	-	P	-	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-	-
Golf driving ranges, par 3 golf	C	-	-	-	-	P	-	-	-	-	P	P	-	-	P	P	P	-	-	-	-	-	-
Government facilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Greenhouses & nurseries, commercial	-	-	-	-	-	-	-	SR	-	-	P	P	-	-	-	P	P	-	-	P	-	-	P
Health clubs & athletic facilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	P
Heavy equipment, sales, rentals, leases & service	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Heavy equipment storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Home occupations	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	-	-	-	P	P	P	L	P
Hospitals	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	P	P	P	-	-	-	-	-
Hotels	-	-	-	-	-	-	-	-	-	P	P	P	-	P	P	P	P	-	P	P	P	P	-
Hotels & motels	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Laboratories, with or without outdoor storage or operations	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Laundries, coin-operated	-	-	-	-	-	-	-	SR	P	P	P	P	P	P	P	-	-	-	P	P	P	-	P
Laundries, coin-operated, for the sole use of the occupants of the building within they are located	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	L	-
Lawn & garden centers	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	P	P	-	P
Manufactured homes	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Manufacturing (select industries)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Manufacturing, light	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	P	P	-	-	-	-	-	-
Merchandise gaming operation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-

USE	R-40	R-20	R-15	R-10	R-6	PRDCZD	PMHCZD	RCT	MIC	C-1	C-2	C-3	C-4	CMU	PCDCZD	I-1	PMDCZD	PIDCZD	GHMU	HMU	UVCZD	URCZD	CHMU
Microbreweries	-	-	-	-	-	-	-	-	-	SR	SR	SR	-	SR	P	P	P	-	SR	SR	-	-	-
Mini-warehouses	-	-	-	-	-	-	-	-	-	-	-	C	-	-	P	P	P	-	-	-	-	-	-
Mobile food vendors	-	-	-	-	-	-	-	-	-	-	SR	SR	-	SR	-	SR	-	-	-	SR	-	-	-
Mobile homes	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Mobile home sales	-	-	-	-	-	-	-	-	-	-	-	SR	-	-	-	-	-	-	-	-	-	-	-
Motels	-	-	-	-	-	-	-	-	-	P	P	P	-	P	P	P	P	-	P	P	P	P	-
Motor freight terminals	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Movie theaters, indoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	L	-
Music & art studios	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	-	-	P	P	P	L	P
Neighborhood community centers	-	-	-	-	P	-	-	P	P	-	P	-	-	-	-	-	-	P	P	P	P	-	P
Newspaper office & printing establishments	-	-	-	-	-	-	-	-	-	P	P	P	-	P	P	-	-	-	P	P	P	-	P
Nursing homes	-	-	-	-	-	P	-	-	SR	-	SR	SR	-	SR	P	SR	P	P	-	SR	-	-	SR
Offices	-	-	-	-	-	SR	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Offices, business, professional & public	-	-	-	-	-	-	-	SR	P	P	P	P	P	P	P	P	-	-	P	P	P	P	P
Parking lots & parking garages	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	-	P	-	P	P	-	P
Parks	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Passenger transportation terminals	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Personal services	-	-	-	-	-	-	-	SR	SR	P	P	P	P	P	P	P	-	-	P	P	P	L	P
Pet-sitting	-	-	-	-	-	-	-	C	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-
Planned residential development (minor)	SR	SR	SR	SR	SR	-	-	SR	SR	-	SR	SR	-	SR	-	SR	SR	-	-	-	SR	-	-
Planned residential development (major)	-	-	-	-	-	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Private clubs	-	-	-	-	-	-	-	-	-	C	C	C	-	C	-	C	P	-	-	-	-	L	-
Progressive care facilities	-	-	-	-	-	SR	-	-	SR	-	SR	SR	-	SR	SR	SR	SR	SR	-	SR	-	-	SR
Public & private recreational facilities, indoor & outdoor, including uses accessory to the	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-

USE	R-40	R-20	R-15	R-10	R-6	PRDCZD	PMHCZD	RCT	MIC	C-1	C-2	C-3	C-4	CMU	PCDCZD	I-1	PMDCZD	PIDCZD	GHIMU	HMU	UVCZD	URCZD	CHIMU
recreational facility such as snack bars, cabanas, etc.																							
Public & semi-public buildings	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	P	P	P	P	P	P	P
Public utility facilities	C	C	C	C	C	P	P	C	C	C	C	C	C	C	P	C	P	-	C	C	C	P	C
Publishing & printing establishments	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Radio & television broadcasting studios	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Recreational facilities, indoors	-	-	-	-	-	-	-	-	-	P	P	P	-	P	P	P	P	-	-	P	P	-	P
Recreational facilities, outdoors, commercial	-	-	-	-	-	-	-	-	-	-	P	P	-	-	P	P	P	-	-	P	-	-	P
Recycling centers	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Religious institutions	SR	SR	SR	SR	SR	P	P	P	P	P	P	P	P	P	P	P	-	P	P	P	P	L	P
Repair services, miscellaneous	-	-	-	-	-	-	-	-	-	SR	P	P	-	P	P	P	P	-	-	P	P	-	P
Repair services, (non-automotive) miscellaneous, so long as the use is contained within an enclosed building	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	L	-
Research & development with or without outdoor storage and operations	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	P
Residential care facilities	-	-	-	-	C	-	-	C	SR	-	P	P	-	-	-	-	-	-	-	P	P	-	P
Residential dwellings, single-family	P	P	P	P	P	P	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P
Residential dwellings, multi-family	-	-	-	-	-	P	-	-	-	SR	SR	-	P	SR	P	-	-	P	P	P	P	P	P
Residential dwellings, two-family	-	P	P	P	P	P	-	P	P	P	P	P	-	P	P	-	-	P	P	P	P	-	P
Rest homes	-	-	-	-	-	P	-	-	SR	-	SR	SR	-	SR	P	SR	P	P	-	-	-	-	-
Restaurants	-	-	-	-	-	-	-	C	C	P	P	P	C	P	P	P	P	-	P	P	P	L	P
Restaurants, drive-in	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	P	P	-	-	P	-	-	P
Retail stores	-	-	-	-	-	-	-	SR	SR	P	P	P	SR	P	P	P	P	-	SR	P	SR	L	P

USE	R-40	R-20	R-15	R-10	R-6	PRDCZD	PMHCZD	RCT	MIC	C-1	C-2	C-3	C-4	CMU	PCDCZD	I-1	PMDCZD	PIDCZD	GHIMU	HMU	UVCZD	URCZD	CHIMU
School, post secondary, business, technical & vocational	-	-	-	-	-	-	-	-	P	P	P	P	-	P	-	-	-	P	C	P	P	L	P
Schools, primary & secondary	C	C	C	C	C	P	-	-	-	-	P	P	-	P	-	-	-	P	C	P	P	P	P
Service stations	-	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	-	-	P	-	-	P
Shelter facilities	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	P	-	-	-	-	-	-	-
Signs	SR	SR	SR	SR	SR	-	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Storage yards	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Telecommunications antennas	SR	SR	SR	SR	SR	SR	-	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Telecommunications towers	-	-	-	-	-	SR	-	-	-	-	-	SR	-	-	SR	SR	SR	-	-	-	-	-	-
Theaters, indoor	-	-	-	-	-	-	-	-	-	P	P	P	-	P	P	-	-	-	P	P	P	L	P
Theaters, outdoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SR	P	-
Travel trailer sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Treatment plants, water & sewer	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Vehicle repair shops with or without outdoor operations & storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Vehicle repair & service, without outdoor operations	-	-	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-
Vehicle storage areas, not to include junk yards and wrecking yards	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Veterinary clinics	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-
Warehouses	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Wineries	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-
Wholesale businesses	-	-	-	-	-	-	-	-	-	-	P	P	-	-	P	P	P	-	-	-	-	-	-

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ARTICLE V
ZONING DISTRICT CLASSIFICATIONS

Section 5-1 R-40 Estate Residential Zoning District Classification. This zoning district classification is designed to accommodate single-family dwellings in an area characterized by extremely low-density.

5-1-1 Permitted Uses: The following uses are permitted by right in the R-40 Estate Residential Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units, subject to special requirements contained in Section 16-4, below
Accessory structures
Adult care homes, so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Agriculture
Camps
Child care homes, so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Home occupations
Parks
Planned residential developments (minor), subject to the requirements of Article VII, below
Religious institutions containing no more than 50,000 ft2 of gross floor area
Residential dwellings, single-family
Signs, subject to the provisions of Article XIII
Telecommunications antennas, subject to special requirements contained in Section 16-4, below

5-1-2 Conditional Uses: The following uses shall be permitted in the R-40 Estate Residential Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Bed and breakfast facilities
Golf driving ranges
Public utility facilities
Schools, primary & secondary, containing no more than 50,000 ft2 of gross floor area

5-1-3 Dimensional Requirements:

Minimum Lot Area in Square Feet:	40,000
Lot Area per Dwelling Unit in Square Feet:	40,000
Minimum Lot Width at Building Line in Feet:	150
Minimum Yard Requirements in Feet:	
Principal Structure	Front: 40
	Side: 25
	Rear: 35
Accessory Structures	Front: 40
	Side: 10
	Rear: 10
Maximum Height in Feet:	35

Section 5-1-4 R-40 CZD Estate Residential Conditional Zoning District Classification. The purpose and requirements of this zoning district classification are identical to the R-40 Estate Residential Zoning District Classification except that rezoning to R-40 Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the R-40 Estate Residential Conditional Zoning District Classification only upon rezoning to R-40CZD.

Adaptive reuses
Telecommunications towers
Permitted uses for the R-40, Estate Residential Zoning District Classification as specified in Section 5-1-1, above.
Conditional uses for the R-40, Estate Residential Zoning District Classification as specified in Section 5-1-2, above.

Section 5-2 R-20 Low-Density Residential Zoning District Classification. This zoning district classification is intended for areas in which the principal use of the land is for low-density residential or agricultural purposes.

5-2-1 Permitted Uses: The following uses are permitted by right in the R-20 Low Density Residential Zoning District Classification provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units, subject to special requirements contained in Section 16-4, below
Accessory structures
Adult care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Camps
Child care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Home occupations
Parks
Planned residential developments (minor), subject to the requirements of Article VII, below
Religious institutions containing no more than 50,000 ft2 of gross floor area
Residential dwellings, single-family
Residential dwellings, two-family
Signs, subject to the provisions of Article XIII
Telecommunications antennas, subject to special requirements contained in Section 16-4, below.

5-2-2 Conditional Uses: The following uses shall be permitted in the R-20 Low Density Residential Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Bed and breakfast facilities
Cemeteries
Public utility facilities
Schools, primary & secondary, containing no more than 50,000 ft2 of gross floor area

5-2-3 Dimensional Requirements:

Minimum Lot Area in Square Feet:	20,000
Lot Area per Dwelling Unit in Square Feet:	20,000 for the first; 10,000 for the second unit for a two family dwelling.
Minimum Lot Width at Building Line in Feet:	100

Minimum Yard Requirements in Feet:	
Principal Structure	Front: 35 Side: 15 Rear: 20
Accessory Structures	Front: 35 Side: 10 Rear: 10
Maximum Height in Feet:	35

Section 5-2-4 R-20CZD Low-Density Residential Conditional Zoning District Classification. The purpose and requirements of this zoning district classification are identical to the R-20 Low-Density Residential Zoning District Classification except that rezoning to R-20 Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the R-20 Low-Density Residential Conditional Zoning District Classification only upon rezoning to R-20CZD.

Adaptive reuses
Telecommunications towers
Permitted uses for the R-20, Low-Density Residential Zoning District Classification as specified in Section 5-2-1, above.
Conditional uses for the R-20, Low Density Residential Zoning District Classification as specified in Section 5-2-2 above.

Section 5-3 R-15 Medium-Density Residential Zoning District Classification. This zoning district classification is for areas in which the principal use of land is for medium-density single-family residences. It is expected that all dwellings in such district will have access to public water supplies or public sewage disposal facilities or a reasonable expectation of such service in the future.

5-3-1 Permitted Uses: The following uses are permitted by right in the R-15 Medium Density Residential Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units, subject to special requirements contained in Section 16-4, below
Accessory structures
Adult care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Camps
Child care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Home occupations
Parks
Planned residential developments (minor), subject to the requirements of Article VII, below
Religious institutions containing no more than 50,000 ft2 of gross floor area
Residential dwellings, single-family
Residential dwellings, two-family
Signs, subject to the provisions of Article XIII
Telecommunications antennas, subject to special requirements contained in Section 16-4, below.

5-3-2 Conditional Uses: The following uses shall be permitted in the R-15 Medium Density Residential Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Bed and breakfast facilities
Cemeteries
Public utility facilities
Schools, primary & secondary, containing no more than 50,000 ft2 of gross floor area

5-3-3 Dimensional Requirements:

Minimum Lot Area in Square Feet:	15,000
Lot Area per Dwelling Unit in Square Feet:	15,000 for the first; 7,500 ft2 for one additional dwelling unit in one building.
Minimum Lot Width at Building Line in Feet:	85
Minimum Yard Requirements in Feet:	
Principal Structure	Front: 30 Side: 10 Rear: 15
Accessory Structures	Front: 30 Side: 5 Rear: 5
Maximum Height in Feet:	35

Section 5-3-4 R-15CZD Medium-Density Residential Conditional Zoning District Classification. The purpose and requirements of this zoning district classification are identical to the R-15 Medium-Density Residential Zoning District Classification except that rezoning to R-15 Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the R-15 Medium-Density Residential Conditional Zoning District Classification only upon rezoning to R-15CZD.

Adaptive reuses
Telecommunications towers
Permitted uses for the R-15 Medium-Density Residential Zoning District Classification as specified in Section 5-3-1, above.
Conditional uses for the R-15 Medium-Density Residential Zoning District Classification as specified in Section 5-3-2, above.

Section 5-4 R-10 Medium-Density Residential Zoning District Classification. This zoning district classification is intended for areas in which the principal use of the land is for single-family residences.

5-4-1 Permitted Uses: The following uses are permitted by right in the R-10 Medium Density Residential Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units, subject to special requirements contained in Section 16-4, below
Accessory structures
Adult care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Camps
Child care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Home occupations

Parks
Planned residential developments (minor), subject to the requirements of Article VII, below
Religious institutions containing no more than 50,000 ft2 of gross floor area
Residential dwellings, single-family
Residential dwellings, two-family
Signs, subject to the provisions of Article XIII
Telecommunications antennas, subject to special requirements contained in Section 16-4, below

5-4-2 Conditional Uses: The following uses shall be permitted in the R-10 Medium Density Residential Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Bed and breakfast facilities
Public utility facilities
Schools, primary & secondary, containing no more than 50,000 ft2 of gross floor area

5-4-3 Dimensional Requirements:

Minimum Lot Area in Square Feet:	10,000
Lot Area per Dwelling Unit in Square Feet:	10,000 for the first; 5,000 ft2 or one additional dwelling unit in any one building.
Minimum Lot Width at Building Line in Feet:	75
Minimum Yard Requirements in Feet:	
Principal Structure	Front: 25
Side: 10	
Rear: 10	
Accessory Structures	Front: 25
Side: 5	
Rear: 5	
Maximum Height in Feet:	35

Section 5-4-4 R-10 CZD Medium-Density Residential Conditional Zoning District Classification. The purpose and requirements of this zoning district classification are identical to the R-10 Medium-Density Residential Zoning District Classification except that rezoning to R-10 Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the R-10 Medium-Density Residential Conditional Zoning District Classification only upon rezoning to R-10CZD.

Adaptive reuses
Telecommunications towers
Permitted uses for the R-10 Medium-Density Residential Zoning District Classification as specified in Section 5-4-1, above.
Conditional uses for the R-10 Medium-Density Residential Zoning District Classification as specified in Section 5-4-2, above.

Section 5-5 R-6 High-Density Residential Zoning District Classification. This zoning district classification is intended for areas in which the principal use of land is to permit high-density residential development.

5-5-1 Permitted Uses: The following uses are permitted by right in the R-6 High Density Residential Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units subject to special requirements contained in Section 16-4, below
Accessory structures
Adult care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Camps
Child care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Home occupations
Neighborhood community centers
Parks
Planned residential developments (minor), subject to the requirements of Article VII, below
Religious institutions containing no more than 50,000 ft2 of gross floor area
Residential dwellings, single-family
Residential dwellings, two-family
Signs, subject to the provisions of Article XIII
Telecommunications antennas, subject to special requirements contained in Section 16-4, below

5-5-2 Conditional Uses: The following uses shall be permitted in the R-6 High Density Residential Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Bed and breakfast facilities
Public utility facilities
Residential care facilities
Schools, primary & secondary, containing no more than 50,000 ft2 of gross floor area

5-5-3 Dimensional Requirements:

Minimum Lot Area in Square Feet:	6,000
Lot Area per Dwelling Unit in Square Feet:	6,000 for the first; 4,000 ft2 for one additional dwelling unit in any one building.
Minimum Lot Width at Building Line in Feet:	50
Minimum Yard Requirements in Feet:	
Principal Structure	Front: 20 Side: 8 Rear: 10
Accessory Structures	Front: 20 Side: 5 Rear: 5
Maximum Height in Feet:	35

Section 5-5-4 R-6 CZD High-Density Residential Conditional Zoning District Classification. The purpose and requirements of this zoning district classification are identical to the R-6 High-Density Residential Zoning District Classification except that rezoning to R-6 Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the R-6 High-Density Residential Conditional Zoning District Classification only upon rezoning to R-6CZD.

Adaptive reuses
Telecommunications towers
Permitted uses for the R-6 High-Density Residential Zoning District Classification as specified in Section 5-5-1, above.
Conditional uses for the R-6 High-Density Residential Zoning District Classification as specified in Section 5-5-2, above.

Section 5-6 C-1 Central Business Zoning District Classification. This zoning district classification is designed to provide a) a concentrated central core of retailing and services, b) areas accommodating central administrative business, financial, general, and professional offices and related services and c) residential uses. The district regulations are designed to promote convenient, pedestrian shopping and the stability of retail development by encouraging continuous retail frontage in a concentrated area.

5-6-1 Permitted Uses: The following uses are permitted by right in the C-1 Central Business Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units subject to special requirements contained in Section 16-4, below
Adult care centers registered with the NC Department of Human Resources
Banks and other financial institutions
Bed & breakfast facilities
Business services
Convenience stores (not including gasoline sales)
Dance and fitness facilities
Dry cleaning and laundry establishment containing less than 6,000 ft2 of floor area
Home occupations
Hotels and motels
Laundries, coin-operated
Microbreweries, subject to special requirements contained in Section 16-4, below
Music and art studios
Newspaper offices and printing establishments
Offices, business, professional and public
Parking lots and parking garages
Parks
Personal services
Public & semi-public buildings
Recreational facilities, indoors
Religious institutions
Repair services, miscellaneous, so long as the use is contained within an enclosed building
Residential dwellings, single-family
Residential dwellings, two-family
Residential dwellings, multi-family, subject to special requirements contained in this Section
Restaurants
Retail stores
Schools, post-secondary, business, technical and vocational
Service stations
Signs, subject to the provisions of Article XIII
Telecommunications antennas, subject to special requirements contained in Section 16-4, below
Theaters, indoor

5-6-2 Conditional Uses: The following uses shall be permitted in the C-1 Central Business Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Child care centers
Civic clubs & fraternal organizations
Cultural arts buildings
Private clubs
Public utility facilities

5-6-3 Development Standards. The following standards shall apply to development within the C-1 Central Business Zoning District Classification and Central Business Conditional Zoning District Classification in addition to all other applicable standards contained in this Ordinance.

5-6-3.1 Parking & Loading. For non-residential developments and residential developments containing fewer than five dwelling units, no off-street parking is required. For residential developments containing five or more dwelling units, off-street parking of one and one-half spaces per dwelling unit shall be provided.

As far as practicable, off-street parking, when provided, shall be accessed by means of east-west streets or alley ways and shall be designed so that it is screened, as far as practicable, to minimize motor vehicles and parking areas from view from Main, Church and King Streets. This provision is not intended to require that buildings be screened from view.

5-6-3.2 Dimensional Requirements.

Minimum Lot Area in Square Feet:	None
Lot Area per Dwelling Unit in Square Feet:	N/A
Minimum Lot Width at Building Line in Feet:	85
Minimum Yard Requirements in Feet:	Front: None
	Side: None
	Rear: None
Maximum Height in Feet:	64 feet

5-6-3.3 Streetscape Design. The relationship between a building and areas for pedestrian or vehicular circulation shall be carefully planned in order to avoid negative impacts of one upon the other. All buildings and uses developed in this zoning district classification shall meet the following minimum standards; provided, however, buildings undergoing renovation and rehabilitation, in which the footprint of existing structures is not being increased or altered, may be exempted from regulations regarding street walls and urban open spaces if site conditions make compliance therewith impractical.

a) **Street Walls.** The first floors of all buildings, including structured parking, shall be designed to encourage and complement pedestrian-scale interest and activity.

To the extent practicable, in consideration of the nature of the uses proposed, this is to be accomplished in part by the use of transparent windows and doors arranged so that the uses are visible from and/or accessible to the street on the first floor street frontage.

In addition, a combination of design elements shall be used on the building facade and/or in relationship to the building at street level to animate and enliven the streetscape. These design elements may include, but are not limited to, the following: ornamentation, molding, changes in material or color, architectural

lighting, works of art, fountains and pools, street furniture, landscaping and garden areas, and display areas.

Any design elements which extend into the public right-of-way on city or state maintained streets require an encroachment agreement with the City of Hendersonville Department of Public Works or the NC Department of Transportation (NCDOT), as appropriate.

Where expanses of blank wall are necessary, they may not exceed 20 feet in length. A blank wall is a facade which does not add to the character of the streetscape and does not contain transparent windows or doors or sufficient ornamentation, decoration or articulation as listed in the above paragraph.

The first floor and street level shall be designed with attention to adjacent public or private open spaces and existing streetscape improvements. The provision of multiple entrances from the public sidewalk or open spaces is encouraged.

b) **Structured Parking Facilities.** In addition to the above requirements, in the event that any openings for ventilation, service, or emergency access are located at the first floor level in the building facade, then they shall be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances shall be designed to minimize visibility of parked cars. The remainder of the street level frontage shall be either commercial space or an architecturally articulated facade designed to minimize the visibility of parked cars.

All levels of a structured parking facility shall be designed and screened in such a way as to minimize visibility of parked cars. In no instance will rails or cabling alone be sufficient to meet this screening requirement.

The design requirements of paragraph (b) apply to all building facades which are visible from any public right-of-way.

c) **Screening.** All structures and facilities for trash, loading, outdoor equipment, and storage, including the storage of inventory, shall be screened so as not to be visible from the street and pedestrian circulation areas. Solar technology components including solar panels and solar thermal collectors used for on-site private purposes are exempt from this provision provided that no other functional location exists for optimized performance that is not visible from the street and pedestrian circulation areas. This determination may be made either by the Development Assistance Director or a designee.

Solid walls shall be faced with brick, stone or other decorative finish with the decorative side adjacent to the public right-of-way. Fences shall be opaque and either painted or stained with the decorative side adjacent to the public right-of-way. In no instance will a chain link or barbed wire fence be acceptable.

Trees used to fulfill this requirement shall be located on private property in planters, a planting strip, berm or tree lawn, any of which shall be at least 8 feet wide and at least 2 feet deep. The trees shall be of a small maturing evergreen variety and be at least 10 feet tall at the time of planting. All shrubs shall be between 24 inches and 36 inches tall at time of planting. All plant material shall conform to the American Standard for Nursery Stock published by the American Association of Nurserymen. Trees employed to meet the screening requirement may not be counted toward the street tree planting or urban open space tree requirements.

Any lot which becomes vacant through the removal of a structure for any reason shall be screened from all abutting public street rights-of-way in accordance with the provisions of this section or cleared of rubbish

and debris and seeded with grass. However, if the lot is to be used for parking either as a transitional or permanent use, it shall meet all the minimum requirements for that use as established by this ordinance.

Maintenance of screening required under these provisions shall conform to the requirements of Article XV of this Ordinance, including the requirement to promptly replace dead vegetation with healthy, living plantings.

d) **Street Trees.** In addition to all other requirements of this Section, at least one tree of 3 - 3½- inches caliper minimum, measured 6 inches above ground, shall be planted for each 25 feet for small maturing trees and for each 35 feet for large maturing trees of the entire building lot which abuts any public street right-of-way with a minimum of one tree required for any distance up to 35 feet. Trees shall not be planted closer than 2 feet, nor more than 10 feet, from the back of the curb. Street trees shall not be required within the boundaries of the Downtown Municipal Services District.

For the purposes of this paragraph, all specifications for measurement and quality of trees shall be in accordance with the American Standard for Nursery Stock published by the American Association of Nurserymen. All trees planted to meet this requirement shall be well-matched specimen grade and shall be limbed up 6 feet. Trees used to fulfill this requirement may be located on public or private property. Maintenance of street trees required under these provisions shall conform to the requirements of Section 15-5 of this Ordinance, including the requirement to promptly replace dead vegetation with healthy, living plantings.

e) **Reflective Surfaces.** No development subject to these provisions may have exterior walls with a reflectivity value in excess of 36%, as measured under the applicable provisions of ASTM-C-1036. No reflective surfaces may be used on street level exterior facades.

f) **Urban Open Spaces.** Open spaces for public congregation and recreational opportunities are required for non-residential developments and shall be equipped or designed to allow pedestrian seating and to be easily observed from the street or pedestrian circulation areas. All urban open spaces shall comply with the minimum required design standards of this ordinance. In light of the requirement for urban open space, development in the C-1 Central Business Zoning District Classification is excused from complying with the requirements for common open space contained in Section 6-16 of this ordinance.

1) **Urban open space size.** Buildings shall be provided with public open space behind the required setback and on private property on the basis of five ft2 of urban open space per 100 ft2 of gross floor area (5/100). A maximum of 30% of this required urban open space may be provided on an enclosed ground floor level provided the enclosed space meets all other requirements of these provisions.

2) **Accessibility to the street.** Urban open space shall be designed so that it is accessible to and visible from the street.

3) **Trees.** Within the open space area(s), 1 tree shall be planted for each 500 ft2. Trees shall have a minimum caliper of 3-3½ inches measured 6 inches above ground at the time of planting.

4) **Amenities.** The following amenities are permitted within an urban open space area: ornamental fountains, stairways, seating, waterfalls, sculptures, arbors, trellises, planted beds, drinking fountains, clock pedestals, public telephones, awnings, canopies, and similar structures.

5) **Maintenance.** The building owner, lessee, management entity or authorized agent are jointly and severally responsible for the maintenance of the urban open space area including litter control and care and the replacement of trees and shrubs, as required by Section 15-4.

6) **Utilities.** All utilities service lines and connections shall be underground.

g) **Exceptions for Single-Family and Two-Family Residences.** Single-family and two-family residential dwellings shall not be required to comply with the Streetscape Design regulations contained in Section 5-6-4.3.

5-6-4 Residential Development. There shall be no density cap for developments within the C-1 Central Business Zoning District Classification.

Section 5-6-5 C-1 CZD Central Business Conditional Zoning District Classification. The purpose and requirements of this zoning district classification are identical to the C-1 Central Business Zoning District Classification except that rezoning to C-1Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the C-1 Central Business Conditional Zoning District Classification only upon rezoning to C-1CZD.

a) Any development or redevelopment involving more than 50,000 ft2 of gross floor area;
b) Shelter facilities, subject to special requirements contained in Section 16-4, below.
c) Permitted uses for the C-1 Central Business Zoning District Classification as specified in Section 5-6-1, above.
d) Conditional uses for the C-1 Central Business Zoning District Classification as specified in Section 5-6-2, above.

Section 5-7 C-2 Secondary Business Zoning District Classification. This zoning district classification is designed primarily to accommodate a) existing developments of mixed commercial and light industrial uses, and b) certain commercial and light industrial uses compatible with one another but inappropriate in certain other zoning district classifications.

5-7-1 Permitted Uses: The following uses are permitted by right in the C-2 Secondary Business Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units subject to special requirements contained in Section 16-4, below
Accessory uses & structures
Adult care centers registered with the NC Department of Human Resources
Animal hospitals & clinics so long as the use contains no outdoor kennels
Automobile car washes
Automobile sales & service establishments
Banks and other financial institutions
Bed & breakfast facilities
Business services
Congregate care facilities, subject to special requirements contained in Section 16-4, below
Construction trades facilities so long as the storage of equipment and materials is screened from view from public rights-of-way
Convenience stores with or without gasoline sales
Cultural arts buildings
Dance and fitness facilities
Dry cleaning and laundry establishments containing less than 6,000 ft2 of floor area
Farm equipment sales & service
Food pantries, subject to the special requirements contained in Section 16-4, below
Funeral homes

Golf driving ranges & par three golf courses
Greenhouses & nurseries, commercial
Home occupations
Hotels and motels
Laundries, coin-operated
Microbreweries, subject to special requirements contained in Section 16-4, below
Mobile food vendors, subject to special requirements contained in Section 16-4, below
Music and art studios
Neighborhood community centers
Newspaper offices and printing establishments
Nursing homes subject to special requirements contained in Section 16-4, below
Offices, business, professional and public
Parking lots and parking garages
Parks
Personal services
Planned residential developments (minor), subject to the requirements of Article VII, below
Progressive care facilities subject to special requirements contained in Section 16-4, below
Public & semi-public buildings
Recreational facilities, indoors
Recreational facilities, outdoors, commercial
Religious institutions
Repair services, miscellaneous
Residential care facilities
Residential dwellings, single-family
Residential dwellings, two-family
Residential dwellings, multi-family, subject to special requirements contained in Section 16-4, below
Rest Homes, subject to special requirements contained in Section 16-4, below
Restaurants
Retail stores
Schools, post-secondary, business, technical and vocational
Schools, primary & secondary
Service stations
Signs, subject to the provisions of Article XIII
Telecommunications antennas, subject to special requirements contained in Section 16-4, below
Theaters, indoor
Wholesale businesses

5-7-2 Conditional Uses: The following uses shall be permitted in the C-2 Secondary Business Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Animal kennels
Automotive paint and body work
Bus stations
Child care centers
Civic clubs & fraternal organizations
Light manufacturing
Private clubs
Public utility facilities

5-7-3 Dimensional Requirements:

Minimum Lot Area in Square Feet:	8,000 (6,000 for residential use)
Lot Area per Dwelling Unit in Square Feet:	6,000 for the first; 4,000 ft2 for one additional dwelling unit in any one building
Minimum Lot Width at Building Line in Feet:	None except for structures containing dwelling units which shall have a minimum lot width at building line of 50 feet.
Minimum Yard Requirements in Feet:	Front: 15 except for structures containing dwelling units which shall have a minimum front yard of 20 feet. Side: 5 (Side yards are not required, but when provided must be a minimum of five feet. Common wall construction is permitted in the C-2 Zoning District Classification. On all corner lots, a ten foot side yard setback is required.) Rear: None except for structures containing dwelling units which shall have a minimum setback of ten feet. Otherwise, rear yards are not required unless the C-2 Zoning District Classification abuts an established residential district. In this case, the rear yard setback requirement shall be a minimum of ten feet.
Maximum Height in Feet:	48

Section 5-7-4 C-2 CZD Secondary Business Conditional Zoning District Classification. The purpose and requirements of this zoning district classification are identical to the C-2 Secondary Business Zoning District Classification except that rezoning to C-2 Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the C-2 Secondary Business Conditional Zoning District Classification only upon rezoning to C-2CZD.

Day center
Shelter facilities
Telecommunications towers
Development or redevelopment involving more than 50,000ft2 of floor area
Permitted uses for the C-2 Secondary Business Zoning District Classification as specified in Section 5-7-1, above.
Conditional uses for the C-2 Secondary Business Zoning District Classification as specified in Section 5-7-2, above.

Section 5-8 C-3 Highway Business Zoning District Classification. This zoning district classification is designed primarily to encourage the development of recognizable, attractive groupings of facilities to serve persons traveling by automobile and local residents. Since these areas are generally located on the major highways, they are subject to the public view. They should provide an appropriate appearance, ample parking, and be designed to minimize traffic congestion.

5-8-1 Permitted Uses: The following uses are permitted by right in the C-3 Highway Business Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units subject to special requirements contained in Section 16-4, below
Accessory uses & structures
Adult care centers registered with the NC Department of Human Resources
Animal hospitals & clinics as long as they contain no outdoor kennels
Automobile car washes

Automobile sales & service establishments
Automotive paint & body work
Banks and other financial institutions
Bed & breakfast facilities
Business services
Congregate care facilities, subject to special requirements contained in Section 16-4, below
Construction trades facilities so long as the storage of equipment and materials is screened from view from any public rights-of-way
Convenience stores with or without gasoline sales
Cultural arts buildings
Dance and fitness facilities
Dry cleaning and laundry establishment containing less than 6,000 ft2 of floor area
Farm equipment sales & service
Food pantries, subject to the special requirements contained in Section, 16-4 below)
Food processing establishments containing less than 10,000 ft2 of gross floor area
Funeral homes
Golf driving ranges & par three golf courses
Greenhouses & commercial nurseries
Home occupations
Hotels and motels
Laundries, coin-operated
Microbreweries, subject to special requirements contained in Section 16-4, below
Mobile food vendors, subject to special requirements contained in Section 16-4, below
Mobile homes sales establishments so long as they are situated on a major thoroughfare containing four or more traffic lanes
Music and art studios
Newspaper offices and printing establishments
Nursing homes subject to special requirements contained in Section 16-4, below
Offices, business, professional and public
Parking lots and parking garages
Parks
Personal services
Planned residential developments (minor), subject to the requirements of Article VII, below
Progressive care facilities subject to special requirements contained in Section 16-4, below
Public & semi-public buildings
Recreational facilities, indoors
Recreational facilities, outdoors, commercial
Religious institutions
Repair services, miscellaneous
Residential care facilities
Residential dwellings, single-family
Residential dwellings, two-family
Rest homes subject to special requirements contained in Section 16-4, below
Restaurants
Restaurants, drive-in
Retail stores
Schools, post-secondary, business, technical and vocational
Schools, primary & secondary
Service stations
Signs, subject to the provisions of Article XIII
Telecommunications antennas, subject to special requirements contained in Section 16-4, below.

Telecommunications towers, subject to special requirements contained in Section 16-4, below.
Theaters, indoor
Wholesale businesses

5-8-2 Conditional Uses: The following uses shall be permitted in the C-3 Highway Business Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Animal boarding facilities
Bus stations
Child care centers
Civic clubs & fraternal organizations
Mini-warehouses
Private clubs
Public utility facilities

5-8-3 Dimensional Requirements:

For Lots Containing Only Residential Uses	
Minimum Lot Area in Square Feet:	6,000
Lot Area per Dwelling Unit in Square Feet:	6,000 for the first; 4,000 ft2 for one additional dwelling unit in any one building.
Minimum Lot Width at Building Line in Feet:	50
Minimum Yard Requirements in Feet: Front:	20
	Side: 8
	Rear: 10
Maximum Height in Feet:	35

For Lots Containing Other Uses	
Minimum Lot Area in Square Feet:	10,000
Lot Area per Dwelling Unit in Square Feet:	N/A
Minimum Lot Width at Building Line in Feet:	80
Minimum Yard Requirements in Feet: Front:	35 (Front yard requirements may be reduced to ten feet for an accessory canopy structure for a commercial building or use, provided the primary structure or use con- forms to the established setback requirements.)
	Side: 15
	Rear: 20
Maximum Height in Feet:	48

Section 5-8-4 C-3CZD Highway Business Conditional Zoning District Classification. The purpose and requirements of this zoning district classification are identical to the C-3 Highway Business Zoning District Classification except that rezoning to C-3 Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the C-3 Highway Business Conditional Zoning District Classification only upon rezoning to C-3CZD.

Day centers
Shelter facilities
Development or redevelopment involving more than 50,000 ft2 of floor area
Permitted uses for the C-3, Highway Business Zoning District Classification as specified in Section 5-8-1, below)

Conditional uses for the C-3, Highway Business Zoning District Classification as specified in Section 5-8-2, below

Section 5-9 C-4 Neighborhood Commercial Zoning District Classification. The purpose of this zoning district classification is to provide for the most frequent daily needs of residents of an immediate neighborhood. Because these shops and stores will be most closely associated with residential uses, more restrictive requirements for light, air, open space, etc., are necessary.

5-9-1 Permitted Uses: The following uses are permitted by right in the C-4 Neighborhood Commercial Zoning District Classification, provided they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units
Accessory uses & structures
Adult care centers registered with the NC Department of Human Resources
Automobile car washes so long as no attendants are employed on the premises
Banks and other financial institutions
Business services
Convenience stores with or without gasoline sales
Dance and fitness facilities
Dry cleaning and laundry establishment containing less than 2,000 ft2 of floor area
Garage apartments
Home occupations
Laundries, coin-operated
Music and art studios
Offices, business, professional and public
Parks
Personal services
Religious institutions
Residential dwellings, single-family
Retail stores customarily serving neighborhoods and designed to serve a neighborhood
Service stations
Signs, subject to the provisions of Article XIII
Telecommunications antennas, subject to special requirements contained in Section 16-4, below

5-9-2 Conditional Uses: The following uses shall be permitted in the C-4 Neighborhood Commercial Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Bed & breakfast facilities
Child care centers
Civic clubs & fraternal organizations
Pet-sitting
Public utility facilities
Restaurants

5-9-3 Dimensional Requirements:

Minimum Lot Area in Square Feet:	40,000
Lot Area per Dwelling Unit in Square Feet:	N/A
Minimum Lot Width at Building Line in Feet:	None

Minimum Yard Requirements in Feet: Front:	40 (Front yard requirements may be reduced to 15 feet for an accessory canopy structure for a commercial building or use, provided the primary structure or use conforms to the established setback requirements.) Side: 15 Rear: 20
Maximum Height in Feet:	35

5-9-4 Building Coverage. The total ground area covered by the principal building and all accessory buildings shall not exceed 40% of the total lot area.

Section 5-9-5 C-4CZD Neighborhood Commercial Conditional Zoning District Classification. The purpose and requirements of this district are identical to the C-4 Neighborhood Commercial Zoning District Classification except that a rezoning to C-4 Conditional Zoning District, as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the C-4 Neighborhood Commercial Conditional Zoning District Classification only upon rezoning to C-4CZD.

Permitted uses for the C-4 Neighborhood Commercial Zoning District classification as specified in Section 5-9-1, above.
Conditional uses for the C-4 Neighborhood Commercial Zoning District classification as specified in Section 5-9-2, above.
Development or redevelopment involving more than 10,000 ft2 of floor area.

Section 5-10 Medical, Institutional and Cultural Zoning District Classification (MIC). This zoning district classification is established primarily for medical, institutional and cultural uses.

5-10-1 Permitted Uses: The following uses are permitted by right in the MIC Medical Institutional Cultural Zoning District Classification, provided they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units subject to special requirements contained in Section 16-4 below
Accessory uses & structures
Adult care centers registered with the NC Department of Human Resources
Adult care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Banks and other financial institutions
Child care centers subject to special requirements contained in Section 16-4, below
Child care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Congregate care facilities subject to special requirements contained in Section 16-4, below
Home occupations
Hospitals
Laundries, coin-operated
Music and art studios
Neighborhood community centers
Nursing homes subject to special requirements contained in Section 16-4, below
Offices, business, professional and public
Parking lots & parking garages
Parks
Personal services consistent with the purposes of this classification, such as barber and beauty shops, medical & dental labs and clinics, opticians & optical services and prosthetics & orthopedics

Planned residential developments (minor)
Progressive care facilities subject to special requirements contained in Section 16-4, below
Public & semi-public buildings
Religious institutions
Residential care facilities subject to special requirements contained in Section 16-4, below
Residential dwellings, single-family
Residential dwellings, two-family
Rest homes subject to special requirements contained in Section 16-4, below
Retail stores consistent within the purposes of this classification, such as gift shops, florist shops and pharmacies
Schools, post-secondary, business, technical & vocational
Signs, subject to the provisions of Article XIII
Telecommunications antennas, subject to special requirements contained in Section 16-4, below

5-10-2 Conditional Uses: The following uses shall be permitted in the MIC Medical Institutional Cultural Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Bed & breakfast facilities
Civic clubs & fraternal organizations
Cultural arts buildings
Public utility facilities
Restaurants

5-10-3 Dimensional Requirements:

Minimum Lot Area in Square Feet:	8,000
Lot Area per Dwelling Unit in Square Feet:	10,000 for the first; 5,000 ft2 for each additional dwelling unit in one building.
Minimum Lot Width at Building Line in Feet:	70
Minimum Yard Requirements in Feet:	Front: 30 Side: 10 Rear: 20
Maximum Height in Feet:	50 (No building shall exceed 50 feet in height unless the depth of the front and total width of the side yards required herein shall be increased by one foot for each two feet, or fraction thereof, of building height in excess of 50 feet.)

Section 5-10-4 MICCZD Medical, Institutional, Cultural Conditional Zoning District Classification. The purpose and requirements of this zoning district classification are identical to the MIC Medical, Institutional and Cultural Zoning District Classification except that rezoning to MIC Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the MIC Medical, Institutional and Cultural Zoning District Classification only upon rezoning to MICCZD.

Telecommunications towers, subject to special requirements contained in Section 16-4 below
Any development or redevelopment involving more than 50,000 ft2 of gross floor area.
Permitted uses for the MIC, Medical, Institutional, Cultural Zoning District Classification as specified in Section 5-10-1, above

Conditional uses for the MIC, Medical, Institutional, Cultural Zoning District Classification as specified in Section 5-10-2, above

Section 5-11 PMD Planned Manufacturing Development Conditional Zoning District Classification. This zoning district classification is designed to accommodate planned manufactured developments with a rezoning to a Planned Manufacturing Development Conditional Zoning District. The rezoning shall insure that the proposed use or development is consistent with the requirements of this section and may further specify the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting the rezoning for a planned manufacturing district, City Council may impose such additional reasonable and appropriate safeguards upon such approval as it may deem necessary in order that the purpose and intent of this chapter are served, public welfare secured and substantial justice done.

5-11-1 Application. The reclassification of property to PMD Planned Manufacturing Development Conditional Zoning District shall constitute an amendment of the Official Zoning Map which may be initiated only by the owner(s) of a legal interest in the affected property, or any person(s) having an interest in the property by reason of a written contract with the owner(s). Such amendment shall be initiated by means of an application for rezoning to a PMD Planned Manufacturing Development Conditional Zoning District. No permit shall be issued for any development within a PMD Planned Manufacturing Development Conditional Zoning District except in accordance with an approved rezoning.

5-11-2 Permissible Uses. A building or land shall be used only for those purposes specified in the rezoning for the project which may include one or more of the following:

Any development or redevelopment involving more than 50,000 ft2 of gross floor area.
Permitted uses for the I-1 Industrial Zoning District Classification as specified in Section 5-12-1, below
Conditional uses for the I-1 Industrial Zoning District Classification as specified in Section 5-12-2, below

5-11-3 Development Standards:

Minimum Lot Area:	No Requirement
Lot Area per Dwelling Unit:	(Not Applicable)
Minimum Lot Width at Building Line:	No Requirement
Minimum Yard Requirements:	100 feet. Within the minimum required yard areas, there shall be no structures, uses or vehicular parking provided; however, drives and emergency access lanes may be located in the minimum required yards.
Maximum Height:	50 feet

5-11-4 Circulation and Access. Streets, drives and parking areas shall provide safe and convenient access to appropriate project facilities. Sidewalks shall be installed along all public streets and roads and shall provide a logical, safe and convenient system for pedestrian access to appropriate project facilities. Greenways or pedestrian/bicycle pathways may be substituted for sidewalks, if appropriate.

5-11-5 Open Space and Footprint Requirements. There is no maximum footprint requirement for development in a PMD Planned Manufacturing Development Conditional Zoning District Classification. The district shall have a minimum of 30% of the site reserved as open space. The development shall also meet the common open space requirements contained in Section 6-16, below.

5-11-6 Abandoned Vehicles. No abandoned vehicles, including all machines intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle shall be permitted within this district.

5-11-7 Site Lighting. Exterior site lighting shall be designed so as to prevent the shedding of any direct light upon any adjoining residential property.

5-11-8 Transportation Facilities. All Planned Manufacturing Developments shall have access to a boulevard or major or minor thoroughfare as designated in the City's Comprehensive Transportation Plan. The access shall be designed so as to prevent increased traffic on minor streets in nearby residential areas.

5-11-9 Vehicular Access. Primary vehicular access to the planned manufacturing development shall be by means of a thoroughfare (major or minor) designated as such in the current Comprehensive Transportation Plan. Alternatively, access may be provided by means of streets other than a boulevard or major or minor thoroughfares when it is clearly demonstrated that the development will not result in a significant increase in traffic on any such street.

5-11-10 Storage Areas. The purpose of this subsection is to insure that all stored material will be screened from adjacent properties, parking areas, and public and private streets. Storage requirements are as follows:

a) Exterior storage will only be permitted at the side or rear of a building and only in totally enclosed screened areas.

b) The exterior storage of materials, supplies or equipment will not be permitted to the front of any buildings.

5-11-11 Buffers. The applicant shall propose, plant, construct and make satisfactory arrangements for the preservation of a buffer and/or setbacks adequate to protect adjoining properties from the impacts of the proposed development. Such buffers shall, at a minimum, meet the requirements of Article XV, below.

Section 5-12 I-1 Industrial Zoning District Classification. This zoning district classification is established for those areas of the City where the principal use of the land is for industrial activities that by their nature may create some nuisance and which are not properly associated with residential, commercial and/or service establishments. This district is also established to preserve areas exhibiting industrial potential. Selected business uses of a convenience character are also permitted in this district.

5-12-1 Permitted Uses: The following uses are permitted by right in the I-1 Industrial Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance. SIC references are to the 1987 edition of the Standard Industrial Classification Manual published by the Office of Management and Budget.

Accessory dwelling units subject to special requirements contained in Section 16-4, below
Accessory uses & structures
Agricultural supplies, bulk
Animal hospitals & clinics subject to special requirements contained in Section 16-4, below.
Automobile car washes
Automobile sales & service
Automobile paint & body work
Bottling plants
Breweries
Bus stations
Business services
Cemeteries, mausoleums, columbariums, memorial gardens, and crematoriums
Cideries

Cideries, hard
Civic centers
Concrete plants
Congregate care facilities, subject to special requirements contained in Section 16-4, below
Construction trades facilities
Convenience stores with or without gasoline sales
Day care facilities
Distilleries
Dry cleaning & laundry
Exhibition buildings
Exterminators
Fairgrounds
Farm equipment sales & service
Feed and grain storage
Freight terminals (SIC Groups 40, 41, 42)
Food processing establishments, limited to dairy products, bakery products, canneries, and beverage products (SIC codes 202, 203, 205 and 208), not to include slaughtering plants
Funeral homes
Golf courses and related activities Government facilities
Greenhouses & commercial nurseries
Health clubs and athletic facilities
Heavy equipment, sales, rentals, leases, and service
Heavy equipment storage
Hospitals
Hotels
Laboratories with or without outdoor storage or operations
Manufacturing (selected industries) – Those manufacturing industries defined by the following SIC Codes are permitted:

Standard Industrial Classification	Industries Excluded	Short Title
202		Food processing: dairy products
203		Food processing: canned, frozen & preserved fruits, vegetable & food specialties
2043		Food processing: cereal breakfast foods
2045		Food processing: prepared flour mixes & doughs
205		Food processing; bakery products
206		Food processing: sugar & confectionery products
207	2077	Food processing: fats & oils
208		Food processing: beverages
2095		Roasted coffee
2096		Potato chips, corn ships & similar snacks
2097		Manufactured ice
2098		Macaroni, spaghetti, vermicelli & noodles
2099		Food preparations, not elsewhere classified
22	226	Textile Mill Products

Standard Industrial Classification	Industries Excluded	Short Title
23		Apparel and other textile products
24	241, 242, 2435, 2436, 2491, 2492	Lumber and wood products
25		Furniture and fixtures
265		Paperboard containers & boxes
267		Converted paper and paperboard products, except containers and boxes
27		Printing, publishing & allied industries
283		Drugs
2844		Perfumes, cosmetics & other toilet preparations
30	301	Rubber & plastic products
323		Glass products, made of purchased glass
326		Pottery & related products
3271		Concrete block & brick
3272		Concrete products, except block & brick
3273		Ready-mixed concrete
3297		Non-clay refractories
34	3443, 3449, 345, 346, 347, 348	Fabricated metal products
35		Industrial equipment
36		Electronic & electric equipment
3714		Motor vehicle parts & accessories
3715		Truck trailers
3732		Boat building & repairing
38		Instruments & related products
39		Miscellaneous manufacturing

Merchandise gaming operations
Microbreweries
Mini-warehouses
Mobile food vendors, subject to special requirements contained in Section 16-4, below
Motels
Motor freight terminals
Nursing homes, subject to special requirements contained in Section 16-4, below
Parking lots and parking garages
Parks
Passenger transportation terminals
Personal Services
Planned residential developments (minor), subject to the requirements of Article VII, below
Progressive care facilities, subject to special requirements contained in Section 16-4, below
Public and semi-public structures
Publishing and printing establishments

Radio and television broadcasting studios
Recreational facilities, commercial, indoor
Recreational facilities, commercial, outdoor
Recycling centers
Religious institutions
Repair services, miscellaneous
Research and development with or without outdoor storage and operations
Residential dwellings
Rest homes, subject to special requirements contained in Section 16-4, below
Restaurants
Restaurants, drive-in
Retail stores
Service stations
Signs, subject to the provisions of Article XIII
Storage yards
Telecommunications antennas, subject to special requirements contained in Section 16-4, below.
Telecommunications towers, subject to special requirements contained in Section 16-4, below.
Travel trailer sales
Treatment plants, water and sewer
Vehicle repair shops with or without outdoor operations and storage
Vehicle storage areas, not to include junk yards and wrecking yards as defined by NCGS 136-143
Warehouses
Wineries
Wholesaling establishments

5-12-2 Conditional Uses. The following uses shall be permitted in the I-1 Industrial Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Adult establishments
Animal boarding facilities
Civic clubs & fraternal organizations
Electronic Gaming Operations
Public utility facilities
Private clubs

5-12-3 Dimensional Requirements:

Minimum Lot Area in Square Feet:	40,000
Lot Area per Dwelling Unit in Square Feet:	N/A
Minimum Lot Width at Building Line in Feet:	100
Minimum Yard Requirements in Feet:	Front: 35 Side: 20 Rear: 20
Maximum Height in Feet:	35 No building shall exceed 35 feet in height unless the depth of the front and total width of the side yards required herein shall be increased one foot for each two feet or fraction thereof of building in excess of 35 feet.

Section 5-12-4 I-1CZD Industrial Conditional Zoning District Classification. The purpose and requirements of this zoning district classification are identical to the I-1 Industrial Zoning District Classification except that rezoning to I-1 Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the I-1 Industrial Conditional Zoning District Classification only upon rezoning to I-1CZD.

Day centers
Shelter facilities
Permitted uses for the I-1 Industrial Zoning District Classification as specified in Section 5-12-1, above
Conditional uses for the I-1 Industrial Zoning District Classification as specified in Section 5-12-2, above
Development or redevelopment involving more than 50,000ft2 of floor area

Section 5-13 RCT Residential Commercial Transition Zoning District Classification. This classification is intended to provide for a more orderly transition of older residential and transitional areas to commercial redevelopment. Prior to assigning this classification, City Council shall find as a fact that the area is in transition from residential to commercial development, and that the area is best suited for commercial development in the future. By way of illustration of what is meant by "in transition", properties located in the general vicinity of the rezoning request could include home occupations or existing nonconforming businesses. Road improvements, the provision or upgrade of water and sewer facilities and other infrastructure improvements may be needed in order to make a viable commercial district. While it is recognized that the long-term plan for this district is for commercial redevelopment, there is also a need to provide for the health and safety of the existing residential development in the district.

In order for property to be considered for rezoning from residential or commercial to RCT, it shall meet the following conditions:

a) The property or properties initially requesting rezoning to RCT shall total at least one acre in area. Subsequent requests for rezoning adjacent to property already zoned RCT may be smaller than one acre.

b) A portion of the property or properties requesting rezoning to RCT shall be located adjacent to property zoned C-1, C-2, C-3 or I-1. For the purpose of this Ordinance, "adjacent" shall include property located across a street right-of-way.

Regardless of the fact that property may meet the above conditions, it is understood that the actual change of zoning to RCT shall be within the sole discretion of the City Council.

5-13-1 Permitted Uses: The following uses are permitted by right in the Residential Commercial Transition Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units, subject to special requirements contained in Section 16-4, below
Accessory uses & structures
Adult care centers registered with the NC Department of Human Resources
Adult care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Animal hospitals & clinics, subject to dimensional requirement for commercial uses and so long as they contain no outdoor kennels
Automobile car washes so long as no attendants are employed on the premises
Banks and other financial institutions subject to dimensional requirements for commercial uses
Business services subject to dimensional requirements for commercial uses

Child care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Greenhouses & nurseries, commercial, subject to dimensional requirements for commercial uses
Home occupations
Laundries, coin-operated, subject to dimensional requirements for commercial uses
Music and art studios
Neighborhood community centers
Offices, business, professional and public, subject to dimensional requirements for commercial uses
Parks
Personal services, subject to dimensional requirements for commercial uses
Planned residential developments (minor), subject to procedures and regulations contained in Article VII
Religious institutions
Residential dwellings, single-family
Residential dwellings, two-family
Retail stores, subject to dimensional requirements for commercial uses
Signs, subject to the provisions of Article XIII
Telecommunications antennas, subject to special requirements contained in Section 16-4, below

5-13-2 Conditional Uses: The following uses shall be permitted in the RCT Residential Commercial Transition Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Bed & breakfast facilities
Child care centers
Civic clubs & fraternal organizations
Public utility facilities
Pet-sitting
Residential care facilities
Restaurants

5-13-3 Dimensional Requirements:

Minimum Lot Area in Square Feet:	8,000
Minimum Lot Width at Building Line in Feet:	75
Minimum Yard Requirements in Feet:	Front: 20
	Side: 15
	Rear: 15
Maximum Height in Feet:	35
Maximum Building Size for Commercial Uses Only:	5,000 ft2 of gross floor area

5-13-4 Access. To provide adequate room for increased vehicular traffic, at the time the use of the property changes to a commercial use, the street or streets on which the property fronts shall be widened to a minimum pavement width of 12 feet as measured from the center line of the street, from property line to property line. The widened streets shall meet the design and construction specifications of NCDOT.

Section 5-13-5 RCTCZD Residential Commercial Transition Conditional Zoning District Classification. The purpose and requirements of this classification are identical to the RCT Residential Commercial Transition Zoning District Classification except that rezoning to RCT Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the RCTCZD Residential Commercial Transition Conditional Zoning District Classification only upon rezoning to RCTCZD.

Permitted uses for the RCT, Residential Commercial Transition Zoning District Classification as specified in Section 5-13-1, below)
Conditional uses for the RCT, Residential, Commercial Transition Zoning District Classification as specified in Section 5-13-2, below

Section 5-14 PRD Planned Residential Development Conditional Zoning District Classification. This zoning district classification is designed to accommodate planned residential developments with a rezoning to a Planned Residential Development Conditional Zoning District in accordance with Article VII herein. Such rezoning to a Planned Residential Conditional Zoning District is required as a prerequisite to any use or development in the PRD Zoning District Classification, and no use shall be permitted except pursuant to such permit. The rezoning shall insure that the proposed use or development is consistent with the requirements of this section and may further specify the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting the rezoning for a planned residential district, City Council may impose such additional reasonable and appropriate safeguards upon such approval as it may deem necessary in order that the purpose and intent of this chapter are served, public welfare secured and substantial justice done.

5-14-1 Application. The reclassification of property to PRD Planned Residential Development Conditional Zoning District shall constitute an amendment of the Official Zoning Map which may be initiated only by the owner(s) of a legal interest in the affected property, or any person(s) having an interest in the property by reason of a written contract with the owner(s). Such amendment shall be initiated by means of an application for rezoning to a PRD Planned Residential Development Conditional Zoning District. No permit shall be issued for any development within a PRD Planned Residential Development Conditional Zoning District except in accordance with an approved rezoning.

5-14-2 Permissible Uses Subject to Rezoning to a Planned Residential Development Conditional Zoning District. A building or land shall be used only for those purposes specified in the rezoning for the project which may include one or more of the following:

Accessory structures
Adult care centers registered with the NC Department of Human Resources
Adult care homes
Camps
Child care centers subject to special requirements contained in Section 16-4, below
Child care homes
Congregate care facilities, subject to special requirements contained in Section 16-4, below
Customary accessory uses
Golf courses
Golf driving ranges & par three golf courses
Home Occupations
Nursing homes, subject to special requirements contained in Section 16-4, below
Offices located, designed, and proposed to be operated so as to be compatible with the particular neighborhood in which they are to be located
Parks
Planned residential developments (major)
Progressive care facilities, subject to special requirements contained in Section 16-4, below
Public utility facilities, subject to special requirements contained in Section 16-4, below
Religious institutions
Residential dwellings, multi-family
Residential dwellings, single-family

Residential dwellings, two-family
Rest homes, subject to special requirements contained in Section 16-4, below
Schools, primary, elementary & secondary
Telecommunications antennas, subject to special requirements contained in Section 16-4, below
Telecommunications towers, subject to special requirements contained in Section 16-4, below

5-14-3 Site Requirements. Planned residential development conditional zoning districts shall have the following site requirements:

a) The total land area of the district shall be at least three acres; and

b) Access to the planned residential development shall be by means of a boulevard or thoroughfare (major or minor) designated as such in the Comprehensive Transportation Plan. Alternatively, access may be provided by means of streets other than major or minor thoroughfares when it is clearly demonstrated that the planned residential development will not result in a significant increase in traffic on any such street.

5-14-4 Density. The density for a planned residential development shall be established by City Council in consideration of the Comprehensive Plan, surrounding land uses and the existence of adequate private and public facilities, including without limitation, water, wastewater, solid waste, stormwater, roads and parks to serve the development. Unless a planned residential development qualifies for a density bonus as provided in Section 5-14-6, below, the density authorized for the district shall not exceed ten units per acre.

5-14-5 Density Bonus. A density bonus over and above the maximum density specified in Section 5-14-4, above, may be approved by City Council only upon determining that the proposed planned residential development complies with the general considerations listed in Section 5-14-5 as well as the following additional considerations:

a) The property on which the development is proposed to be situated shall be located in close proximity to a thoroughfare designated as such in the Comprehensive Transportation Plan;

b) Vehicular access for such development shall be limited to one or more boulevards or thoroughfares designated as such in the Comprehensive Transportation Plan;

c) The carrying capacity of the roadway shall be adequate to handle increased traffic associated with the development without reducing the level of service of such roadway;

d) The development is proposed to be located within reasonable walking distance of places of employment and/or shopping facilities and shall provide pedestrian amenities in order to foster pedestrian access to such facilities;

e) The development shall provide common open space sufficient for the needs of its residents, which shall not be less than the greater of the common open space required by Section 6-16-2, below, or 1% of the land area of the development for each dwelling unit per acre proposed.

Any density authorized by City Council pursuant to this section shall not exceed 18 dwelling units per acre.

5-14-6 Development Standards. Unless noted otherwise, the following development standards shall apply to all planned residential developments, whether major or minor. In addition, planned residential developments shall meet all applicable standards contained in Article VI, below

5-14-6.1 Open Space and Footprint Requirements. Planned residential developments shall have a maximum footprint of 20% of the site and shall have, as a minimum, 60% of the site as open space. In addition, planned residential developments shall meet the common open space requirements of Section 6-16.

5-14-6.2 Setbacks. All dwellings and their accessory structures shall be set back not less than 40 feet from the nearest right-of-way line for any street or railroad adjoining the site; provided, however, such setback may be reduced to ten feet when parking is situated to the side or rear of the lot and screened from view from public rights-of-way. Furthermore, such buildings and structures shall be set back not less than 30 feet from any exterior property line which is not a right-of-way.

The Planning Board or City Council, as the case may be, shall require reservations of rights-of-way, as well as increased setbacks, for roads identified in the Comprehensive Transportation Plan, including existing roads to be widened as well as corridors of new roads.

All dwellings and their accessory structures shall be located at least ten feet from the edge of the paving for any street or drive and at least five feet from the edge of the paving for any area devoted principally to parking. Carports shall be situated at least ten feet from the edge of the paving for any street or drive and may be physically connected to the principal structure which they serve. In addition, dwellings and accessory structures abutting a street intended to serve more than 32 dwelling units or intended to be dedicated as a public street must be set back a minimum of 35 feet from the center line of such street. The approved setback lines shall be shown on the plan of development and on any recorded subdivision plat.

In addition to the foregoing setback requirements, minimum spacing between buildings shall be provided as per the NC State Building Code Volume V-Fire Prevention.

5-14-6.3 Subdivision of Planned Residential Developments. Planned residential development projects may be subdivided provided that arrangements for such subdivision are made at the time of the planned residential development application.
Zero lot lines may be permitted on one or more lot lines of each lot in accordance with these standards:

a) Any wall constructed on the lot line shall be a solid, windowless wall. If there is an offset of the wall from the lot line, the offset must be at least six feet.

b) A five foot maintenance easement and a maximum eave encroachment of 32 inches within the maintenance easement shall be established in the deed restrictions and covenants of the adjoining lot. This will provide ready access to the lot line wall at reasonable periods of the day for normal maintenance.

5-14-6.4 Circulation and Access. Internal streets, drives and parking areas shall provide safe and convenient access to dwelling units and recreation facilities, and for service and emergency vehicles. Streets shall not be designed to encourage outside traffic to traverse the planned residential development on local streets.

Sidewalks shall be required along streets adjacent to the planned residential development. Sidewalks shall form a logical, safe, and convenient system for pedestrian access to all dwelling units and appropriate project facilities and shall be required along such streets, drives and parking areas within the planned residential development as is necessary to accomplish this. Pedestrian/bicycle pathways may be substituted for sidewalks, if appropriate.

Streets intended to serve more than 32 dwelling units as well as those intended to be dedicated as public streets shall meet the design and construction standards of the NCDOT. All other streets and drives need not comply with NCDOT's pavement width and road right-of-way standards, but they shall comply with its pavement structure requirements. All dead-end streets and drives shall terminate in a cul-de-sac or other adequate means of reversing vehicular direction. It shall be the responsibility of the developer to submit to the Director of Public Works core samples taken by a licensed testing firm demonstrating that completed streets or drives meet such pavement structure requirements.

Internal streets with minimum setbacks measuring less than 35 feet from center line shall be private streets and are not acceptable for dedication to, or maintenance by, the City. Developments containing such private internal streets with setbacks measuring less than 35 feet from center line shall have the following disclaimer in large type placed in a prominent position on the following applicable documents for the development including the site plan, the plat, the restrictive covenants, the condominium documents, and any contracts used in the sale of properties.

"Some or all of the streets and/or drives in this development do not meet minimum right-of-way requirements for the City of Hendersonville. You are notified that these are proposed as private streets and that the City of Hendersonville will not accept them for maintenance."

5-14-6.5 Building Height. A building may exceed 35 feet in height only upon the granting of a height limitation exemption by the City Council. Upon application, the Council may grant a height limitation exemption upon finding that:

a) Such building will not block sunlight from adjacent property between the hours of 10:00 a.m. and 2:00 p.m. from the months of October 1st to May 1st.

b) Such building is adequately designed and served from the standpoint of safety, and the City Fire Chief certifies that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to the fire stations and equipment so as to offer adequate protection to life and property. In no case shall the building exceed 50 feet in height.

c) The side and rear yards for any structure in excess of 35 feet in height shall be increased by one foot for each one foot in height in excess of 35 feet.

5-14-6.6 Buffering, Screening and Landscaping. The applicant shall propose and plant, construct and make satisfactory arrangements for the preservation of a buffer and/or setbacks adequate to protect adjoining properties from the impacts of the proposed development. Parking and service areas and dumpsters shall be screened from view by adjacent single-family residences. Existing vegetation shall be preserved whenever possible. In addition, the developer shall provide an appropriate landscaping plan within the project.

5-14-6.7 Off-Street Parking. Off-Street parking requirements for planned residential developments shall be as follows:

A minimum of one-and-one-half spaces per residential unit containing one or two bedrooms. A minimum of two spaces per residential unit containing three or more bedrooms. Enclosed garages and carports count towards meeting the parking requirement. All parking spaces shall be located within 75 feet of the residential unit they serve.

5-14-6.8 Maintenance of Common Facilities. The developer, project owner, or a properly established homeowners association shall provide for the continuing maintenance of common open space, recreational

facilities, sidewalks, parking, private streets and other privately owned but com- mon facilities serving the project.

5-14-7 Minor Planned Residential Developments. An applicant may elect to have a development processed as a minor planned residential development so long as the proposed development, including all phases, does not exceed 50 dwelling units and so long as no accessory commercial development is requested for the project. A minor planned residential development may be located in one or more of the following zoning district classifications: R-40, R-20, R-15, R-10, R-6, MIC, RCT, C-2, C-3, I-1.

5-14-7.1 Density. The maximum number of dwelling units which may be constructed in a minor planned residential development shall be 50 or a number computed on the basis of the following table, whichever is less:

Use District	Dwelling Units Per Acre
R-40	1.0
R-20	2.5
R-15	3.75
R-10	5.5
R-6	8.5
MIC	5.5
RCT	5.5
C-2	8.5
C-3	8.5
I-1	8.5

5-14-7.2 Development Standards for Minor Planned Residential Developments. Except as otherwise noted herein, minor planned residential developments shall be governed by the development standards for planned residential developments contained in Section 5-14-6, above.

Unlike major planned residential developments, there is no minimum site requirement for a minor planned residential development, nor is there a requirement that access be by means of a designated thoroughfare.

5-14-7.3 Procedures for Reviewing. Unlike other planned developments which undergo rezoning to a conditional zoning district, minor planned residential developments undergo site plan review pursuant to Section 7-3.

5-14-8 Procedures for Reviewing Rest Homes, Nursing Homes, Congregate Care Facilities and Progressive Care Facilities. Rest homes, nursing homes, congregate care facilities and progressive care facilities are permitted uses, subject to special requirements contained in Section 16-4, below, in the following use districts: C-3, C-2, I-1 and MIC. When it is proposed to locate one of these uses in one of the foregoing districts, it shall undergo site plan review pursuant to the provisions of Section 7-3, below. These uses are permitted uses in a PRD Planned Residential Development Conditional Zoning District, in which case it shall undergo rezoning in accordance with Section 7-4, below.

Section 5-15 PCD Planned Commercial Development Conditional Zoning District Classification. This classification is designed to accommodate the development of shopping centers and retail establishments larger than 50,000 ft2 of floor area or which contain commercial uses which are proposed to be developed in conjunction with residential uses. A rezoning of the property to a Planned Commercial Development Conditional Zoning District is required. Such rezoning shall insure that the proposed use or development is

consistent with the requirements of this section and may further specify the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting the rezoning for a planned commercial development conditional zoning district, City Council may impose such additional reasonable and appropriate safeguards upon such approval as it may deem necessary in order that the purpose and intent of this chapter are served, public welfare secured and substantial justice done.

5-15-1 Application. The reclassification of property to PCD Planned Commercial Development Conditional Zoning District shall constitute an amendment of the Official Zoning Map which may be initiated only by the owner(s) of a legal interest in the affected property, any person(s) having an interest in the property by reason of a written contract with the owner(s), or an agent authorized in writing to act on behalf of the owner(s). Such amendment shall be initiated by means of an application for rezoning to a PCD Planned Commercial Development District Conditional Zoning District. . No permit shall be issued for any development within a PCD Planned Commercial Development Conditional Zoning District except in accordance with an approved rezoning.

5-15-2 Permissible Uses, Subject to Rezoning to a Planned Commercial Development Conditional Zoning District. A building or land shall be used only for those purposes specified in the rezoning for the project which may include one or more of the following:

Accessory uses & structures
Adult care centers registered with the NC Department of Human Resources
Animal hospitals & clinics
Animal boarding facilities
Automobile car washes
Automobile sales & service establishments
Automotive paint & body work
Banks and other financial institutions
Bed & breakfast facilities, subject to special requirements contained in Section 16-4, below
Business services
Child care center, subject to special requirements contained in Section 16-4, below
Civic clubs & fraternal organizations
Congregate care facilities, subject to special requirements contained in Section 16-4, below
Construction trades facilities
Convenience stores with or without gasoline sales
Dance and fitness facilities
Dry cleaning and laundry establishments
Farm equipment sales & service
Food processing establishments
Funeral homes
Golf courses
Golf driving ranges
Hotels & motels
Laundries, coin-operated
Microbreweries, subject to special requirements contained in Section 16-4, below
Mini-warehouses
Music and art studios
Newspaper offices and printing establishments
Nursing homes, subject to special requirements contained in Section 16-4, below
Offices, business, professional and public
Parking lots and parking garages

Parks
Personal services
Progressive care facilities, subject to special requirements contained in Section 16-4, below
Public & semi-public buildings
Public utility facilities, subject to special requirements contained in Section 16-4, below
Recreational facilities, indoors
Recreational facilities, outdoors, commercial
Religious institutions
Repair services, miscellaneous
Residential dwellings, single-family
Residential dwellings, two-family
Residential dwellings, multi-family
Rest homes, subject to special requirements contained in Section 16-4, below
Restaurants
Restaurants, drive-in
Retail stores
Service stations
Signs, subject to the provisions of Article XIII
Telecommunications antennas, subject to special requirements contained in Section 16-4, below
Telecommunications towers, subject to special requirements contained in Section 16-4, below
Theaters, indoor
Wholesale businesses

5-15-3 District Requirements. Primary vehicular access for a PCD Planned Commercial Development Conditional Zoning district shall be by means of a boulevard or major or minor thoroughfare designated as such in the Comprehensive Transportation Plan. Alternatively, access may be provided by means of streets other than a boulevard, major or minor thoroughfares when it is clearly demonstrated that the development will not result in a significant increase in traffic on any such street.

5-15-4 Development Standards. Except as modified herein, all uses and structures in the PCD Conditional Zoning District Classification shall meet all applicable standards contained in Article VI, below. Such uses and structures shall also meet the following development standards:

5-15-4.1 Setbacks. All buildings and structures shall be set back not less than 40 feet from the nearest right-of-way line for any street adjoining the site; provided, however, such setback may be reduced to ten feet when parking is situated to the side or rear of the lot and screened from view from public rights-of-way. Furthermore, such buildings and structures shall be set back not less than 25 feet from any exterior property line, which is not contiguous with a street or other right-of-way.

5-15-4.2 Parking, driveways, and loading areas. Off-street parking, driveways and loading areas shall be provided as required in Article VI, below, and shall be paved according to the specifications of the NCDOT.

5-15-4.3 Buffering and Landscaping. The applicant shall propose, plant, construct and make satisfactory arrangements for the preservation of a buffer and/or setbacks adequate to protect adjoining properties from the impacts of the proposed development. Such buffers shall, at a minimum, meet the requirements of Article XV, below. Any part of the project area not used for buildings or other structures, loading and access ways shall be left in a natural state or landscaped with grass, trees and shrubs.

5-15-4.4 Building Height. The maximum height of any building in the district shall be 48 feet.

5-15-4.5 Circulation and Access. Streets, drives and parking areas in a planned commercial development shall provide safe and convenient access to appropriate project facilities. Sidewalks shall be included to provide a logical, safe and convenient system for pedestrian access to appropriate project facilities. Greenways or pedestrian/bicycle pathways may be substituted for sidewalks, if appropriate. Sidewalks meeting the City sidewalk standards shall be provided along all public streets and roads in accordance with Section 6-12 of the Zoning Ordinance.

5-15-4.6 Density. The density for a residential development planned as part of a PCD Planned Commercial Development Conditional Zoning district shall be established by City Council in consideration of the Comprehensive Plan, surrounding land uses and the existence of adequate private and public facilities, including, without limitation, water, wastewater, solid waste, stormwater, roads and parks, to serve the development. A planned commercial development may qualify for a density bonus in the manner specified in Section 5-14-5, above. Otherwise, the density authorized for the district shall not exceed ten units per acre.

5-15-5 Subdivision of Planned Commercial Developments. The following standards shall apply to all subdivisions in planned commercial development conditional zoning district projects which are intended to function as a unified whole with common access, design and parking. Certain exceptions, as listed below, may be made to the standards and requirements set forth in the Subdivision Ordinance.

5-15-5.1 Setbacks. The setback for the perimeter of the entire planned commercial development shall be maintained as per subsection 5-15-4.1, above. All buildings and structures within each individual parcel shall be set back not less than 10 feet from the property line running parallel with the nearest right-of-way and not less than 10 feet from the property line of adjoining parcels that are located within the planned commercial development.

5-15-5.2 Circulation and Access. Each individual parcel shall be assured safe and reasonable vehicular and pedestrian access to and from an approved street.

a) All individual parcels created within a planned commercial development shall abut on a public street, private street or vehicular parking area.

b) If the planned commercial development as a whole meets the total off-street vehicular parking requirement, each individual parcel is not required to provide all the required vehicular parking on that parcel.

c) Individual parcels shall have shared rights of access to common vehicular parking, private streets, private drives, private driveways and sidewalks leading to a publicly maintained street. Shared rights of access shall be established by a binding legal agreement such as a cross access easement. Said document shall be recorded in the Office of the Register of Deeds for Henderson County.

d) All newly created parcels shall have established by a binding legal agreement a maintenance agreement which identifies the responsibilities for the maintenance of stormwater facilities, landscaping, common vehicular parking areas, private streets, private drives, private driveways and sidewalks. Maintenance of all stormwater facilities, landscaping, common vehicular parking areas, private streets, private drives, private driveways and sidewalks shall be a mandatory responsibility, running with the land, exercised by a single entity which shall be composed of one dominant landowner, an Owners' Association, or all owners acting collectively pursuant to a binding agreement. Said document shall be recorded in the Office of the Register of Deeds for Henderson County.

5-15-5.3 Common Open Space. All individual interior parcels created within a planned commercial development shall meet the common open space requirement in section 6-16, below.

Section 5-16 PMH Planned Manufactured Housing Development Conditional Zoning District Classification. This zoning district classification is designed to accommodate planned manufactured housing developments with a rezoning to a Planned Manufactured Housing Development Conditional Zoning District in accordance with Article VII herein. Such rezoning is required as a prerequisite to any use or development in the PMHCZD Zoning District Classification, and no use shall be permitted except pursuant to such approval. Such rezoning shall insure that the proposed use or development is consistent with the requirements of this section and may further specify the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting the rezoning for a planned manufacturing district, City Council may impose such additional reasonable and appropriate safeguards upon such approval as it may deem necessary in order that the purpose and intent of this chapter are served, public welfare secured and substantial justice done.

5-16-1 Application. The reclassification of property to PMH Planned Manufactured Housing Conditional Zoning District shall constitute an amendment of the Official Zoning Map which may be initiated only by the owner(s) of a legal interest in the affected property, any person(s) having an interest in the property by reason of a written contract with the owner(s), or an agent authorized in writing to act on behalf of the owner(s). Such amendment shall be initiated by means of an application for rezoning to a PMH Planned Manufactured Housing Conditional Zoning district. No permit shall be issued for any development within a PMH Planned Manufactured Housing Conditional Zoning district except in accordance with an approved rezoning.

In addition to the requirements for a planned development application contained in Article VII, the application for a rezoning for a planned manufactured housing conditional zoning district shall contain a site plan depicting the location and dimensions of all proposed manufactured home sites.

5-16-2 Permissible Uses, Subject to Rezoning. A building or land shall be used only for those purposes specified in the rezoning for the project which may include the following:

Accessory uses and structures
Adult care centers registered with the NC Department of Human Resources
Adult care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Child care centers, subject to special requirements contained in Section 16-4, below
Child care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling
Home occupations
Manufactured homes
Mobile homes
Religious institutions
Parks
Signs, subject to the provisions of Article XIII
Public utility structures

5-16-3 District Requirements. A planned manufactured housing <u>conditional zoning</u> district shall be at least three acres in area and shall not exceed 15 acres in area. Primary vehicular access for a planned manufactured housing development shall be by means of a boulevard or thoroughfare (major or minor) designated as such on the current Comprehensive Transportation Plan. Alternatively, access may be provided by means of streets other than a boulevard or major or minor thoroughfares when it is clearly demonstrated that the development will not result in a significant increase in traffic on any such street.

5-16-4 Development Standards. All uses and structures in a PMHCZD district shall meet the following development standards:

5-16-4.1 Lot Size. Each manufactured home shall occupy a designated space having at least 4,000 ft2, with a width of at least 40 feet, exclusive of common driveways. No more than one home may be erected or installed on one space.

5-16-4.2 Streets. Each manufactured home space shall abut a street within the park. Said streets shall be graded and surfaced with not less than four inches of crushed stone or other suitable material on a well compacted sub-base to a continuous width of 25 feet, exclusive of required parking spaces. Internal streets and circulation patterns shall be adequate to handle the traffic to be generated by the development.

5-16-4.3 Parking. One off-street parking space with not less than four inches of crushed stone or other suitable material, on a well compacted sub-base, shall be provided for each manufactured home space. The required parking space may be included within the 4,000 ft2 minimum lot size for a manufactured home.

5-16-4.4 Recreation Space. At least 8% of the total area of a planned manufactured housing district shall be devoted and developed to recreational use by the residents of the district. Such use may include space for community buildings, gardens, outdoor play areas, swimming pools, ball courts, etc.

5-16-4.5 Interior Setbacks. Any structure shall be located at least 20 feet from any internal street and at least 10 feet from any adjacent space within the district; provided, however, that these interior setbacks shall not apply to storage or other auxiliary structures for the exclusive use of a manufactured home.

5-16-4.6 Exterior Setbacks. No manufactured home shall be located closer than 30 feet to the exterior boundary of the district or abutting street right-of-way. Buildings used for laundry or recreation purposes shall be located no closer than 40 feet to the exterior boundary or the right-of-way of an abutting street.

5-16-4.7 Density. The overall density of homes within the district shall not exceed 8 units per acre.

5-16-4.8 Utilities. Each lot or space shall be equipped with electricity, drinking water, and wastewater disposal facilities.

5-16-4.9 Foundations, Patios and Walkways

a) Each home shall be placed on a permanent stand in accordance with standards set by the NC Department of Insurance.

b) Each home shall have an area on site for provision of a permanent patio or deck adjacent or attached to the permanent stand of at least 180 ft2.

c) A walkway shall be constructed for each lot or space to connect parking spaces to the manufactured home entrance.

d) An attached structure such as an awning, cabana, storage building, carport, windbreak, or porch, which has a floor area larger than 25 ft2 and is roofed shall be considered part of the stand for purposes of all setback requirements.

e) The area beneath a home must be fully enclosed with durable skirting within 60 days of placement in the district. As a minimum, such skirting must be a product designed and sold for use as skirting or as approved by the Development Assistance Director or a designee.

5-16-4.10 Buffers. The applicant shall propose, plant, construct and make satisfactory arrangements for the preservation of a buffer and/or setbacks adequate to protect adjoining properties from the impacts of the proposed development. Such buffers shall, at a minimum, meet the requirements of Article XV, below.

5-16-4.11 Structure Height. No structure in a PMH Planned Manufactured Housing district shall exceed 35 feet in height.

Section 5-17 HHH Hyman Heights Historic Overlay District. This district is designed to establish the Hyman Heights Historic District, a local historic district created pursuant to Chapter 28 of the City Code. It is an overlay zone, affecting the underlying zoning district only as stated herein.

5-17-1 Permitted Uses: Same as for underlying zoning district.

5-17-2 Conditional Uses: Same as for underlying zoning district.

5-17-3 Development Requirements shall be the same as for underlying zoning district with the added requirement that no exterior portion of any building or other structure, nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished without a certificate of appropriateness issued by the Hendersonville Historic Preservation Commission pursuant to Chapter 28, City Code.

Section 5-18 EC Entry Corridor Overlay Districts. These districts are established to provide development standards for particular roadway corridor areas which are in addition to those provided by the other zoning districts established by the Zoning Ordinance. The purpose for establishing these entry corridor overlay districts is first, to recognize the importance that different roadway corridors play in defining the city's character as city entryways and, second, to protect and preserve both the aesthetics of these important roadways and their traffic-handling capabilities, thereby contributing to the general welfare of the City of Hendersonville.

It is the intent of this ordinance that development existing as of the date of its enactment shall not be required to comply with the regulations contained herein unless such development is expanded or substantially altered.

5-18-1 Permitted Uses. Same as for underlying zoning district(s).

5-18-2 Conditional Uses. Same as for underlying zoning district(s).

5-18-3 Prohibited Uses. Same as for underlying zoning district(s).

5-18-4 Development Standards. Dimensional requirements and all other development standards shall be the same as for underlying zoning district(s) except as modified herein.

5-18-4.1 Thoroughfare Protection. No improvements other than driveways, sidewalks, parking and landscaping shall be permitted within the limits of projected rights-of-way as specified in the Comprehensive Transportation Plan.

5-18-4.2 Setbacks. Setbacks shall be the same as for the underlying zoning district provided, however, one or more principal structures may be authorized within the setback under the following circumstances:

a) Such principal structure(s) is not situated within 10 feet of the projected right-of-way line of an entry corridor roadway;

b) Parking for the site is placed to the side or rear of such structure(s) so that it is screened from view from the entry corridor by means of such structure(s) and landscaping, as necessary;

c) When siting principal structures within the setback, the developer is encouraged to design the site, including any proposed structures, in such a way as to protect and preserve the aesthetics of the entry corridor, thereby furthering the purpose of this section.

5-18-4.3 Driveways. Driveways serving a development parcel shall be permitted in accordance with the standards of the NCDOT; provided, however, a development parcel shall be limited to no more than two driveways on any road and no more than three driveways total. Additional driveways may be permitted when they are necessary to improve traffic movement, increase sight distances or for other safety reasons. Developers are encouraged to share parking areas and driveways with adjoining developments.

No landscaping or structures of any kind shall be required or allowed to be placed near the intersections of driveways and streets that would impede safe vision of traffic.

5-18-4.4 Outdoor Storage. Outdoor storage shall be screened from view so that it is not visible from a roadway or adjacent properties.

5-18-4.5 Lighting. Lighting for the site shall be designed and installed so that it is directed away from the roadway and any adjacent properties and does not interfere with the safe use of public rights-of-way.

5-18-4.6 Signs. Signs shall be governed by the regulations contained in Article XIII except as modified below:

a) **Outdoor advertising signs.** Outdoor advertising signs, commonly known as billboards, are prohibited.

b) **Freestanding signs.** Each development parcel may include no more than one freestanding sign, which shall not exceed 70 ft2 in size and 18 feet in height, measured from street grade, for each thoroughfare on which the site has driveway access. For purposes of this paragraph, a development parcel does not include out parcels associated with shopping centers and other multiple-business development sites.

c) **Business identification signs.** Each business on a development parcel shall be entitled to install one or more business identification signs on the premises where the business is located so long as the total amount of such signage does not exceed one ft2 for each linear foot of the front facade for that business, or 250 ft2, whichever is less. Such signs may be placed on the front wall of the business or on awnings, canopies or marquees attached to or closely associated with such facade. Any additional facade which has a door designed and used for public access may contain a business identification sign so long as the total amount of such signage does not exceed one ft2 for each three linear feet of such facade frontage for that business, or 250 ft2, whichever is less.

Also, in shopping centers, one suspended sign may be incorporated per business, which sign shall not exceed three ft2 per face per sign.

5-18-4.7 Parking. In consideration of the goals of this section and the increased landscaping requirements contained herein, the off-street parking requirements contained in Section 6-5 above may be reduced, at the discretion of the developer, by up to 20%.

5-18-4.8 Street Trees. Street trees shall be required at the rate of one large-maturing tree (>35 in height) for every 50 linear feet of property abutting a street, or one small-maturing tree (<25 feet in height) for every 40

linear feet of property abutting a street if overhead utility lines are present. Trees do not need to be spaced evenly. They may be clustered with a minimum spacing of 15 feet and a maximum spacing of 75 feet.

Street trees shall be placed in a planting strip on private property and not within the street right-of-way. No street tree can be planted farther than 35 feet from the edge of the right-of-way to count as a street tree. The width of the planting strip may vary, but the minimum width cannot be less than seven feet and the average width shall be at least ten feet. The planting area must be covered with living material, including ground cover and/or shrubs, except for mulched areas directly around trees and shrubs, so that no soil is exposed. When a sidewalk is proposed to be constructed on a development site and right-of-way configuration requires that it be constructed on the developer's property, the width of the planting strip may be reduced to an average of seven feet.

During the development review process, the approving authority for the City may permit minor deviations in the placement of trees in order to avoid conflict with utility structures and utility lines.

Existing vegetation on a development parcel may count toward meeting the requirements of this section when such is in good condition and helps to further the purpose of the district.

5-18-4.9 Exceptions.

a) Single-family and two-family residential dwellings shall be required to comply with the provisions of Sections 5-18-4.1 - 5-18-4.4, above, but they shall not be required to comply with the remaining regulations of the EC Entry Corridor Overlay Zoning Classification.

b) Small lots, defined as lots with less than 100 feet of frontage on an entry corridor roadway or with less than 100 feet of depth, may have site constraints which make strict compliance with the regulations contained in this section a hardship. In such cases, the approving authority for the City may approve deviations from such regulations so long as the plans of development are consistent with the goals and objectives stated herein.

5-18-4.10 Variances. Variances may be authorized from these regulations pursuant to the standards and procedures for variances contained in Article X of the Zoning Ordinance.

5-18-4.11 Nonconformities. Uses, structures and lots rendered nonconforming by this ordinance shall be governed by the provisions of Section 6-2 of the Zoning Ordinance; provided, however, structures, other than signs, existing as of the effective date of this ordinance which are destroyed by fire or other act of God shall be entitled to be rebuilt in their preexisting location regardless of the degree of damage.

Section 5-19 CMU Central Mixed Use Zoning District Classification. The CMU Central Mixed Use Zoning District Classification is intended to strengthen the Central Business District and the perimeter surrounding that District by encouraging and permitting the coordinated development of dwellings, retail, professional and financial trades, institutional, governmental and other public facilities. This classification is designed to facilitate the coordination of future developments, stressing sensitivity to urban design, pedestrian environment, urban open spaces and streetscapes. It will permit higher density residential developments, provided adequate facilities are, or will be, in place to serve such developments.

5-19-1 Permitted Uses The following uses are permitted by right in the CMU Central Mixed Use Zoning District Classification provided they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units

Accessory uses & structures Adult care centers registered with the NC Department of Human Resources
Adult care homes
Animal hospitals so long as they are totally enclosed
Automobile car washes
Banks & other financial institutions
Bed & breakfast facilities
Bus stations
Business services
Child care homes
Congregate care facilities, subject to special requirements contained in Section 16-4, below
Construction trades facilities
Convenience stores with or without gasoline sales*)*
Cultural art buildings
Dance & fitness facilities
Dry cleaning & laundry establishments containing less than 2,000 ft2 of floor space
Funeral homes
Garage apartments
Home occupations
Hotels & motels
Laundries, coin-operated
Microbreweries, subject to special requirements contained in Section 16-4, below
Mobile food vendors, subject to special requirements contained in Section 16-4, below
Music & art studios
Newspapers and printing companies
Nursing homes, subject to special requirements contained in Section 16-4, below
Offices, business, professional and public
Parking lots & parking garages
Parks
Personal services
Planned residential developments (minor), subject to the requirements of Article VII, below
Progressive care facilities, subject to special requirements contained in Section
16-4below
Public & semi-public buildings
Recreational facilities, indoors
Religious institutions
Repair services, miscellaneous
Residential dwellings, single family
Residential dwellings, multi-family
Residential dwellings, two-family
Rest homes, subject to special requirements contained in Section 16-4, below
Restaurants
Retail stores
Schools, post-secondary, business, technical and vocational
Schools, elementary & secondary
Signs, subject to the provisions of Article XIII, below
Telecommunications antennas, subject to special requirements contained in Section 16-4, below
Theaters, indoors

5-19-2 Conditional Uses The following uses shall be permitted in the CMU Central Mixed Use Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Child care centers
Civic clubs & fraternal organizations
Private clubs
Public utility facilities
Vehicle repair & service, without outdoor operations

5-19-3 Development Standards. The following standards shall apply to development within the CMU Central Mixed Use Zoning District Classification in addition to all other applicable standards contained in this Ordinance.

5-19-3.1 Parking & Loading. For non-residential developments, the requirements of Section 6-5, below, shall apply. Residential developments shall be provided with a minimum of one off-street parking space per dwelling unit. As far as practicable, in consideration of site constraints and reasonable development requirements, parking for non-residential and multi-family residential developments shall be situated to the side or rear of principal structures.

All parking areas shall be separated from the back of the curb by a planting strip at least five feet in width and screened from view from public streets by principal structures or by shrubs and/or evergreen trees planted at the most appropriate spacing for the species used. The reviewing authority may authorize the use of walls and or fences not exceeding four feet in height in lieu of a vegetative screen where site constraints or design considerations justify such substitution.

5-19-3.2 Dimensional Requirements.

Minimum Lot Area in Square Feet:	8,000
Minimum Lot Width:	None
Minimum Yard Requirements in Feet:	12 feet measured from the back of the curb of any street. Rear and side yards are not required if yards do not border a street. However, if yards are provided, they must be a minimum of five feet measured from the property line.
Maximum Building Height in Feet:	36 feet; provided, however, structures containing at least three floors limited to residential uses may be constructed to a height not exceeding 64 feet.

5-19-3.3 Streetscape Design. The relationship between a building and areas for pedestrian or vehicular circulation shall be carefully planned in order to avoid negative impacts of one upon the other. All buildings and uses developed in this district shall meet the following minimum standards; provided, however, buildings undergoing renovation, rehabilitation and expansion may be exempted from individual streetscape design regulations if site conditions are such that strict compliance therewith would result in practical difficulty or unnecessary hardship.

a) **Street Walls.** The first floors of all buildings, including structured parking, shall be designed to encourage and complement pedestrian-scale interest and activity.

To the extent practicable, in consideration of the nature of the uses proposed, this is to be accomplished in part by the use of transparent windows and doors arranged so that the uses are visible from and/or accessible to the street on the first floor street frontage.

In addition, a combination of design elements shall be used on the building facade and/or in relationship to the building at street level to animate and enliven the streetscape. These design elements may include, but are not limited to, the following: ornamentation, molding, changes in material or color, architectural lighting, works of art, fountains and pools, street furniture, landscaping and garden areas, and display areas.

Any design elements which extend into the public right-of-way on city or state maintained streets require an encroachment agreement with the City of Hendersonville Department of Public Works or the NCDOT, as appropriate.

Where expanses of blank wall are necessary, they may not exceed 20 feet in length. A blank wall is a facade which does not add to the character of the streetscape and does not contain transparent windows or doors or sufficient ornamentation, decoration or articulation as listed in the above paragraph.

The first floor and street level shall be designed with attention to adjacent public or private open spaces and existing streetscape improvements. The provision of multiple entrances from the public sidewalk or open spaces is encouraged.

b) **Structured Parking Facilities.** In addition to the above requirements, in the event that any openings for ventilation, service, or emergency access are located at the first floor level in the building facade, then they shall be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances shall be designed to minimize visibility of parked cars. The remainder of the street level frontage shall be either commercial space or an architecturally articulated facade designed to minimize the visibility of parked cars.

All levels of a structured parking facility shall be designed and screened in such a way as to minimize visibility of parked cars. In no instance will rails or cabling alone be sufficient to meet this screening requirement.

The design requirements of paragraph (b) apply to all building facades which are visible from any public right-of-way.

c) **Screening.** All structures and facilities for trash, loading, outdoor equipment, and storage, including the storage of inventory, shall be screened so as not to be visible from the street and pedestrian circulation areas. Solar technology components including solar panels and solar thermal collectors used for on-site private purposes are exempt from this provision provided that no other functional location exists for optimized performance that is not visible from the street and pedestrian circulation areas. This determination may be made either by the Zoning Administrator or the Planning Director acting alone.

Solid walls shall be faced with brick, stone or other decorative finish with the decorative side adjacent to the public right-of-way. Fences shall be opaque and either painted or stained with the decorative side adjacent to the public right-of-way. In no instance will a chain link or barbed wire fence be acceptable.

Trees used to fulfill this requirement shall be located on private property in planters, a planting strip, berm or tree lawn, any of which shall be at least 8 feet wide and at least 2 feet deep. The trees shall be of a small maturing evergreen variety and be at least 10 feet tall at the time of planting. All shrubs shall be between 24 inches and 36 inches tall at time of planting. All plant material shall conform with the American Standard for Nursery Stock published by the American Association of Nurserymen. Trees employed to meet the screening requirement may not be counted toward the street tree planting or urban open space tree requirements.

Any lot which becomes vacant through the removal of a structure for any reason shall be screened from all abutting public street rights-of-way in accordance with the provisions of this section or cleared of rubbish and debris and seeded with grass. However, if the lot is to be used for parking either as a transitional or permanent use, it shall meet all the minimum requirements for that use as established by this ordinance.

Maintenance of screening required under these provisions shall conform to the requirements of Section 15-4 of this Ordinance, including the requirement to promptly replace dead vegetation with healthy, living plantings.

d) **Street Trees**. In addition to all other requirements of this Section, at least one tree of 3 - 3½ inches caliper minimum, measured 6 inches above ground, shall be planted for each 25 feet for small maturing trees and for each 35 feet for large maturing trees of the entire building lot which abuts any public street right-of-way with a minimum of one tree required for any distance up to 35 feet. Trees shall not be planted closer than 2 feet, nor more than 15 feet, from the back of the curb.

For the purposes of this paragraph, all specifications for measurement and quality of trees shall be in accordance with the *American Standard for Nursery Stock* published by the American Association of Nurserymen. All trees planted to meet this requirement shall be well-matched specimen grade and shall be limbed up 6 feet. Trees used to fulfill this requirement may be located on public or private property. Maintenance of street trees required under these provisions shall conform to the requirements of Section 15-4 of this Ordinance, including the requirement to promptly replace dead vegetation with healthy, living plantings

e) **Reflective Surfaces.** No development subject to these provisions may have exterior walls with a reflectivity value in excess of 36%, as measured under the applicable provisions of ASTM-C-1036. No reflective surfaces may be used on street level exterior facades.

f) **Urban Open Spaces.** Open spaces for congregation and/or recreational opportunities are required and shall be equipped or designed to allow pedestrian seating and to be easily observed from the street or pedestrian circulation areas. All urban open spaces shall comply with the minimum required design standards of this ordinance. In light of the requirement for urban open space, development in the CMU Central Mixed Use Zoning District Classification is excused from complying with the requirements for common open space contained in Section 6-16 of this ordinance.

1) **Urban open space size**. Buildings shall be provided with open space behind the required setback and on private property on the basis of five ft2 of urban open space per 100 ft2 of gross floor area (5/100). Provided, however, buildings containing less than 20,000 ft2 of gross floor area shall be excused from complying with the urban open space requirement. A maximum of 30% of this required urban open space may be provided on an enclosed ground floor level provided the enclosed space meets all other requirements of these provisions.

2) **Accessibility to the street.** Urban open space shall be designed so that it is accessible to and visible from the street.

3) **Trees**. Within the open space area(s), 1 tree shall be planted for each 500 ft2. Trees shall have a minimum caliper of 3-3½ inches measured 6 inches above ground at the time of planting.

4) **Amenities**. The following amenities are permitted within an urban open space area: ornamental fountains, stairways, seating, waterfalls, sculptures, arbors, trellises, planted beds, drinking fountains, clock pedestals, public telephones, awnings, canopies, and similar structures.

5) **Maintenance.** The building owner, lessee, management entity or authorized agent are jointly and severally responsible for the maintenance of the urban open space area including litter control and care and the replacement of trees and shrubs, as required by Section 15-4, below.

6) **Utilities.** All utilities service lines and connections shall be underground.

g) **Exceptions for Single-Family and Two-Family Residences.** Single-family and two family residential dwellings shall not be required to comply with the Streetscape Design regulations contained in this section.

Section 5-19-4 CMUCZD Central Mixed Use Conditional Zoning District Classification. The purpose and requirements of this classification are identical to the CMU Central Mixed Use Zoning Classification except that a, rezoning as provided for in Article VII herein, is required as a prerequisite to any use or development.

Any development involving more than 50,000 ft2 of gross floor area and/or 50 residential dwelling units
Day centers, subject to the special requirements contained in Section 16-4, below.
Shelter facilities, subject to the special requirements contained in Section 16-4, below.
Telecommunications towers, subject to special requirements contained in Section 16-4, below.
Permitted uses for the CMU Central Mixed Use Zoning District Classification as specified in Section 5-19-1, above.
Conditional uses for the CMU Central Mixed Use Zoning District Classification as specified in Section 5-19-2, above.

Section 5-20 DHH Druid Hills Historic Overlay District This district is designed to establish the Druid Hills Historic District, a local historic district created pursuant to Chapter 28 of the City Code. It is an overlay zone, affecting the underlying zoning district only as stated herein.

5-20-1 Permitted Uses: Same as for underlying zoning district.

5-20-2 Conditional Uses: Same as for underlying zoning district.

5-20-3 Development Requirements shall be the same as for underlying zoning district with the added requirement that no exterior portion of any building or other structure, nor above-ground utility structure, nor any type of outdoor advertising sign, nor significant site characteristics, shall be erected, altered, restored, moved, or demolished without a certificate of appropriateness issued by the Hendersonville Historic Preservation Commission.

Section 5-21 PID Planned Institutional Development Conditional Zoning District Classification. This classification is designed to accommodate the development of public or quasi-public uses or institutions such as churches, libraries, schools, hospitals, municipally-owned or operated buildings, or other structures or land used for public purposes in which the floor area of all associated structures exceeds 50,000 ft2. A rezoning issued in accordance with Article VII, below, is required as a prerequisite to any use or development in a PID conditional zoning district, and no use shall be permitted except pursuant to such approval. Such approval shall insure that the proposed use or development is consistent with the requirements of this section and may further specify the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request, In granting the rezoning to a planned institutional development conditional zoning district, City Council may impose such additional reasonable and appropriate safeguards upon such approval as it may deem necessary in order that the purpose and intent of this chapter are served, public welfare secured and substantial justice done.

5-21-1 Application. The reclassification of property to PID Planned Institutional Development Conditional Zoning District shall constitute an amendment of the Official Zoning Map which may be initiated only by the owner(s) of a legal interest in the affected property, any person(s) having an interest in the property by reason of a written contract with the owner(s), or an agent authorized in writing to act on behalf of the owner(s). Such amendment shall be initiated by means of an application for rezoning to PID Planned Institutional Development Conditional Zoning District.

5-21-2 Permissible Uses, Subject to Rezoning to a Planned Institutional Development Conditional Zoning District. A building or land shall be used only for those purposes specified in the rezoning for the project which may include the following:

Accessory uses & structures
Adult care centers registered with the NC Department of Human Resources
Child care centers registered with the NC Department of Human Resources
Civic clubs & fraternal organizations
Congregate care facilities
Cultural arts buildings
Hospitals
Neighborhood community centers
Nursing homes
Parking lots & parking garages
Parks
Progressive care facilities
Public & quasi-public buildings
Religious institutions
Residential dwellings, multi-family
Residential dwellings, single-family
Residential dwellings, two-family
Rest homes
Schools, post-secondary, business, technical and vocational
Schools, elementary and secondary
Signs, subject to the provisions of Article XIII
Telecommunications antennas, subject to special requirements contained in Section 16-4, below

5-21-3 Site Requirements. Primary vehicular access to a planned institutional development shall be by means of a boulevard or major or minor thoroughfare designated as such in the current Comprehensive Transportation Plan. Alternatively, access may be provided by means of streets other than a boulevard or major or minor thoroughfares when it is clearly demonstrated that the planned institutional development will not result in a significant increase in traffic on any such street.

5-21-4 Development Standards. Except as modified herein, all uses and structures in a planned institutional development district shall meet all applicable standards contained in Article VI, below. Such uses and structures shall also meet the following development standards:

5-21-4.1 Setbacks. All buildings and structures shall be set back not less than 40 feet from the nearest right-of-way line for any street adjoining the site; provided, however, such setback may be reduced to ten feet when parking is situated to the rear or side of the lot and screened from view from public rights-of-way. Buildings and structures shall be set back not less than 25 feet from any exterior property line.

5-21-4.2 Parking, driveways, and loading areas. Off-street parking, driveways and loading areas shall be provided as required in Article VI, below, and shall be paved according to the specifications of the NCDOT.

5-21-4.3 Buffering and landscaping. Where a planned institutional development district abuts a residential district or a residential use, there shall be provided and maintained a buffer adequate to protect neighboring properties, which shall, at a minimum, meet the requirements of Article XV of the Zoning Ordinance. Any part of the project area not used for buildings or other structures, loading and access ways shall be landscaped with grass, trees and shrubs.

5-21-4.4 Building Height. The maximum height of any building in the district shall be 50 feet.

Section 5-22 GHMU Greenville Highway Mixed Use Zoning District Classification. The Greenville Highway Mixed Use Zoning District Classification is intended to encourage a mix of medium density residential development in conjunction with appropriately scaled and compatible commercial development, consisting of retail sales and services, professional offices, accommodations services and similar uses. Development design becomes a critical consideration when uses which previously have been deemed incompatible are authorized to be placed in close proximity to each other. In addition to the general dimensional and use provisions, the regulations contained herein, along with those in Article XVIII which apply to mixed use zoning district classifications generally, address the design of buildings and development sites.

5-22-1 Permitted Uses. The following uses are permitted by right in the GHMU Greenville Highway Mixed Use Zoning District Classification, provided they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units
Accessory uses & structures
Banks & other financial institutions
Bed & breakfast facilities
Business services
Convenience stores, not including gasoline sales
Cultural arts buildings
Dance, health & fitness facilities
Dry cleaning and laundry establishments containing less than 2,000 ft2 of floor area
Funeral homes
Home occupations
Hotels & motels
Laundries, coin-operated
Microbreweries, subject to special requirements contained in Section 16-4, below
Music & art studios
Neighborhood community centers
Newspaper offices & printing establishments
Offices, business, professional and public
Parks
Personal services
Public & semi-public buildings
Religious institutions
Residential dwellings, single family
Residential dwellings, multi-family
Residential dwellings, two-family
Restaurants
Retail stores (not including automotive, boat & heavy equipment, and/or gasoline sales)
Signs, subject to the provisions of Article XIII, below
Telecommunications antennas, subject to special requirements contained in Section 16-4, below

Theaters, indoors
Veterinarian clinics

5-22-2 Conditional Uses. The following uses shall be permitted in the GHMU Greenville Highway Mixed Use Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Adult care centers
Adult care homes
Child care centers
Child care homes
Lawn & garden centers
Public utility facilities
Schools

5-22-3 Development Standards. The following standards shall apply to development within the GHMU Greenville Highway Mixed Use Zoning District Classification.

5-22-3.1 Parking & Loading. For non-residential developments, the requirements of Section 6-5, below, shall apply. Residential developments shall be provided with a minimum of one off-street parking space per dwelling unit.

5-22-3.2 Dimensional Requirements.

Minimum Lot Area in Square Feet:	None
Minimum Lot Width:	None
Open Space Ratio:	≥.40
Maximum Footprint for any Structure:	12,000 ft2. For structures with a footprint greater than 12,000 ft2 see Section 5-22-3 Special Uses above.
Nonresidential Floor Area Allowance:	.25 x area. Floor area devoted to residential use shall not count against this allowance.
Yard Requirements:	Varies with building type. See Design Standards.
Principal Building Separation:	Principle buildings on a lot shall be separated a mini - mum of 15 feet.
Building Height:	Varies with building type. See Design Standards.

5-22-3.3 Residential Density. There shall be no limit on the number of residential dwellings on any development tract.

5-22-4 Design Standards. These standards are intended to apply to all development and redevelopment within the Greenville Highway Mixed Use Zoning District Classification. Applicants for authorization to undertake development or redevelopment within such zoning district must demonstrate compliance with these standards or must undergo alternative design review.

5-22-4.1 Standards of General Applicability. The following standards shall apply to all development in the Greenville Highway Mixed Use Zoning District Classification regardless of use or building type.

5-22-4.1.1 General Site Development. Site development shall not result in the removal of lateral support for adjoining properties. Furthermore, development shall not create hazardous or dangerous conditions or result in the creation of a nuisance as specified in Section 6-13, below.

5-22-4.1.2 Physical Integration of Uses. Residential and commercial uses may be located within the same or adjoining structures provided appropriate health and safety regulations are followed.

5-22-4.1.3 Building Orientation. Primary façades, which may or may not contain an entrance to the building, shall face the adjacent street or significant public space. A main entrance shall face a connecting walkway with a direct, safe, pedestrian connection to the street.

5-22-4.1.4 Common Space. Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects.

Common spaces are intended to be places for social interaction and, thus, may include impervious surfaces. Unless interior common space is approved by the reviewing authority, common space shall be out-of-doors. Common space design shall comply with the following:

a) **Size.** At least 10% of the acreage of a site shall be devoted to common space. Common space shall count toward meeting open space requirements for a project.

b) **Trees.** One tree shall be planted for each 500 ft2 of common space. Trees shall have a minimum caliper of 3-3½ inches measured six inches above ground at the time of planting.

c) **Utilities.** All utilities service lines and connections shall be underground.

d) **Seating.** Seating shall be provided to accommodate workers, residents and/or shoppers. Seating may be accomplished in whole or in part using planters or other similar structures.

e) **Amenities.** Common space for a development shall include two or more of the following amenities: ornamental fountains, stairways, waterfalls, public art, arbors, trellises, planted beds, drinking fountains, clock pedestals, awnings, canopies, informational kiosks, and similar amenities.

5-22-4.1.5 Architectural Details. The appearance of all exposed façades (not just the streetside façade) is important and shall be addressed in development design. Architectural elements like openings, sill details, bulkheads, posts, and other architectural features shall be used to establish human scale at the street level. On corner lots, the applicant shall provide distinctive architectural elements at the corner of buildings facing the intersection. Windows, doors, columns, eaves, parapets, and other building components shall be proportional to the overall scale of the building. Windows shall be vertically aligned.

All buildings shall provide detailed design along all elevations. Detailed design shall be provided by using at least three of the following architectural features on all elevations. Features may be varied on rear/side/front elevations.

Dormers
Gables
Recessed entries
Covered porch, entries
Cupolas or towers
Pillars or posts
Eaves (minimum 6-inch projection)

Off-sets in building face or roof
Window trim (minimum nominal four inches wide)
Bay windows
Balconies
Decorative patterns on exterior finish (e.g. scales/shingles, wainscoting, ornamentation)
Decorative cornices and roof lines (for flat roofs)

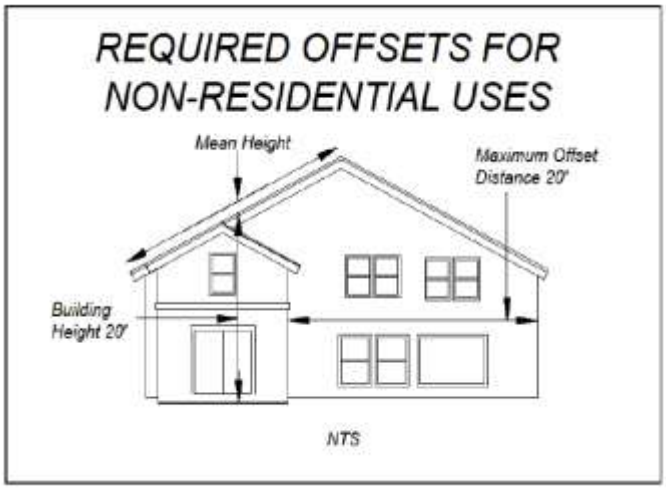
5-22-4.1.6 Building Façades. Façades of buildings shall contain at least two building materials which shall contrast in color and texture. At least 15% of the façade, exclusive of windows, doors and trim, shall consist of stone, brick or decorative block.

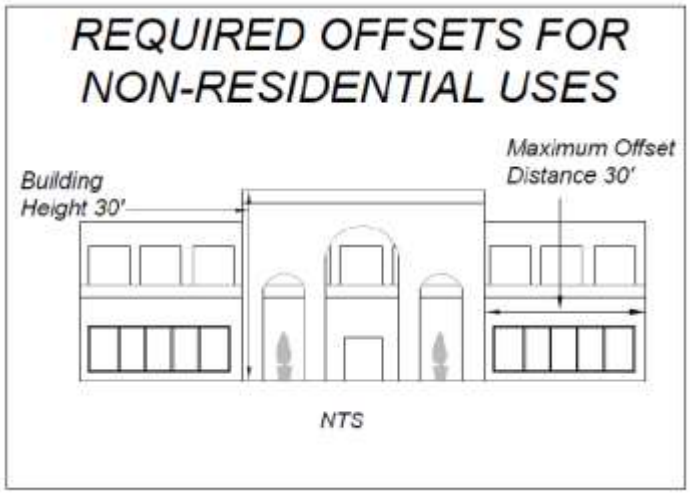
5-22-4.1.7 Windows. Windows shall either be (1) recessed a minimum of three inches from the façade or (2) trimmed. If trim is used, it shall be a minimum of four inches (nominal) in width and shall project beyond the façade.

5-22-4.1.8 Building Scale. The scale of a building is a function of the size of the individual pieces of a building and their relationship to each other. The scale of a building is important in order to contribute to the overall diversity of building types, to give visual interest, and to maintain compatibility between buildings. These design standards regulate scale by means of offsets that is protrusions or breaks in the plane of façades.

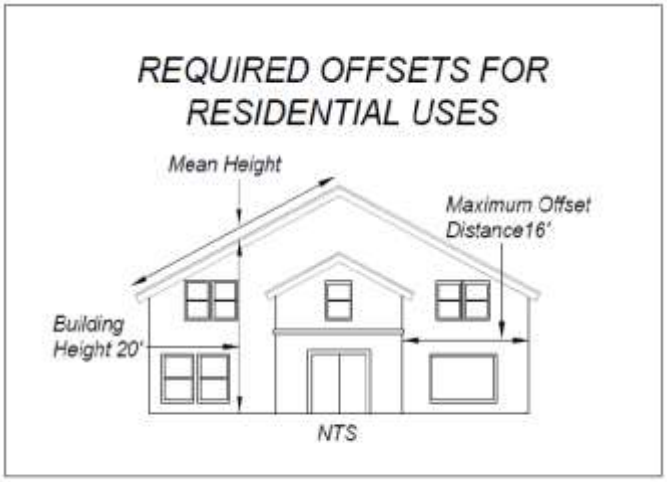
a) **Scale, Buildings Containing Nonresidential Uses.** The following requirements apply to any building containing nonresidential uses, regardless whether the building also contains residential uses:

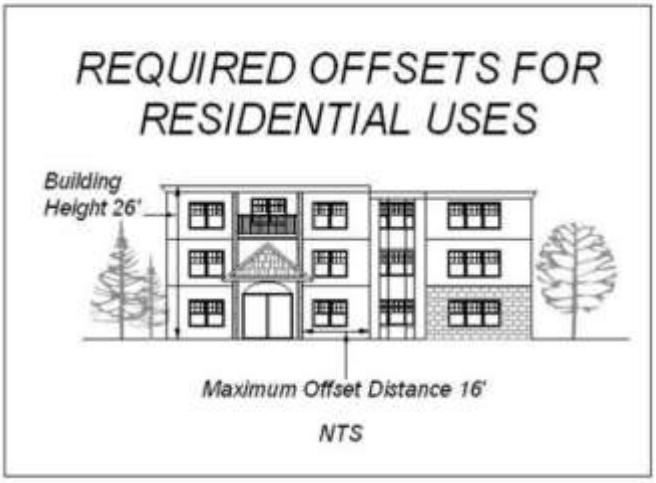
1) The distance between required offsets is related to the height of the building wall on a one-to-one basis. A building façade which is less than or equal to the height of the building shall not require an offset.





2) The depth or projection of the offset shall be 1/10th the length of the longest adjacent wall panel; provided, however, the minimum offset depth shall be one foot. By means of illustration, a building with a 20-foot wall panel shall have a two-foot offset adjacent to such wall panel.





3) Each façade of a building shall comply with the offset requirements contained herein.

b) **Scale, Buildings Containing Only Residential Uses.** The following requirements apply to any building containing only residential uses:

1) The distance between required offsets shall be related to the height of the building on a one-to-one basis; provided, however, no wall shall exceed 16 feet in length without an offset. A building façade which is less than 16 feet in length shall not require an offset.

2) Offsets shall have a minimum depth or projection of two feet regardless of the length of adjacent wall façades.

3) Each façade of a building shall comply with the offset requirements contained herein.

5-22-4.1.9 Streets and Sidewalks. Streets and sidewalks shall comply with the circulation and access requirements contained in Section 18-6-4.6, below.

5-22-4.1.10 Building Materials. Building materials shall be used consistently on the exterior of the building and shall comply with the lists of prohibited and restricted materials contained herein.

a) **Prohibited Building Materials.** Unless authorized through alternative design compliance, the following building materials shall be prohibited within the Greenville Highway Mixed Use Zoning District Classification: “Jumbo brick”; plain concrete block (with or without paint); corrugated metal; reflective glass; more than 50% glass on any façade; roll roofing; roll siding; plain unfinished concrete (painting does not constitute a finish); aluminum; unpainted metal; exposed pipe columns; logs, log siding, wain-edged siding; and any other materials not customarily used in conventional construction.

b) **Restricted Building Materials.** Unless authorized through alternative design compliance, the following building materials shall be restricted as noted within the Greenville Highway Mixed Use Zoning District Classification: vinyl siding, aluminum siding and grooved plywood siding (T1-11) are permitted only behind the roadway corridor; chain link fencing is permitted so long as it is not readily visible from a street or public right-of- way.

5-22-4.1.11 Certain Exemptions for Single-Family and Two-Family Detached Homes. Detached single family and two-family homes shall be exempt from the requirements contained in Sections 5-22-5.1.4 (common space) and 5-22-5.1.8 (building scale).

5-22-4.2 General Standards for Residential Developments. The following standards shall apply to developments containing only residential uses with the exception that multi-family buildings must comply with the general standards contained in Section 5-22-5.3, below.

5-22-4.2.1 General Appearance. Residential development shall contain a variation of façades and materials so that there shall not be a row or strip housing appearance. Means to accomplish this goal may include the use of dormers, gables, recessed entries, covered porch entries, bay windows, cupolas or towers, and a variation in the depth and height of walls, among others.

5-22-4.2.2 Architectural.

a) Useable porches and/or stoops, at least eight feet in width, shall be located on the front and/or side of the home.

b) Front-loading garages and carports (if permitted) shall be recessed from the front façade of the house and visually designed to form a secondary building volume. Developers are encouraged to turn garages and carports so the openings or doors are not visible from the street. At no time shall the width of an attached garage exceed 50% of the total front building façade.

c) Accessory buildings with a floor area greater than 150 ft2 shall be clad in materials similar in appearance to the principal structure.

d) Walls and fences located in the front yard shall be decorative and limited in height to no more than four feet above grade. Front-yard walls shall be of brick, stone or stucco. Front yard fences shall be wood, wrought iron, vinyl or materials similar in appearance and durability. Side and rear yard fences may be chain link, wood, wrought iron, vinyl or similar material.

5-22-4.2.3 Configurations.

a) Main roofs on residential buildings shall be gables, hips or clerestory with a pitch between 5:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building.

b) Foundation walls (except those under porches) shall be finished with split face concrete block, brick, stucco or stone. If crawlspaces of porches are enclosed, they shall be enclosed with split face concrete block, brick, stucco, stone, lattice or any combination thereof.

5-22-4.3 General Standards for Nonresidential Buildings and Multi-Family Buildings. The following standards shall apply to all buildings containing nonresidential and multi-family uses.

5-22-4.3.1 Storage, Utility & Service Areas. Areas devoted to storage, garbage, recycling collection and utilities shall be enclosed and screened around their perimeter, and constructed of materials consistent with the principal building. Gas meters, electric meters, ground-mounted mechanical units, and any other similar structures shall be screened with approved construction materials or landscaping. Fences designed for screening shall be constructed of brick, stone, architectural stucco, concrete, vinyl, wood or iron. Commercial exhaust vents, mechanical units, utility equipment and telecommunication receiving devices located on the roof shall be screened from view. Solar technology components including solar panels and solar thermal collectors used for on-site private purposes are exempt from this provision.

5-22-4.3.2 Parking & Vehicular Access. All vehicular use areas shall be set back a minimum of 20 feet from the right-of-way line of principal public roadways and shall be screened from view from such roadways, in accordance with Article XV, above.

5-22-4.3.3 Encroachments. Balconies, stoops, chimneys and bay windows are permitted to encroach into any setback up to five feet.

5-22-4.3.4 Building Façades. No wall facing a principal roadway shall remain unpierced by a window or functional general access doorway for more than 20 feet. For buildings within 20 feet of the sidewalk, at least 20% of the ground floor frontage shall be in windows and doorways.

5-22-4.3.5 Pedestrian access shall be provided from street sidewalks to principal entrances by means of a sidewalk or other all-weather walkway.

5-22-4.3.6 Roofs. Parapets and decorative cornices are required for buildings with a flat roof. Eaves shall be provided with a pitched roof.

5-22-4.3.7 Canopies & Awnings. If a building canopy, awning, or similar weather protection is provided, it shall project between three to five feet from the façade.

5-22-4.3.8 Architectural Styles. Pseudo-historical and pseudo-cultural themes shall not be allowed. New building projects that are not part of a renovation or addition shall not be designed to replicate non-regional historical styles. Buildings that are stylized in an attempt to use the building itself as advertising shall not be allowed, particularly where the proposed architecture is the result of a "corporate" or franchise style. Buildings that are obviously a nationally or regionally prototypical design shall not be allowed.

5-22-4.4 Specific Standards for Detached Houses.

Type A: Street Lot. The street lot is a medium or large sized lot (50 feet or greater in width) that provides primary vehicular access from the street.

Minimum Setbacks:	Front: 15 feet Sides: 20% of the lot width. The entire setback may be allocated to one side. Rear: 10 feet
Accessory Structures:	Side: 3 feet Rear: 3 feet
Minimum Lot Width:	50 feet
Maximum Height:	35 feet
Encroachments:	Balconies, stoops, stairs, chimneys, open porches, bay windows, roof overhangs and raised doorways are permitted to encroach into the front setback a maximum of five feet.

Type B: Alley Lot. The alley lot is a lot for which primary vehicular access is provided using a rear lane or alley only. No curb cuts or driveways are permitted along the frontage except on previously platted lots.

Minimum Setbacks:	Front Build-to Line: 10-25 feet

	Side: 3 feet each side; however, the total of both side yards may be allocated to one side. Rear: 8 feet from edge of alley pavement
Accessory Structures:	Side: 3 feet Rear: 3 feet
Minimum Lot Width:	25 feet
Maximum Height:	35 feet
Encroachments:	Balconies, stoops, stairs, chimneys, open porches, bay windows, roof overhangs and raised doorways are permitted to encroach into the front or rear setback a maximum of five feet.
Vehicular Access to Lot:	For lots less than 50 feet wide, alley access is required. For all others the use of an alley is permitted.

5-22-4.5 Specific Standards for Townhouses. The townhouse is a building with two or more residential units that are located side-by-side. When an entrance is provided at-grade, the townhouse may be used as a live-work unit.

Minimum Setbacks:	Front: 8 feet Sides: 0 feet (Corner 8 feet) Buildings within a development must be separated by a minimum of 15 feet. Rear: 15 feet Measured from the centerline of alley, if applicable
Minimum Lot Width:	16 feet
Maximum Height:	42 feet
Encroachments:	Balconies, stoops, stairs, chimneys, open porches, bay windows, roof overhangs and raised doorways are permitted to encroach into the front setback a maximum of five feet. Upper story balconies may encroach into the right-of-way up to five feet with permission from the City.
Accessory Structures:	Side: 0 feet Rear: 0 feet
Maximum Footprint:	650 ft2
Maximum Number of Structures:	1 per townhouse

5-22-4.6 Specific Standards for Multi-Family Buildings. A multi-family building is a multiple-unit building with residential units vertically arranged. Units may be for rental or for sale in condominium ownership or may be designed as continuing care facilities. For buildings containing both residential and commercial uses see Section 5-22-5.7.

Minimum Setbacks:	Front: 0 Sides: 15 feet plus 5 feet for each floor above 2 Rear: 15 feet plus 5 feet for each Floor above 2
Parking:	Off-street parking shall be located in the rear or side yard only and shall be screened from view from public roadways. On-street parking is encouraged for private streets and drives.
Vehicular Access:	Primary vehicular access from public roads shall be accomplished by means of a rear lane or alley only. No

	curb cuts or driveways are permitted along the frontage except for vehicular access to rear parking. These limitations shall not apply to parcels or buildings where primary vehicular access is by means of a private street or drive.
Maximum Height:	42 feet
Accessory Structures:	Side: 0 feet Rear: 0 feet
Maximum Footprint:	650 ft2
Encroachments:	Balconies, stoops, chimneys, roof overhangs and bay windows are permitted to encroach into any setback up to five feet.
Others:	Garage doors are not permitted on the front elevation of any multi-family building facing Greenville Highway (NC 225).

5-22-4.7 Specific Standards for Commercial & Institutional Buildings. Commercial buildings are structures which can accommodate a variety of uses mixed either horizontally (shopping center) or vertically (apartment over a store). Office buildings, hotels and inns can be placed in commercial buildings. Buildings containing both commercial and residential uses shall be classified as commercial buildings for the purposes of this section. Institutional buildings are specialized public or semi-public buildings intended to serve as public gathering places. Such uses include governmental offices, churches or other places of worship, schools, hospitals, post offices, and nonprofit or charitable clubs and organizations. Note there are exceptions from the maximum height restrictions for steeples, cupolas and similar structures. These are contained in Section 8-2, below.

Minimum Height:	14 feet to the top of the parapet for buildings with flat roofs. There is no minimum height requirement for buildings without flat roofs.
Maximum Height:	42 feet
Minimum Setbacks:	Front: 10 feet Sides: 15 feet plus 5 feet for each story above 2 stories Rear: 15 feet plus 5 feet for each story above 2 stories
Parking and Vehicular Access:	All vehicular use areas shall be set back a minimum of 20 feet from the right-of-way line of principal public roadways and shall be screened from view from such roadways.
Minimum Lot Width:	None
Encroachments:	Balconies, stoops, chimneys, roof overhangs and bay windows are permitted to encroach into any setback up to five feet.
Accessory Structures:	Side: 3 feet Rear: 3 feet

Section 5-22-5 GHMUCZD Greenville Highway Mixed Use Conditional Zoning District Classification. The purpose and requirements of this zoning district classification are identical to the Greenville Highway Mixed Use Zoning District Classification except that rezoning to GHMU Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the GHMU Greenville Highway Mixed Use Conditional Zoning District Classification only upon rezoning to GHMUCZD.

Telecommunications towers, subject to special requirements contained in Section 17-4 below.
Structures with a footprint greater than the maximum allowed under Section 5-22-3.2 Dimensional Requirements, above.
Permitted uses for the GHMU Zoning District Classification as specified in 5-22-1, above.
Conditional uses for GHMU Zoning District Classification as specified in 5-22-2, above.

Section 5-23 HMU Highway Mixed Use Zoning District Classification. The Highway Mixed Use Zoning District Classification is intended to encourage a mix of medium density residential development in conjunction with appropriately scaled and compatible commercial development, consisting of retail sales and services, professional offices, accommodations services and similar uses. Development design becomes a critical consideration when uses which previously have been deemed incompatible are authorized to be placed in close proximity to each other. In addition to the general dimensional and use provisions, the regulations contained herein, along with those in Article XVIII which apply to mixed use zoning district classifications generally, address the design of buildings and development sites.

5-23-1 Permitted Uses. The following uses are permitted by right in the HMU Highway Mixed Use Zoning District Classification, provided they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units subject to special requirements contained in Section 16-4, below
Accessory uses & structures
Adult care centers registered with the NC Department of Human Resources
Adult care homes
Animal hospitals & clinics so long as they contain no outdoor kennels
Automobile car washes
Banks & other financial institutions
Bed & breakfast facilities
Business services
Child care centers, subject to special requirements contained in Section 16-4, below
Child care homes
Civic clubs & fraternal organizations, subject to special requirements contained in Section 16-4 below
Congregate care facilities, subject to special requirements contained in Section 16-4, below
Construction trades facilities, so long as the storage of equipment and materials is screened from view from any public rights-of-way
Convenience stores with or without gasoline sales
Cultural arts buildings
Dance, health & fitness facilities
Dry cleaning and laundry establishments containing less than 6,000 ft2 of floor area
Funeral homes
Greenhouses & commercial nurseries
Home occupations
Hotels & motels
Laundries, coin-operated
Lawn & garden centers
Microbreweries, subject to special requirements contained in Section 16-4, below
Mobile food vendors, subject to special requirements contained in Section 16-4, below
Music & art studios
Neighborhood community centers
Newspaper offices & printing establishments
Nursing homes, subject to special requirements contained in Section 16-4, below

Offices, business, professional and public
Parking lots & parking garages
Parks
Personal services
Progressive care facilities, subject to special requirements contained in Section 16-4, below
Public & semi-public buildings
Recreational facilities, indoors
Recreational facilities, outdoors, commercial
Religious institutions
Repair services, miscellaneous
Residential care facilities
Residential dwellings, single family
Residential dwellings, multi-family
Residential dwellings, two-family
Restaurants
Restaurants, drive-in
Retail stores (not including automobile, manufactured housing, and boat & heavy equipment sales)
Schools, post-secondary, business, technical and vocational
Schools, primary & secondary
Service stations
Signs, subject to the provisions of Article XIII, below
Telecommunications antennas, subject to special requirements contained in Section 16-4, below
Theaters, indoors

5-23-2 Conditional Uses. The following uses shall be permitted in the HMU Highway Mixed Use Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Bus stations
Public utility facilities

5-23-3 Development Standards. The following standards shall apply to development within the HMU Highway Mixed Use Zoning District Classification.

5-23-3.1 Parking & Loading. For non-residential developments, the requirements of Section 6-5, below, shall apply. Residential developments shall be provided with a minimum of one off-street parking space per dwelling unit.

5-23-3.2 Dimensional Requirements.

Minimum Lot Area in Square Feet:	None
Minimum Lot Width:	None
Open Space Ratio:	≥.40
Common Space Ratio:	≥.10
Maximum Footprint for any Structure:	40,000 ft2
Roadway Corridor:	All land lying within 400 feet of the right-of- way of the principal roadway but not lying within the right-of-way.
Nonresidential Floor Area Allowance:	.25 x area within roadway corridor + .050 x area outside roadway corridor. Floor area de- voted to residential use shall not count against this allowance.

Yard Requirements:	Varies with building type. See Design Standards. Provided, however, all structures shall be set back a minimum of 30 feet from the right-of-way line of U. S. Highway 64.
Building Separation:	If buildings are separated, they must be separated by at least 15 feet. Buildings must be separated once the footprint for any building or connected buildings equals 40,000 ft^2. This provision shall not be construed to qualify any setback provisions contained elsewhere in this ordinance.
Building Height:	Varies with building type. See Design Standards.

5-23-3.3 Residential Density. The number of residential dwellings permitted on any development tract varies with regard to the open space ratio provided as noted on the following table.

OPEN SPACE RATIO	MAXIMUM DWELLING UNITS/ACRE
.40	8
.50	10
.60	12

5-23-4 Design Standards. These standards are intended to apply to all development and redevelopment within the HMU Highway Mixed Use Zoning District Classification. Applicants for authorization to undertake development or redevelopment within such zoning district must demonstrate compliance with these standards or must undergo alternative design review.

5-23-4.1 Standards of General Applicability. The following standards shall apply to all development in the HMU Highway Mixed Use Zoning District Classification regardless of use or building type.

5-23-4.1.1 General Site Development. Site development shall not result in the removal of lateral support for adjoining properties. Furthermore, development shall not create hazardous or dangerous conditions or result in the creation of a nuisance as specified in Section 6-13, below.

5-23-4.1.2 Physical Integration of Uses. Residential and commercial uses may be located within the same or adjoining structures provided appropriate health and safety regulations are followed.

5-23-4.1.3 Building Orientation. Primary façades, which may or may not contain an entrance to the building, shall face primary vehicular access or significant public space. A main entrance shall face a connecting walkway with a direct, safe, pedestrian connection to the street.

5-23-4.1.4 Common Space. Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects.

Common spaces are intended to be places for social interaction and, thus, may include impervious surfaces. Unless interior common space is approved by the reviewing authority, common space out-of-doors. Common space design shall comply with the following:

a) **Size.** At least 10% of the acreage of a site shall be devoted to common space. Common space shall count toward meeting open space requirements for a project.

b) **Trees.** One tree shall be planted for each 500 ft2 of common space. Trees shall have a minimum caliper of 3-3½ inches measured six inches above ground at the time of planting.

c) **Utilities.** All utilities service lines and connections shall be underground.

d) **Seating.** Seating shall be provided to accommodate workers, residents and/or shoppers. Seating may be accomplished in whole or in part using planters or other similar structures.

e) **Amenities.** Common space for a development shall contain adequate amenities to animate and enliven the environment and to make it conducive for social interaction. Following is a list of such amenities: ornamental fountains, stairways, waterfalls, public art, arbors, trellises, planted beds, drinking fountains, clock pedestals, awnings, canopies, informational kiosks, and similar structures. This list is not intended to be exhaustive.

5-23-4.1.5 Architectural Details. The appearance of all exposed façades (not just the streetside façade) is important and shall be addressed in development design. Architectural elements like openings, sill details, bulkheads, posts, and other architectural features shall be used to establish human scale at the street level. On corner lots, the applicant shall provide distinctive architectural elements at the corner of buildings facing the intersection. Windows, doors, columns, eaves, parapets, and other building components shall be proportional to the overall scale of the building. Windows shall be vertically aligned.

All buildings shall provide detailed design along all elevations. Detailed design shall be provided by using at least three of the following architectural features on all elevations. Features may be varied on rear / side / front elevations.

Dormers
Gables
Recessed entries
Covered porch, entries
Cupolas or towers
Pillars or posts
Eaves (minimum 6-inch projection)
Off-sets in building face or roof
Window trim (minimum nominal four inches wide)
Bay windows
Balconies
Decorative patterns on exterior finish (e.g. scales/shingles, wainscoting, ornamentation)
Decorative cornices and roof lines (for flat roofs)

5-23-4.1.6 Building Façades. Façades of buildings shall contain at least two building materials which shall contrast in color and texture. At least 15% of the façade, exclusive of windows, doors and trim, shall consist of stone, brick, decorative concrete or decorative block.

5-23-4.1.7 Windows. Windows shall either be (1) recessed a minimum of three inches from the façade or (2) trimmed. If trim is used, it shall be a minimum of four inches (nominal) in width and shall project beyond the façade.

5-23-4.1.8 Building Scale. The scale of a building is a function of the size of the individual pieces of a building and their relationship to each other. The scale of a building is important in order to contribute to the overall diversity of building types, to give visual interest, and to maintain compatibility between buildings. These design standards regulate scale by means of offsets, that is, protrusions or breaks in the plane of façades.

a) **Scale, Buildings Containing Nonresidential Uses.** The following requirements apply to any building containing nonresidential uses, regardless whether the building also contains residential uses:

1) The distance between required offsets is related to the height of the building wall on a two-to-one basis. Thus, a building which is 20-feet tall may have no more than 40 feet of façade wall between offsets. A building façade which is less than or equal to the height of the building shall not require an offset.

2) The height of any particular façade shall be measured from the average ground level to the soffit, or, if there is no soffit, to the parapet.

3) The depth or projection of the offset shall be 1/10th the length of the longest adjacent wall panel; provided, however, the minimum offset depth shall be one foot. By means of illustration, a building with a 20-foot wall panel shall have a two-foot offset adjacent to such wall panel.

4) Each façade of a building shall comply with the offset requirements contained herein.

b) **Scale, Buildings Containing Only Residential Uses.** The following requirements apply to any building containing only residential uses:

1) The distance between required offsets shall be related to the height of the building on a basis of .75 / 1; provided, however, no wall shall exceed 16 feet in length without an offset. By way of illustration, a façade wall which is 20 feet tall may have no more than 15 feet of wall between offsets; however, a façade wall which is 30 feet tall, owing to the proviso, may have no more than 16 feet of wall between offsets. A building façade which is less than 16 feet in length shall not require an offset. Provided, however, the provisions of this paragraph shall not be construed to require an offset for that portion of a façade containing a two-car garage.

2) Offsets shall have a minimum depth or projection of two feet regardless of the length of adjacent wall façades.

3) Each façade of a building visible from a street or common space shall comply with the offset requirements contained herein.

5-23-4.1.9 Streets and Sidewalks. Streets and sidewalks shall comply with the circulation and access requirements contained in Section 18-6-4.6, below.

5-23-4.1.10 Building Materials. Building materials shall be used consistently on the exterior of the building and shall comply with the lists of prohibited and restricted materials contained herein.

a) **Prohibited Building Materials.** Unless authorized through alternative design compliance, the following building materials shall be prohibited within the HMU Highway Mixed Use Zoning District Classification: plain concrete block (with or without paint); corrugated or ribbed metal siding; reflective glass; more than 50% glass on any façade; roll roofing; roll siding; plain unfinished concrete

(painting does not constitute a finish); aluminum; unpainted metal; exposed plain pipe columns; logs, log siding, wain-edged siding; metal wall siding; and any other materials not customarily used in conventional construction.

b) **Restricted Building Materials.** Unless authorized through alternative design compliance, the following building materials shall be restricted as noted within the HMU Highway Mixed Use Zoning District Classification: vinyl siding, aluminum siding and grooved plywood siding (T1-11) are permitted only behind the roadway corridor; chain link fencing is permitted so long as it is not readily visible from a street, or public right-of-way, or common space.

5-23-4.1.11 Certain Exemptions for Single-Family Detached Homes. Detached single-family homes shall be exempt from the requirements contained in Sections 5-23-5.1.4 (common space) and 5-23-5.1.8 (building scale).

5-23-4.2 General Standards for Residential Developments. The following standards shall apply to developments containing only residential uses with the exception that apartment buildings must comply with the general standards contained in Section 5-23-5.3, below.

5-23-4.2.1 General Appearance. Residential development shall contain a variation of façades and materials so that there shall not be a row or strip housing appearance. Means to accomplish this goal may include the use of dormers, gables, recessed entries, covered porch entries, bay windows, cupolas or towers, and a variation in the depth and height of walls, among others.

5-23-4.2.2 Architectural.

a) Useable porches and/or stoops, at least eight feet in width, shall be located on the front and/or side of the home.

b) Front-loading garages and carports (if permitted) shall be offset from the front façade of the house and visually designed to form a secondary building volume. Developers are encouraged to turn garages and carports so the openings or doors are not visible from the street. At no time shall the width of an attached garage exceed 50% of the total building façade.

c) Accessory buildings with a floor area greater than 150 ft2 shall be clad in materials similar in appearance to the principal structure.

d) Walls and fences located in the front yard shall be decorative and limited in height to no more than four feet above grade. Front-yard walls shall be of brick, stone or stucco. Front yard fences shall be wood, wrought iron or materials similar in appearance and durability. Side and rear yard fences may be chain link, wood, wrought iron, or similar material.

5-23-4.2.3 Configurations.

a) Main roofs on residential buildings shall be gables, hips or clerestory with a pitch between 5:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to a wall of the main building.

b) Foundation walls (except those under porches) shall be finished with brick, stucco or stone. If crawlspaces of porches are enclosed, they shall be enclosed with brick, stone, lattice or any combination thereof.

5-23-4.3 General Standards for Nonresidential Buildings and Apartments. The following standards shall apply to all buildings containing nonresidential uses and to apartment buildings.

5-23-4.3.1 Storage, Utility & Service Areas. Areas devoted to storage, garbage, recycling collection and utilities shall be enclosed and screened around their perimeter, and constructed of materials consistent with the principal building. Gas meters, electric meters, ground-mounted mechanical units, and any other similar structures should be hidden from public view or screened with approved construction materials. Fences designed for screening shall be constructed of brick, stone, architectural stucco, concrete, wood or iron. Roof vents, mechanical units, utility equipment and telecommunication receiving devices located on the roof shall be screened from view.
Solar technology components including solar panels and solar thermal collectors used for on-site private purposes are exempt from this provision.

5-23-4.3.2 Parking & Vehicular Access. All vehicular use areas shall be set back a minimum of 20 feet from the right-of-way line of any primary arterial roadway and shall be screened from view from such roadways in accordance with Article XV, below.

5-23-4.3.3 Encroachments. Balconies, stoops, chimneys and bay windows are permitted to encroach into any setback up to five feet.

5-23-4.3.3 Pedestrian access shall be provided from street sidewalks to principal entrances by means of a sidewalk or other all-weather walkway.

5-23-4.3.4 Roofs. Parapets and decorative cornices are required for buildings with a flat roof. Eaves shall be provided with a pitched roof.

5-23-4.4 Specific Standards for Detached Houses.

Type A: Street Lot. The street lot is a medium or large sized lot (50 feet or greater in width) that provides primary vehicular access from the street.

Minimum Setbacks:	Front: 15 feet Sides: 20% of lot width. The entire setback may be allocated to one side. Rear: 10 feet
Accessory Structures:	Side: 3 feet Rear: 3 feet
Minimum Lot Width:	50 feet
Maximum Height:	2 ½ stories.
Encroachments:	Balconies, stoops, stairs, chimneys, open porches, bay windows, roof overhangs and raised doorways are permitted to encroach into the front setback a maximum of five feet.

Type B: Alley Lot. The alley lot is a lot for which primary vehicular access is provided using a rear lane or alley only. No curb cuts or driveways are permitted along the frontage except on previously platted lots.

Minimum Setbacks:	Front Build-To Line: 10-25 feet Sides: 3 feet each side; however, the total of both side yards may be allocated to one side.

	Rear: 8 feet from edge of pavement.
Accessory Structures:	Side: 3 feet Rear: 3 feet
Minimum Lot Width:	25 feet
Maximum Height:	2 ½ stories.
Encroachments:	Balconies, stoops, stairs, chimneys, open porches, bay windows, roof overhangs and raised doorways are permitted to encroach into the front setback a maximum of five feet.
Vehicular Access to Lot:	For lots less than 50 feet wide alley, access is required. For all others the use of an alley is permitted.

5-23-4.5 Specific Standards for Townhouses. The townhouse is a building with two or more residential units that are located side-by-side. When an entrance is provided at-grade, the townhouse may be used as a live-work unit.

Minimum Setbacks:	Front Build-To Line: 8 feet Sides: 0 feet (Corner 8 feet). Buildings within a development must be separated by a minimum of 15 feet Rear: 5 feet from centerline of alley, if applicable.
Minimum Lot Width:	16 feet
Maximum Height:	3 stories.
Encroachments:	Balconies, stoops, stairs, chimneys, open porches, bay windows, roof overhangs and raised doorways are permitted to encroach into the front setback a maximum of five feet. Upper story balconies may encroach into the right-of-way up to five feet with permission from the City.
Accessory Structures:	Side: 3 feet Rear: 3 feet
Maximum Footprint:	650 ft2
Maximum No. of Structures:	1

5-23-4.6 Specific Standards for Apartment Buildings. An apartment is a multiple-unit building with apartments vertically arranged. Units may be for rental or for sale in condominium ownership or may be designed as continuing care facilities. The ground floor may be available for commercial uses.

Minimum Setbacks:	Front: 10 feet Sides: 15 feet plus 5 feet for each floor above 2. Rear: 15 feet plus 5 feet for each floor above 2.
Parking:	Off-street parking shall be located in the rear or side yard only and shall be screened from view from public road ways. On-street parking is encouraged for private streets and drives.
Vehicular Access:	Primary vehicular access from public roads shall be accomplished by means of a rear lane or alley only. No curb cuts or driveways are permitted along the frontage except for vehicular access to rear parking. These limitations shall not apply to parcels or buildings where

	primary vehicular access is by means of a private street or drive.
Maximum Height:	4 stories.
Accessory Structures:	Side: 0 feet Rear: 0 feet
Maximum Footprint:	650 ft2
Encroachments:	Balconies, stoops, stairs, chimneys, open porches, bay windows, roof overhangs and raised doorways are permitted to encroach into the front setback a maximum of five feet. Upper story balconies may encroach into the right-of-way up to five feet with permission from the City.

5-23-4.7 Specific Standards for Commercial & Institutional Buildings. Commercial buildings are structures which can accommodate a variety of uses mixed either horizontally (shopping center) or vertically (apartment over a store). Office buildings, hotels and inns can be placed in commercial buildings. Buildings containing both commercial and residential uses shall be classified as commercial buildings for the purposes of this section. Institutional buildings are specialized public or semi-public buildings intended to serve as public gathering places. Such uses include governmental offices, churches or other places of worship, schools, hospitals, post offices, and nonprofit or charitable clubs and organizations. Note there are exceptions from the maximum height restrictions for steeples, cupolas and similar structures. These are contained in Section 8-2, below.

Minimum Height:	14 feet to the top of the parapet for buildings with flat roofs. There is no minimum height requirement for other buildings.
Maximum Height:	4 stories
Minimum Setbacks:	Front: 10 feet Sides: 15 feet plus 5 feet for each floor above 2. Rear: 15 feet plus 5 feet for each floor above 2.
Parking & Vehicular Access:	All vehicular use areas shall be set back a minimum of 20 feet from the right-of-way line of U. S. Highway 64 and shall be screened from view from such roadway.
Minimum Lot Width:	None.
Encroachments:	Balconies, stoops, chimneys, roof overhangs and bay windows are permitted to encroach into any setback up to 5 feet.
Accessory Structures:	Side: 3 feet Rear: 3 feet

5-23-5 Transportation. The section is intended to put in place regulations which will provide for a multi-modal transportation environment conducive to a pedestrian-friendly mixed-use community.

5-23-5.1 Corridor Circulation Plan. If a corridor circulation plan has been adopted for the HMU zoning district, all new development and redevelopment must demonstrate consistency with that plan.

5-23-5.2 Transportation Plan Submittals. In addition to other submittal requirements for development review, applicants for development authorization within the HMU zoning district shall submit the following documents:

a) Pedestrian circulation plan to include type of infrastructure (for example, sidewalk, multi-use path), and connections to adjacent pedestrian facilities.

b) Vehicular circulation plan to include parking, loading, stubs to adjacent properties, and any cross-access easements.

c) When required, a traffic impact study (TIS) performed by a registered engineer in accordance with NCDOT standards for all developments that generate 100 peak hour trips or 1,000 daily trips in accordance with the Institute of Traffic Engineers current Trip Generation Manual. The Development Assistance Director may also require a TIS without regard to the expected trip generation of the development due to the existence of special circumstances including, without limitation, existing level-of-service deficiencies in the area of the proposed development or when available accident data and/or operational and geometric factors indicate safety concerns.

5-23-5.3 Street Connectivity. In an effort to improve and promote overall street connectivity, public streets constructed within an HMU zoning district shall provide connections to existing adjacent public streets. When no off-site street stubs are present, the following connections shall be provided to undeveloped properties at the appropriate rate indicated below.

a) All new development with fewer than 100 dwelling units are required to provide at least one stub-out street to extend and connect with future streets. In the event that adjacent land is already developed with stub-outs present, the developer shall build streets to connect to the existing stub-out(s).

b) Residential developments containing 100 or more dwelling units shall include street connections or stubs at a ratio of one stub/connection per 100 dwelling units. In the event adjacent land is already developed with streets, the developer shall connect to the existing stub-out(s). Required collector street connections are included in this calculation.

c) Non-residential developments shall provide one stub to each adjoining parcel where, considering topography, land use compatibility and future development or redevelopment potential, it is deemed feasible and appropriate.

5-23-5.4 Pedestrian Accommodations. Pedestrian accommodations, which may be sidewalks, multi-purpose paths, or other approved alternatives, shall be provided as a part of a development on both sides of all public roadways and of all private roadways unless site constraints or proposed uses make it impractical or unnecessary. Pedestrian access and circulation shall be consistent with any and all adopted corridor circulation plans.

5-23-5.5 Vehicular Access. It is the intent of these regulations to encourage interconnectivity between development parcels in order to provide alternative transportation routes to existing thoroughfares. Accordingly, when development parcels have potential to provide access to adjoining parcels, developers are encouraged to utilize public streets, rather than private streets or driveways, for access to major arterial roadways. The regulations contained in this section shall apply to all new development and redevelopment within the district.

5-23-5.5.1 Driveways. Where permitted, driveways shall comply with the requirements of this section and, if applicable, the regulations of the North Carolina Department of Transportation.

a) The number of driveways permitted for new development shall relate to the amount of linear frontage for the proposed development as depicted below:

LINEAR FRONTAGE	NUMBER OF PERMITTED
Less than 350 feet	1
Greater than 350 feet	2
Greater than 1000 feet	3[1]

b) All driveway approaches for both mid-block and corner lots along major thoroughfares shall have both minimum corner and side clearances as below:

CLEARANCE TYPE	ALONG MAJOR THOROUGHFARE	ALONG SIDE STREET
Corner Clearance[2]	250 feet	100 feet
Side Clearance[3]	30 feet	10 feet

c) No driveways shall be allowed along a major thoroughfare within 250 feet of any intersection, as measured from the intersection of the projected right-of-way lines, except for properties which cannot meet this restriction due to limited frontage within the desired corner clearance.

d) One-way driveways are not considered full-movement driveways therefore, two, one-way driveways may be considered as a single driveway provided that:

1) The minimum spacing between the two driveway segments is 60 feet.

2) The driveway segments are clearly signed and marked as one-way driveways, using pavement arrows and directional signs.

3) The maximum combined pavement width of both driveway segments at the right-of-way line is 40 feet and the minimum width of a single segment is 14 feet.

5-23-5.5.2 Outparcels. Access to development outparcels shall be oriented to the interior of the development site, not to the roadway.

5-23-5.5.3 Cross-Access Easements. Cross-access easements between parking areas on adjacent developments are an effective way to improve corridor circulation and to reduce vehicle trips. For each adjoining property with accessible parking areas, applicants for development authorization shall provide either (1) a cross-access easement or (2) confirmation that the applicant has attempted to negotiate a cross-access easement with that property owner and has not been able to reach agreement thereon.

Section 5-23-6 HMUCZD Highway Mixed Use Conditional Zoning District Classification. The purpose and requirements of this zoning district classification are identical to the Highway Mixed Use Zoning District Classification except that rezoning to HMU Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the HMU Highway Mixed Use Conditional Zoning District Classification only upon rezoning to HMUCZD.

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[1] With approval of the City after demonstration of need in the required TIS.

[2] Corner clearance shall be measured from the point of tangency of the radius curvature of the intersection streets.

[3] Side clearance shall represent the distance from the driveway to the side property line.

Telecommunications towers, subject to special requirements contained in Section 16-4, below.

Section 5-24 UV Urban Village Conditional Zoning District Classification. The Urban Village Conditional Zoning District Classification is intended to create mixed use development that is economically vital, pedestrian-oriented and contributes to the place-making character of the built environment. This classification offers the unique opportunity to provide quality and long-lasting retail, office and residential uses in an organized layout that encourages the full range of access by patrons and users, and offers innovative high-quality design of structures, public amenities and pedestrian facilities. The development and design standards set forth in this section are intended to accomplish the following purposes:

a) Provide safe and convenient access to shopping and other essential services to pedestrians, bicyclists, transit riders, motorists, and persons with disabilities.

b) Provide effective traffic flow through access management and improved internal and external connectivity.

c) Create a built environment that serves to enhance gateway corridors, preserve historic heritage, promote economic development and an improved tax base for the city, and celebrate Hendersonville's distinction from other cities.

d) Promote sustainable use of limited land and investment resources through the following means:

1) Encouraging higher building densities;

2) Allowing efficient shared parking areas, making cost effective use of existing infrastructure;

3) Showcasing innovative high-quality development;

4) Providing adaptive reuse of under-performing retail properties;

5) Ensuring multi-modal transportation access;

6) Ensuring internal and external connectedness;

7) Developing a durable framework of infrastructure and built structures that can accommodate future renovations; and

8) Reestablishing the public realm, civic pride, and sense of community ownership in new developments.

5-24-1 Procedure. The reclassification of property to UVCZD Urban Village Conditional Zoning District shall constitute an amendment of the Zoning Map which may be initiated only by the owner(s) of a legal interest in the affected property, any person(s) having an interest in the property by reason of a contract with the owner(s), or an agent authorized in writing to act on behalf of the owner(s). UVCZD Urban Village Conditional Zoning Districts shall be created only in locales designated in the Comprehensive Plan as Medium Intensity Neighborhood, High Intensity Neighborhood, Neighborhood Activity Center, Regional Activity Center, and Business Center. Notwithstanding the foregoing, an Urban Village District may be located on a lot(s) all or part of which fall within locales designated as Medium Intensity Neighborhood in the Comprehensive Plan only if any part of the boundary of the Urban Village Conditional Zoning District is located no more 100 feet from the boundary of a zoning district having a non-residential zoning designation.

5-24-1.1 Pre-Application Conference. Every person proposing to apply for creation of a UVCZD Urban Village Conditional Zoning District is required to meet with the Development Assistance Department Staff prior to the submittal of such application. This conference is intended to provide the applicant with an opportunity to discuss requirements, standards and procedures and to identify and solve potential problems for the proposed application. The applicant shall bring a sketch plan for the project showing, at a minimum, the location, the existing and proposed transportation network, phasing, general development plans and a written synopsis of the development proposal. The pre-application conference shall take place at least one week prior to submitting of an application to create an Urban Village District Conditional Zoning District.

5-24-1.2 Application. Creation of an urban village district shall be initiated by means of an application for rezoning to a UV Urban Village Conditional Zoning District. No permit shall be issued for any development within a UV Urban Village Conditional Zoning District except in accordance with an approved rezoning.

5-24-1.3 Master Plan. Applicants for creation of an urban village conditional zoning district project are required to submit a master plan for the entire development that indicates the following: (1) the general street network; (2) the proposed land use configuration within that network; (3) phasing boundaries if phasing is proposed; (4) the ultimate proposed development intensity (including the number of residential units and gross square footage of all nonresidential uses) for the entire development and for each phase; (5) a conceptual landscape plan; (6) proposed setback, height, signage, architectural and other design standards for the overall project and for proposed uses; (7) building elevations or perspective drawings to demonstrate proposed building character; and (8) a conceptual stormwater plan for the development. For initiation of this zoning classification, properties may fall under more than one ownership so long as there exist covenants or other legally binding agreements that address cross-access, cross-parking and other similar issues affecting joint operation of the projects.

5-24-1.3.1 Traffic Impact Analysis. A traffic impact analysis is required for all urban village projects and shall be submitted with the application to create the urban village. The City may defer the traffic impact analysis until after a rezoning to a conditional zoning district is approved for the project only in those circumstances where City Council, in the absence of a traffic impact analysis, determines that the existing public road system has adequate capacity to handle projected traffic flow as required by Section 7-11, below.

5-24-1.3.2 Subsequent Review. After the establishment of the urban village district, individual development projects within the district shall be subject to final site plan review in accordance with Section 7-3-4, below. In addition to the site plan requirements contained in Section 7-3-4.3, applicants shall comply with the design submittal requirements of Section 18-3-3.

5-24-1.3.3 Modifications. Revisions to approved urban village district master plans may be approved by City Council or by the City Manager, or a designee appointed by the City Manager, depending on the type of revisions being requested. City Council shall review any revisions to a master plan that increase the overall development intensity, change the proposed mix of uses by increasing or reducing any use category by 10% or more, or increases maximum building heights from that shown on the approved master plan. Additionally, City Council shall review any revision to a master plan that results in a decrease in the amount of perimeter open space or perimeter parking lot buffering, or in a 25% or greater reduction in the number of proposed blocks from that shown on the approved master plan. For the purpose of determining overall development intensity, one residential unit shall be regarded as the equivalent of 500 ft2 of office floor area; one residential unit shall be regarded as the equivalent of 200 ft2 of commercial floor area; and 1,000 ft2 of office space shall be regarded as the equivalent of 350 ft2 commercial. For other uses, the Development Assistance Director shall determine the equivalency factor.

5-24-2 Permitted Uses. The following uses are permitted by right in the UV Urban Village Conditional Zoning District Classification, provided they meet all requirements of this Section and all other relevant requirements of this Zoning Ordinance.

Accessory dwelling units subject to special requirements contained in Section 16-4, below
Accessory uses & structures
Adult care centers registered with the NC Department of Human Resources
Adult care homes
Animal hospitals & clinics so long as they contain no outdoor kennels
Banks & other financial institutions
Bed & breakfast facilities
Business services
Child care centers, subject to special requirements contained in Section 16-4, below
Child care homes
Civic clubs and fraternal organizations
Congregate care facilities, subject to special requirements contained in Section 16-4, below
Cultural arts buildings
Dance, health & fitness facilities
Dry cleaning and laundry establishments containing less than 6,000 ft2 of floor area
Funeral homes
Home occupations
Hotels & motels
Laundries, coin-operated
Lawn & garden centers
Music & art studios
Neighborhood community centers
Newspaper offices & printing establishments
Offices, business, professional and public
Parking lots & parking garages
Parks
Personal services
Planned residential developments (minor), subject to the requirements of Article VII, below
Public & semi-public buildings, including, without limitation, post offices, police stations and fire stations
Public Utility Facilities
Recreational facilities, indoors
Religious institutions
Repair services, miscellaneous
Residential care facilities
Residential dwellings, single family
Residential dwellings, multi-family
Residential dwellings, two-family
Restaurants
Retail stores (not including automobile, manufactured home, farm equipment, gasoline, and boat & heavy equipment sales)
Schools, post-secondary, business, technical and vocational
Schools, primary & secondary
Signs, subject to the provisions of Article XIII, below
Telecommunications antennas, subject to special requirements contained in Section 16-4, below
Theaters, indoors or outdoors but not including drive-in theaters

5-24-3 Development Standards. Some development standards for the UV Urban Village Conditional Zoning District are specified in this ordinance. Where no standard is specified, it is incumbent upon the applicant to propose development standards which, if City Council concurs, will be incorporated into the project. The following standards shall apply to development within the UV Urban Village Conditional Zoning District Classification.

5-24-3.1 Density. Residential density for an urban village district shall be established by City Council in consideration of surrounding land uses and the existence of adequate public facilities. The maximum density which may be approved shall not be otherwise limited except by other standards such as building height, parking, landscaping and buffering, open space, and traffic impact.

5-24-3.2 Structure Size. The maximum size of any structure shall be established by City Council.

5-24-3.3 Area. The minimum area required to establish an urban village district is ten acres.

5-24-3.4 Lot Size. There is no minimum lot size required for an urban village district; although, the applicant may specify minimum standards in its development document.

5-24-3.5 Lot Width. There is no minimum lot width required.

5-24-3.6 Setbacks. There are no minimum setback requirements within the Urban Village Conditional Zoning District Classification; provided, however, setbacks shall be established around the perimeter of the district sufficient to protect adjoining properties from the impacts of proposed development within the district.

5-24-3.7 Height. There are no maximum height restrictions. The applicant shall propose minimum and maximum height restrictions for all building types and locations.

5-24-3.8 Design Considerations. Design is critical to the creation of an Urban Village District and to achieving the goals of this classification, as set forth in Section 5-24, above. The design considerations set forth in this section are intended in some instances to guide project design and in others to provide specific design requirements, and the text is intended to make this distinction clear. In general, the use of the term "shall" indicates a specific design requirement, whereas the term "should" indicates design guidance. In order to obtain a rezoning to develop an Urban Village Conditional Zoning District, an applicant must demonstrate, among other things, that the design of the proposed development (1) meets the specific standards contained herein, (2) is generally in harmony with the design guidelines contained herein, and (3) will result in a development which is consistent with the purposes set forth in Section 5-24, above.

5-24-3.8.1 General Site Arrangement. Structures shall be placed and arranged so as not to adversely affect adjacent property. Adverse effects shall include, but are not limited to, the removal of lateral support on adjacent property, the creation of hazard, nuisance, danger, or inconvenience, or unreasonable loss of privacy. Development shall be arranged so as to be visually harmonious within the district. Insofar as is practicable, developments should be arranged so as to preserve or enhance vistas. Urban villages shall be oriented around one or more significant public spaces, such as parks or plazas.

5-24-3.8.2 Physical Integration of Uses. All urban villages shall be designed and developed to provide an appropriate interrelationship between the various uses and structures within the development. Residential and commercial uses may be located within the same or adjoining structures.

5-24-3.8.3 Preservation of Natural Features and Open Space. Permitted flexibility in lot sizes, setbacks, street alignments and widths, and landscaping shall be utilized to preserve natural features and drainage patterns and to provide open space.

5-24-3.8.4 Architectural Character. The rich architectural vocabulary of the City of Hendersonville presents a wide variety of development opportunities using traditional forms while avoiding any perception of monotony. Each building proposed for an urban village district shall have a well-proportioned form consistent with the building use, and its construction materials. Materials shall be durable, attractive and compatible with the architectural vernacular of the region. Massing of the building(s) shall create a building envelope that reflects simple, clearly articulated building volumes.

5-24-3.8.5 Building Orientation. It is preferred that primary façades face the adjacent street or significant public space. Apartment buildings and buildings containing commercial or institutional uses shall have a main entrance facing a connecting walkway with a direct, safe, pedestrian connection to the street. Where the main entrance does not face the adjacent street, buildings shall nonetheless be designed to provide an attractive streetside façade.

5-24-3.8.6 Building Placement. Buildings shall be situated with regard to pedestrian and vehicular connectivity. Apartment buildings and buildings containing commercial or institutional uses should be located close to the pedestrian street with off-street parking behind and/or beside the building. Important mountain vistas and/or views of significant historic sites should be protected and accentuated.

5-24-3.8.7 Privacy Considerations. Elements of the development plan should be arranged to maximize the opportunity for privacy by the residents of the project and minimize infringement on the privacy of adjoining land uses.

5-24-3.8.8 Architectural Details. Architectural elements like openings, details, bulkheads, posts, and other architectural features shall be used to establish human scale at the street level. On corner lots, the applicant is encouraged to provide a building entry, additional building mass, and distinctive architectural elements at the corner of buildings. Windows, doors, columns, eaves, parapets, and other building components shall be proportional to the overall scale of the building. Windows shall be vertically aligned wherever practical. The appearance of all exposed façades (not just the streetside façade) is important and shall be addressed in development design.

5-24-3.8.9 Building Walls. Buildings shall avoid long, monotonous, uninterrupted walls or roof planes on their visible façades. It is preferred that this design goal be achieved by means of building wall offsets, including projections, recesses, and changes in floor level, and roofline offsets. Such offsets add architectural interest and variety and can assist in creating human size proportions. Parapets shall be designed as integral to the mass of the building. When multiple wall materials are combined on one façade, the designer is encouraged to place the heavier material(s) below.

5-24-3.8.10 Building Entrances. All buildings should include well-defined entrances facing the street at regular intervals. An operable entrance on each primary façade should be provided to encourage access by pedestrians. For buildings on corner lots, an entrance may be placed at the corner, thereby eliminating the need for side entrances.

5-24-3.8.11 Internal Access and Connectivity. The site shall be traversed by a network of internal streets built according to City standards. Internal streets should seek to avoid cul-de-sacs and dead end roads and other features that hamper connectivity. However, roads may terminate at a monumental structure or green space. In such cases a sidewalk or other connection must be provided to ensure the goals of connectivity. In addition, internal streets are also required to have sidewalks and street trees. If a bus line serves, or is

expected to serve, the district, a bus shelter is required. Larger projects may require more shelters as determined by traffic impact analysis. Connectivity is a goal of the internal street system and external connections to areas outside and adjacent to the urban village should be created where possible. Only one driveway per block face is allowed. Detached single-family housing and duplex housing are exempt from the driveway restriction. Parking access from alleyways, however, is encouraged.

5-24-3.8.12 Block Length. Block length may vary but shall not exceed 500 feet in length. For blocks on local streets that are 350 feet or longer, a mid-block pedestrian street crossing is required which may also include a parking lot driveway and/or pedestrian passageway between two or more buildings, and shall have curb extensions (bulb-outs) for ease and safety of pedestrian street crossing. Collector streets may also require mid-block pedestrian crossings as noted above.

5-24-3.8.13 Pedestrian Zone and Sidewalks. The pedestrian zone is the area between the street curb and the building edge or, for access roads, the street curb and the right-of-way area. The pedestrian zone includes sidewalks, street trees and other pedestrian amenities. The pedestrian zone will generally be 15 feet wide but may be wider depending on the setback pattern. Sidewalks in urban village districts shall be required along one side of access streets and both sides of internal streets throughout the development. If appropriate to the design of the village, greenway paths may be substituted for sidewalks in residential areas to provide connections. The sidewalk shall be a minimum of seven feet wide in the Urban Village Conditional Zoning District Classification. In solely residential areas containing less than eight units per acres, sidewalks are only required to be five feet wide. With institutional and public uses that have an increased setback, a sidewalk shall connect the building façade entrance with the street. The sidewalk may be as wide as the entire pedestrian area. Arcades, awnings, outdoor dining, shelters, seating areas, fountains, street trees, additional landscaped areas and other pedestrian amenities may be a part of this pedestrian area so long as seven feet of clear walking space is maintained. The pedestrian area may also be used to create an area for waiting, pick-up and drop-off. At locations such as intersections and other crosswalks, curb extensions (bulb-outs) are required to create safer pedestrian crossings.

5-24-3.8.14 Parking / Loading Standards. Parking and loading facilities shall be reviewed at the master plan level. The applicant shall demonstrate that the amount of parking proposed is adequate to serve the needs of the district and is located and designed in such a fashion that it does not detract from the overall appearance of the district or unreasonably interfere with pedestrian activity.

a) **Amount of Parking.** Owing to the possibilities for shared use of parking, the number of parking spaces in the urban village district should not exceed the minimum parking requirements for the district computed by means of the formulas contained in Section 6-5, below.

b) **On-Street Parking.** On-street parking is required for all local streets and for collector streets and shall count toward meeting parking needs for the district. On-street parking may take the form of parallel or angle parking and shall be built according to city standards.

c) **Off-Street Parking.** Applicants for rezoning to the UV Urban Village Conditional Zoning District Classification shall propose a master parking plan which shall provide sufficient parking for the entire project consistent with requirements of this section. Off-street parking lots are encouraged to be provided at the side or rear of buildings or the interior of a block of buildings and not closer to the street than the edge profile of the structures. No more than 20% of parking that is provided in an urban village district may be in the form of stand-alone surface lots not located to the side or rear of buildings. Off-street parking shall not be adjacent to street intersections. No parking is permitted in any setback area. Individual uses in the urban village district are not required to provide off-street parking or loading.

d) **Loading Standards.** Urban village districts may share off-street loading facilities and are therefore allowed to provide these facilities at half the rate listed for the applicable uses. On-street loading spaces may be counted towards the project loading requirements.

5-24-3.8.15 Street Trees. Street trees are required in the pedestrian zone and along access roads at an average of one tree every 30 feet for mid-story and understory trees, and one tree for every 40 feet for canopy trees. In selecting street trees, priority should be given to long lived species proven to function well in urban settings with a form and branching pattern compatible with the space and type of adjacent traffic. Trees may be planted in minimum six-foot by six-foot pits. Tree frames and grates are not required but are recommended especially near store entrances, other sidewalk constraints, points of ingress, egress or public gathering areas. If tree grates are not used, an organic surfacing material shall be used to level the surface of the tree pit with the sidewalk. This material shall receive regular maintenance. To offer flexibility in the tree planting requirement, trees may be planted in planting strips adjacent to the curb edge of the sidewalk. Planting strips shall be no narrower than six feet wide. Planting strips may include grass, flowers and other plant material where appropriate. Planting strips may not be appropriate in pedestrian gathering areas.

5-24-3.8.16 Landscape / Buffering Standards. Landscaping and buffering shall be in accordance with Article XV of this Ordinance except as noted herein. Parking lots shall include interior and perimeter tree plantings made up of deciduous trees at a rate of one tree for every 1,500 ft2 of vehicular use area. No parking space may be farther than 45 feet from a tree. No shrubs are required for interior plantings for parking lots that are behind, to the side or located at the interior of the block of buildings. Parking areas adjacent to roadways require buffering from the street as specified in Article XV with the exception that the planting area will be eight feet wide. Stand-alone parking lots shall comply with all applicable landscape and buffering standards except that trees shall be provided at a rate of one tree for every 1,500ft2 of parking and parking spaces shall be no further than 45 feet from a tree. Shrubs are also required as per the regular schedule. Landscaped islands within parking lots should be a minimum of 162 ft2 in area with a minimum width of eight feet if they are to include tree plantings. Residential structures within an urban village may have up to a 100% reduction in buffering requirements from the rest of the urban village. Buffering for urban village district projects is measured and reviewed from the parcel lot lines used to establish the district and not on an internal lot by lot basis.

5-24-3.8.17 Open Space Standards. Functional open space enhances circulation within a site and contributes to the site's aesthetic qualities. All open space should be designed to be accessible and usable for occupants and invitees of the development. An urban village district shall have an open space ratio of not less than .30. Open space includes any portion of the site not covered by a building or vehicular use area and any common space meeting the standards listed in the paragraph below.

5-24-3.8.18 Common Space Standards. Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects.
Common spaces are intended to be places for social interaction and, thus, may include impervious surfaces. Unless interior common space is approved by the reviewing authority, common space shall be out-of-doors. Common space design shall comply with the following:

a) **Size.** At least 10% of the acreage of a site shall be devoted to common space. Common space shall count toward meeting open space requirements for a project.

b) **Trees.** One tree shall be planted for each 500 ft2 of common space. Trees shall have a minimum caliper of 3-3½ inches measured six inches above ground at the time of planting.

c) **Utilities.** All utilities service lines and connections shall be underground.

d) **Seating.** Seating shall be provided to accommodate workers, residents and/or shoppers. Seating may be accomplished in whole or in part using planters or other similar structures.

e) **Amenities.** Common space for a development shall include two or more of the following amenities: ornamental fountains, stairways, waterfalls, public art, arbors, trellises, planted beds, drinking fountains, clock pedestals, public telephones, awnings, canopies, informational kiosks, and similar structures.

Section 5-25 UR Urban Residential Conditional Zoning District Classification. Urban areas are recognized as unique areas with many assets and opportunities. In order to foster the urban characteristics of these areas, development within an urban area should promote an environment of diverse uses at higher than normal density which focuses on pedestrian activities, needs and movement, while at the same time recognizing the limited supply of urban land. It is necessary and desirable to promote the residential nature of these areas through zoning classifications, which are intended to realize the growing opportunities for new infill development and redevelopment. Such residential development, properly located and developed, can enhance and support the overall mix of uses characteristic of urban areas.

a) The Urban Residential Conditional Zoning District is intended for use in special areas of the community where the prime considerations are the support and sustainability of existing commercial nodes and corridors, appropriate transitioning between commercial and residential areas, availability of appropriate infrastructure, and compatibility with existing topography, and thus may be considered for limited application. The Comprehensive Plan will be used to determine applicability. The official Zoning Map of the City of Hendersonville will designate Urban Residential Conditional Zoning District boundaries.

b) This District is designed to provide standards and incentives, which will promote the development or redevelopment of urbanizing areas that contain a mix of land uses with a predominantly residential character. Emphasis is given to provisions, which will provide opportunities for imaginative new urban development compatible with the development objectives of these areas. Accordingly, the development objectives are:

1) To maximize residential development potentials in urbanizing areas;

2) To maintain a predominantly residential character at higher residential densities;

3) To provide for sufficient local retail and office uses to support residential areas;

4) To protect all residential areas from inappropriate and intrusive uses;

5) To maximize open space and other amenities within residential areas;

6) To transition existing single family residential areas from nearby high intensity commercial developments.

7) To provide for the efficient utilization of scarce urbanizing land;

8) To provide coordination and support between zoning districts within the City of Hendersonville;

9) To provide sustainable growth and development patterns.

5-25-1 Minimum District Size. There shall be no minimum size requirement for the creation of an Urban Residential District. However, the applicant for an Urban Residential Conditional Zoning District shall be required to specify the proposed district size. In considering whether to approve the size of the proposed district, the City Council shall consider the surrounding land uses, the existence of adequate public facilities, proposed buffering, open space, and traffic impact.

5-25-2 Procedure. The reclassification of property to Urban Residential Conditional Zoning District shall constitute an amendment of the Zoning Map which may be initiated only by the owner(s) of a legal interest in the affected property, any person(s) having an interest in the property by reason of a contract with the owner(s) for the purchase of the property or lease of all or any substantial part thereof, or an agent authorized in writing to act on behalf of the owner(s). Urban Residential Conditional Zoning Districts shall be created only in locales designated in the Comprehensive Plan as Medium Intensity Neighborhood, High Intensity Neighborhood, Neighborhood Activity Center, Regional Activity Center and Business Center. Notwithstanding the foregoing, an Urban Residential Conditional Zoning District may be located on a lot(s) all or part of which fall within locales designated as Medium Intensity Neighborhood in the Comprehensive Plan only if any part of the boundary of the Urban Residential Conditional Zoning District is located no more than 100 feet from the boundary of a zoning district having a non-residential zoning designation.

5-25-2.1 Pre-Application Conference. Every person proposing to apply for creation of a Urban Residential District is required to meet with the Development Assistance Department Staff prior to the submittal of such application. This conference is intended to provide the applicant with an opportunity to discuss requirements, standards and procedures and to identify and solve potential problems for the proposed application. The applicant shall bring a sketch plan for the project showing, at a minimum, the location, the existing and proposed transportation network, phasing, general development plans and a written synopsis of the development proposal. The pre-application conference shall take place at least twenty (20) days prior to submitting an application to create an Urban Residential Conditional Zoning District.

5-25-2.2 Application. Creation of an Urban Residential Conditional Zoning District shall be initiated by means of an application for rezoning to an Urban Residential District. No permit shall be issued for any development within an Urban Residential Conditional Zoning District except in accordance with an approved rezoning.

5-25-2.3 Master Plan. Applicants for creation of an Urban Residential Conditional Zoning District project shall submit a master plan for the entire District, including the Urban Residential development, that indicates the following: (1) the general street network; (2) the proposed land use configuration within that network; (3) phasing boundaries if phasing is proposed; (4) the ultimate proposed development intensity (including the number of residential units and gross square footage of all nonresidential uses) for the entire development and for each phase; (5) a conceptual landscape plan; (6) proposed setback, height, signage, architectural and other design standards for the overall project and for proposed uses; (7) building elevations or perspective drawings to demonstrate proposed building character; and (8) a conceptual storm-water plan for the development. For initiation of this zoning classification, properties may fall under more than one ownership so long as there exist covenants or other legally binding agreements that adequately address cross-access, cross-parking and other similar issues affecting joint operation of the projects.

5-25-2.3.1 Traffic Impact Analysis. A traffic impact analysis developed in compliance with Section 6-19 below is required for all Urban Residential developments and shall be submitted with the application for the Urban Residential development. The City may defer the traffic impact analysis until after a rezoning to a conditional zoning district is approved for the project only in those circumstances where City Council, in

the absence of a traffic impact analysis, finds that the existing public road system has adequate capacity to handle projected traffic flow as required by Section 7-11, below.

5-25-2.3.2 Subsequent Review. After the establishment of the Urban Residential Conditional Zoning District, individual development projects within the District shall be subject to final site plan review in accordance with Section 7-3-4, below. In addition to the site plan requirements contained in Section 7-3-4.3, applicants shall comply with the design submittal requirements of Section 18-3-3.

5-25-2.3.3 Modifications. Revisions to approved Urban Residential Conditional Zoning District master plans may be approved by City Council or by the City Manager, or a designee appointed by the City Manager, depending on the type of revisions being requested. City Council shall review any revisions to a master plan that increases the overall development intensity, changes the proposed mix of uses by increasing any use category by 10% or more, or increases maximum building heights from that shown on the approved master plan. Additionally, City Council shall review any revision to a master plan that results in a decrease in the amount of perimeter open space or perimeter parking lot buffering, or in a 25% or greater reduction in the number of proposed blocks from that shown on the approved master plan. For the purpose of determining overall development intensity, one residential unit shall be regarded as the equivalent of 500 ft2 of office floor area; one residential unit shall be regarded as the equivalent of 200 ft2 of commercial floor area; and 1,000 ft2 of office space shall be regarded as the equivalent of 350 ft2 of commercial. For other uses, the Development Assistance Director or a designee shall determine the equivalency factor. Such determination shall be made in writing and shall be applied consistently to all Urban Residential Conditional Zoning Districts.

5-25-3 Permitted Uses. The following uses are permitted within the UR Urban Residential Zoning District Classification.

Residential dwellings, multi-family
Accessory Uses, Limited. The following uses shall be permitted as accessory uses. These uses must be located within a building that is predominantly residential. The total maximum gross floor area (within a building) of these accessory uses listed below is 50% of the footprint of the building in which they are located. Any single tenant or commercial use within a building shall be limited to a maximum of 3,000 ft2 within the building. There is no restriction as to where within the buildings these uses may be located; however, no drive-in windows are permitted:

Adult care centers registered with the NC Department of Human Resources
Banks and other financial institutions
Business services
Child care centers
Civic clubs & fraternal organizations
Copy centers
Cultural arts facilities
Dance and fitness facilities
Dry cleaning establishments, pickup and drop-off only
Home occupations
Laundries, coin-operated, for the sole use of the occupants of the building within which they are located
Movie-theaters, indoor
Music and art studios
Offices, business, professional and public
Personal services
Private clubs, provided the requirements of Article XVI are met.
Religious institutions

Repair services (non-automotive), miscellaneous, so long as the use is contained within an enclosed building
Restaurants, indoor and outdoor
Retail stores so long as the use contains no outdoor storage (in this regard the display of merchandise during operating hours only shall not be deemed outdoor storage)
Schools, post-secondary, business, technical and vocational
Theaters, indoor
Accessory Uses, Other. The following accessory uses are permitted.
Amphitheaters, outdoor
Bed & breakfast facilities
Hotels and motels
Parking lots and parking garages
Parks, public and private
Public and private recreational facilities, indoor and outdoor, including uses accessory to the recreational facility such as snack bars, cabanas, etc.
Public & semi-public buildings
Public utility facilities
Signs, subject to the provisions of Article XIII
Theaters, outdoor
Telecommunications antennas, subject to special requirements contained in Section 16-4, below

5-25-4 Dimensional Requirements. Dimensional requirements for each parcel within the UR Urban Residential Zoning District Classification are listed below:

Minimum Lot Width	20 feet
Minimum Front Yard	14 feet from back of existing or proposed curb, whichever is greater.
Minimum Side Yard	5 feet
Minimum Rear Yard	10 feet[4]
Maximum Height	64 Feet

Maximum Floor Area Ratio (gross floor space on entire parcel/parcel size) 1.5: 1

5-25-5 Design Considerations. Design is critical to the creation of an Urban Residential District and to achieving the goals of this classification, as set forth in Section 5-25, above. The design considerations set forth in this section are intended in some instances to guide project design and in others to provide specific design requirements, and the text is intended to make this distinction clear. The use of the term "shall" indicates a specific design requirement, whereas the term "should" indicates design guidance. In order to be granted a rezoning to develop an Urban Residential development, an applicant must demonstrate, among other things, that the design of the proposed development (1) meets the specific standards contained herein, (2) is generally in harmony with the design guidelines contained herein, and (3) will result in a development which is consistent with the purposes set forth in Section 5-25, above.

5-25-5.1 General Site Arrangement. Structures shall be placed and arranged so as not to adversely affect adjacent property. Adverse effects shall include, but are not limited to, the removal of lateral support on

[4] Minimum setback: 14 feet minimum from back of existing or proposed curb, whichever is greater. If the existing right-of- way is greater than the minimum setback from the back of existing or future curbs, the right-of-way line will become the minimum setback. However, if new construction incorporates an existing structure located within the required setback, the setback for the addition may be reduced to the established setback but in no event be less than 10 feet from the back of the existing or proposed curb. For the purposes of this section, the front yard applies to all street frontages, not just to the street toward which the structure is oriented.

adjacent property, the creation of hazard, nuisance, danger, or unreasonable loss of privacy. Development shall be arranged so as to be visually harmonious within the District. Insofar as is practicable, developments should be arranged so as to preserve or enhance vistas. Urban Residential developments shall be oriented around one or more significant open spaces, such as parks or plazas.

5-25-5.2 Physical Integration of Uses. All Urban Residential Conditional Zoning developments shall be designed and developed to provide an appropriate interrelationship between the various uses and structures within the development. Residential and commercial uses shall be located within the same structures unless otherwise indicated in Section 5-25-3. This limitation shall not apply to small commercial uses accessory to a private or public recreational use.

5-25-5.3 Preservation of Natural Features and Open Space. Permitted flexibility in lot sizes, setbacks, street alignments and widths, and landscaping should be utilized to preserve natural features and drainage patterns and to provide open space.

5-25-5.4 Architectural Character. The rich architectural vocabulary of the City of Hendersonville presents a wide variety of development opportunities using traditional forms while avoiding any perception of monotony. Each building proposed for an Urban Residential District shall have a well-proportioned form consistent with the building use, and its construction materials. Materials shall be durable, attractive and compatible with the architectural vernacular of the region. Massing of the building(s) shall create a building envelope that reflects simple, clearly articulated building volumes.

5-25-5.5 Building Orientation. It is preferred that primary façades face the adjacent street or significant open space. Residential buildings and buildings containing commercial or institutional uses shall have a main entrance facing a connecting walkway with a direct, safe, pedestrian connection to the street. Where the main entrance does not face the adjacent street, buildings shall nonetheless be designed to provide an attractive street-side façade.

5-25-5.6 Building Placement. Buildings shall be situated with regard to pedestrian and vehicular connectivity. Residential buildings and buildings containing commercial or institutional uses should be located close to the pedestrian street with off-street parking behind and/or beside the building. Important mountain vistas and views of significant historic sites should be protected and accentuated.

5-25-5.7 Privacy Considerations. Elements of the development plan should be arranged to maximize the opportunity for privacy by the residents of the project and minimize infringement on the privacy of adjoining land uses.

5-25-5.8 Architectural Details. Architectural elements like openings, details, bulkheads, posts, and other architectural features shall be used to establish human scale at the street level. On corner lots, the applicant is encouraged to provide a building entry, additional building mass, and distinctive architectural elements at the corner of buildings. Windows, doors, columns, eaves, parapets, and other building components shall be proportional to the overall scale of the building. Windows shall be vertically aligned wherever practical. The appearance of all exposed façades (not just the street-side façade) is important and shall be addressed in development design. No development shall have exterior walls with a reflectivity value in excess of 35%, as measured under the applicable provisions of ASTM-C-1036. No reflective surfaces may be used on street level exterior facades.

5-25-5.9 Building Walls. Buildings shall avoid long, monotonous, uninterrupted walls or roof planes on their visible façades. It is preferred that this design goal be achieved by means of building wall offsets, including projections, recesses, and changes in floor level, and roofline offsets. Such offsets add architectural interest and variety and can assist in creating human size proportions. Parapets shall be

designed as integral to the mass of the building. When multiple wall materials are combined on one façade, the designer is encouraged to place the heavier material(s) below.

5-25-5.10 Building Entrances. All buildings should include well-defined entrances facing the street at regular intervals. An operable entrance on each primary façade should be provided to encourage access by pedestrians. For buildings on corner lots, an entrance may be placed at the corner, thereby eliminating the need for side entrances.

5-25-5.11 Extensions into Building Setback. In addition to being permitted in urban open space areas, canopies, awnings, cornices and similar architectural accents are permitted on exterior building walls. Such features may be constructed of rigid or flexible material designed to complement the streetscape of the area. Any such facility may extend from the building up to one half of the width of the sidewalk area in front of the building or nine feet, whichever is less. Additionally, balconies and bay windows shall be allowed to extend from the building plane up to one-half of the width of the sidewalk area in front of the building or nine feet whichever is less provided they are located on the second floor or higher floor of the building on which they are located. Overhead walkways between buildings shall be allowed provided they are located on the third floor or higher floor of the buildings which they connect. If any extension allowed by this paragraph would reach into the public right-of-way, an encroachment agreement from the City or State is required. In no case shall any such facility extend beyond the curb line of any public street, nor should it interfere with the growth or maintenance of street trees. A minimum overhead clearance of ten feet from the sidewalk shall be maintained.

5-25-5.12 Building Scale. The scale of a building is a function of the size of the individual pieces of a building and their relationship to each other. The scale of a building is important in order to contribute to the overall diversity of building types, to give visual interest, and to maintain compatibility between buildings and the adjacent community. Thus the following standards shall apply within the Urban Residential Conditional Zoning District.

a) **Scale, Buildings Containing Nonresidential Uses.** The following requirements apply to any building containing nonresidential uses, regardless whether the building also contains residential uses:

1) The distance between required offsets is related to the height of the building wall on a one-to-one basis. Thus, a building which is 20 feet tall may have no more than 20 feet of façade wall between offsets. A building façade which is less than or equal to the height of the building shall not require an offset.

2) The height of any particular façade shall be measured from the average ground level to the soffit, or, if there is no soffit, to the parapet.

3) The depth or projection of the offset shall be 1/10th the length of the longest adjacent wall panel; provided, however, the minimum offset depth shall be one foot. By means of illustration, a building with a 20-foot wall panel shall have a two-foot offset adjacent to such wall panel.

4) Each façade of a building shall comply with the offset requirements contained herein.

b) **Scale, Buildings Containing Only Residential Uses.** The following requirements apply to any building containing only residential uses:

1) The distance between required offsets shall be related to the height of the building on a basis of .75 / 1; provided, however, no wall shall exceed 16 feet in length without an offset. By way of illustration, a façade wall which is 20 feet tall may have no more than 15 feet of wall between offsets; however, a

façade wall which is 30 feet tall, owing to the proviso, may have no more than 16 feet of wall between offsets. A building façade which is less than 16 feet in length shall not require an offset.

2) Offsets shall have a minimum depth or projection of two feet regardless of the length of adjacent wall façades.

3) Each façade of a building visible from a street shall comply with the offset requirements contained herein.

5-25-5.13 Internal Access and Connectivity. The site shall be traversed by a network of internal streets built according to City standards. Internal streets should seek to avoid cul-de-sacs and dead end roads and other features that hamper connectivity. However, roads may terminate at a monumental structure or green space. In such cases a sidewalk or other connection shall be provided to ensure the goals of connectivity. In addition, internal streets shall have sidewalks and street trees. If a bus line serves, or is expected to serve, the District, a bus shelter is required. Larger projects may require more shelters as determined by traffic impact analysis. Connectivity is a goal of the internal street system and external connections to areas outside and adjacent to the Urban Residential Conditional Zoning development should be created where possible. Only two driveways per block face are allowed.

5-25-5.14 Block Length. Block length may vary but shall not exceed 500 feet in length. For blocks on local streets that are 350 feet or longer, a mid-block pedestrian street crossing is required which may also include a parking lot driveway and/or pedestrian passageway between two or more buildings, and shall have curb extensions (bulb-outs) for ease and safety of pedestrian street crossing. Collector streets may also require mid-block pedestrian crossings as noted above.

5-25-5.15 Pedestrian Zone and Sidewalks. The pedestrian zone is the area between the street curb and the building edge or, for access roads, the street curb and the right-of-way area. The pedestrian zone includes sidewalks, street trees and other pedestrian amenities. The pedestrian zone will generally be fifteen feet wide but may be wider depending on the setback pattern. Sidewalks in Urban Residential Districts shall be required along one side of access streets and both sides of internal streets throughout the development. If appropriate to the design of the development, greenway paths may be substituted for sidewalks in residential areas to provide connections. The sidewalk shall be a minimum of seven feet wide in the Urban Residential Conditional Zoning District. All structures shall connect the building façade entrance with the street. The sidewalk may be as wide as the entire pedestrian area. Arcades, awnings, outdoor dining, shelters, seating areas, fountains, street trees, additional landscaped areas and other pedestrian amenities may be a part of this pedestrian area so long as seven feet of clear walking space is maintained. The pedestrian area may also be used to create an area for waiting, pick-up and drop-off. At locations such as intersections and other crosswalks, curb extensions (bulb-outs) are required to create safer pedestrian crossings.

5-25-5.16 Parking/Loading Standards. Parking and loading facilities shall be reviewed at the preliminary plan level. The applicant shall demonstrate that the amount of parking proposed is adequate to serve the needs of the development and is located and designed in such a fashion that it does not detract from the overall appearance of the development or unreasonably interfere with pedestrian activity.

a) **Amount of Parking.** Owing to the possibilities for shared use of parking, the number of parking spaces in the Urban Residential Conditional Zoning District should not exceed the minimum parking requirements for the District computed by means of the formulas contained in Section 6-5, below.

b) **On-Street Parking.** On-street parking is required for all local streets, and for collector streets when determined by the Council, and shall count toward meeting the off-street parking requirements for the

District. On-street parking may take the form of parallel or angle parking and shall be built according to city or state standards as applicable.

c) **Off-Street Parking.** Applicants for rezoning to the Urban Residential Conditional Zoning District Classification shall propose a master parking plan which shall provide sufficient parking for the entire project consistent with requirements of this section. Off-street parking lots are encouraged to be provided at the side or rear of buildings or the interior of a block of buildings and not closer to the street than the edge profile of the structures. No more than 20% of parking that is provided in an Urban Residential District may be in the form of stand-alone surface lots not located to the side or rear of buildings. Off-street parking shall not be adjacent to street intersections. Parking shall be permitted to extend into any setback area no more than two feet.

d) **Loading Standards.** Urban Residential Districts may share off-street loading facilities and are therefore allowed to provide these facilities at half the rate listed for the applicable uses. On-street loading spaces may be counted towards the project loading requirements as per Section 6-6 below.

e) **Landscaping.** Landscaping shall meet the requirements of Section 5-25-5.18.

5-25-5.17 Street Trees. Street trees are required in the pedestrian zone and along access roads at an average of one small maturing tree every 30 feet and one large maturing tree for every 40 feet for canopy trees. In selecting street trees, priority should be given to long-lived species proven to function well in urban settings with a form and branching pattern compatible with the space and type of adjacent traffic. Trees may be planted in minimum six-foot by six-foot pits. Tree frames and grates are not required but are recommended especially near store entrances, other sidewalk constraints, points of ingress, egress or public gathering areas. If tree grates are not used, an organic surfacing material shall be used to level the surface of the tree pit with the sidewalk. This material shall receive regular maintenance. To offer flexibility in the tree planting requirement, trees may be planted in planting strips adjacent to the curb edge of the sidewalk. Planting strips shall be no narrower than six feet wide. Planting strips may include grass, flowers and other plant material where appropriate. Planting strips may not be appropriate in pedestrian gathering areas. Notwithstanding the restrictions contained in other sections of this Ordinance or the City Code, no trees may be planted within thirty-five feet of street intersections.

5-25-5.18 Landscape / Buffering Standards. Landscaping and buffering shall be in accordance with Article XV of this Ordinance except as noted herein. Parking lots shall include interior and perimeter tree plantings made up of deciduous trees at a rate of one tree for every 1,500ft2 of vehicular use area. No parking space shall be farther than 45 feet from a tree. No shrubs are required for interior plantings for parking lots that are behind, to the side of, or located at the interior of the block of buildings. Parking areas adjacent to roadways require buffering from the street as specified in Article XV with the exception that the planting area will be eight feet wide. Stand-alone parking lots shall comply with all applicable landscape and buffering standards except that trees shall be provided at a rate of one tree for every 1,500 ft2 of parking and parking spaces shall be no further than 45 feet from a tree. Shrubs are also required as per the regular schedule. Landscaped islands within parking lots should be a minimum of 162 ft2 of planting area with a minimum width of eight feet if they are to include tree plantings. Buffering for Urban Residential Conditional Zoning District projects is measured and reviewed from the parcel lot lines used to establish the District and not on an internal lot by lot basis.

5-25-5.19 Open Space Standards. Functional open space enhances circulation within a site and contributes to the site's aesthetic qualities. All open space should be designed to be accessible and usable for occupants and invitees of the Development. An Urban Residential Conditional Zoning District shall have an open space ratio of not less than 30%.

5-25-5.20 Common Space Standards. Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects. Common spaces are intended to be places for social interaction and, thus, may include impervious surfaces. Common space design shall comply with the following:

a) **Size.** At least 10% of the acreage of a development shall be devoted to common space. Common space shall count toward meeting open space requirements for a project.

b) **Trees.** One tree shall be planted for each 500 ft2 of common space. Trees shall have a minimum caliper of 3-3½ inches measured six inches above ground at the time of planting.

c) **Utilities.** All utilities service lines and connections shall be underground.

d) **Seating.** Seating shall be provided to accommodate workers, residents and/or shoppers. Seating may be accomplished in whole or in part using planters or other similar structures.

e) **Amenities.** Common space for a development shall include two or more of the following amenities: ornamental fountains, stairways, waterfalls, public art, arbors, trellises, planted beds, drinking fountains, clock pedestals, public telephones, awnings, canopies, informational kiosks, and similar structures.

f) **Location.** A maximum of 30% of this required common space may be provided on an enclosed ground floor level provided the enclosed space meets all other requirements of these provisions.

Section 5-26 MSH Main Street Historic Overlay District. This district is designed to establish the main Street Historic District, a local historic district created pursuant to Chapter 28 of the City Code. It is an overlay zone, affecting the underlying zoning district only as stated herein.

5-26-1 Permitted Uses: Same as for underlying zoning district.

5-26-2 Conditional Uses: Same as for underlying zoning district.

5-26-3 Development Requirements shall be the same as for underlying zoning district with the added requirement that no exterior portion of any building or other structure, nor above-ground utility structure, nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished without a certificate of appropriateness issued by the Hendersonville Preservation Commission pursuant to Chapter 28, City Code.

Section 5-27 CHMU Commercial Highway Mixed Use Zoning District Classification. The Commercial Highway Mixed Use Zoning District Classification is intended to encourage a mix of high density residential development in conjunction with appropriately scaled and compatible commercial development, consisting of community and regional retail sales and services, professional offices, research facilities, restaurants, accommodations services and similar uses. Development design becomes a critical consideration when establishing regional activity centers that create attractive and functional roadway corridors which also encourage mixed-use and walkable design. In addition to the general dimensional and use provisions, the regulations contained herein, along with those in Article XVIII which apply to mixed use zoning district classifications generally, address the design of buildings and development sites.*)*

5-27-1 Permitted Uses. The following uses are permitted by right in the CHMU Commercial Highway Mixed Use Zoning District Classification, provided they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units subject to special requirements contained in Section 16-4, below
Accessory uses & structures
Adult care centers registered with the NC Department of Human Resources
Adult care homes
Agriculture
Animal hospitals & clinics so long as they contain no outdoor kennels
Automobile car washes
Automobile sales & service
Banks & other financial institutions
Business services
Camps
Child care centers, subject to special requirements contained in Section 16-4, below
Child care homes
Civic clubs & fraternal organizations, subject to special requirements contained in Section 16-4
Congregate care facilities, subject to special requirements contained in Section 16-4, below
Construction trades facilities, so long as the storage of equipment and materials is screened from view from any public rights-of-way
Convenience stores with or without gasoline sales
Cultural arts buildings
Dance, health & fitness facilities
Day care facilities
Dry cleaning and laundry establishments containing less than 6,000 ft2 of floor area
Equipment rental & sales
Funeral homes
Greenhouses & commercial nurseries
Health clubs & athletic facilities
Home occupations
Hotels & motels
Laundries, coin-operated
Lawn & garden centers
Manufacturing, light
Music & art studios
Neighborhood community centers
Newspaper offices & printing establishments
Nursing homes, subject to special requirements contained in Section 16-4, below
Offices, business, professional and public
Parking lots & parking garages
Parks
Personal services
Progressive care facilities, subject to special requirements contained in Section 16-4, below
Public & semi-public buildings
Recreational facilities, indoors
Recreational facilities, outdoors, commercial
Religious institutions
Repair services, miscellaneous
Research & development with no outdoor storage and operations
Residential care facilities

Residential dwellings, single family
Residential dwellings, multi-family
Residential dwellings, two-family
Restaurants
Restaurants, drive-in
Retail stores (not including manufactured housing, boat & heavy equipment sales)
Schools, post-secondary, business, technical and vocational
Schools, primary & secondary
Service stations
Signs, subject to the provisions of Article XIII, below
Telecommunications antennas, subject to special requirements contained in Section 16-4, below
Theaters, indoors

5-27-2 Conditional Uses. The following uses shall be permitted in the CHMU Commercial Highway Mixed Use Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Bus stations
Public utility facilities

5-27-3 Development Standards. The following standards shall apply to development within the CHMU Commercial Highway Mixed Use Zoning District Classification.

5-27-3.1 Parking & Loading. The requirements of Section 6-5, below, shall apply.

5-27-3.2 Dimensional Requirements.

Minimum Lot Area in Square Feet:	None
Minimum Lot Width:	None
Open Space Ratio:	≥.30
Common Space Ratio:	≥.10
Yard Requirements:	Varies with building type. See Design Standards.
Building Separation:	If buildings are separated, they must be separated by at least 15 feet. This provision shall not be construed to qualify any setback provisions contained elsewhere in this ordinance.
Building Height:	Varies with building type. See Design Standards.

5-27-3.3 Residential Density. The number of residential dwellings permitted on any development tract varies with regard to the open space ratio provided as noted on the following table.

Open Space Ratio	Maximum Dwelling Units / Acre
.40	8
.50	10
.60	12

5-27-4 Design Standards. These standards are intended to apply to all development and redevelopment within the CHMU Commercial Highway Mixed Use Zoning District Classification. Applicants for authorization to

undertake development or redevelopment within such zoning district shall demonstrate compliance with these standards or shall undergo alternative design review as provided for in Article XVIII, below.

5-27-4.1 Standards of General Applicability. The following standards shall apply to all development in the CHMU Commercial Highway Mixed Use Zoning District Classification regardless of use or building type.

5-27-4.1.1 General Site Development. Site development shall not result in the removal of lateral support for adjoining properties. Furthermore, development shall not create hazardous or dangerous conditions or result in the creation of a nuisance as specified in Section 6-13, below.

5-27-4.1.2 Physical Integration of Uses. Residential and commercial uses may be located within the same or adjoining structures provided appropriate health and safety regulations are followed.

5-27-4.1.3 Building Orientation. Primary façades, which may or may not contain an entrance to the building, shall face primary vehicular access or significant public space. A main entrance shall face a connecting walkway with a direct, safe, pedestrian connection to the street.

5-27-4.1.4 Common Space. Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects. Common spaces are intended to be places for social interaction and, thus, may include impervious surfaces.

Unless interior common space is approved by the reviewing authority, common space shall be out-of-doors. Common space design shall comply with the following:

a) **Size.** At least 10% of the acreage of a site shall be devoted to common space. Common space shall count toward meeting open space requirements for a project.

b) **Trees.** One tree shall be planted for each 1000 ft2 of common space. Trees shall have a minimum caliper of 3-3½ inches measured six inches above ground at the time of planting.

c) **Utilities.** All utilities service lines and connections shall be underground.

d) **Seating.** Seating shall be provided to accommodate workers, residents and/or shoppers. Seating may be accomplished in whole or in part using planters or other similar structures.

e) **Amenities.** Common space for a development shall contain adequate amenities to animate and enliven the environment and to make it conducive for social interaction. Following is a list of such amenities: ornamental fountains, stairways, waterfalls, public art, arbors, trellises, planted beds, drinking fountains, clock pedestals, awnings, canopies, informational kiosks, and similar structures. This list is not intended to be exhaustive.

5-27-4.1.5 Architectural Details. The appearance of all street side façades is important and shall be addressed in development design. Architectural elements like openings, sill details, posts, and other architectural features shall be used to establish human scale at the street level. On corner lots, the applicant shall provide distinctive architectural elements at the corner of buildings facing the intersection. Windows,

doors, columns, eaves, parapets, and other building components shall be proportional to the overall scale of the building. Windows shall be vertically aligned.

All buildings shall provide detailed design along all façades which are visible from a street or common space. Detailed design shall be provided by using at least three of the following architectural features.

Dormers.
Gables.
Recessed entries.
Covered porch, entries.
Cupolas or towers.
Pillars or posts.
Eaves (minimum 6-inch projection).
Off-sets in building face or roof.
Window trim (minimum nominal four inches wide).
Bay windows.
Balconies.
Decorative patterns on exterior finish (e.g. scales / shingles, wainscoting, ornamentation).
Decorative cornices and roof lines (for flat roofs).

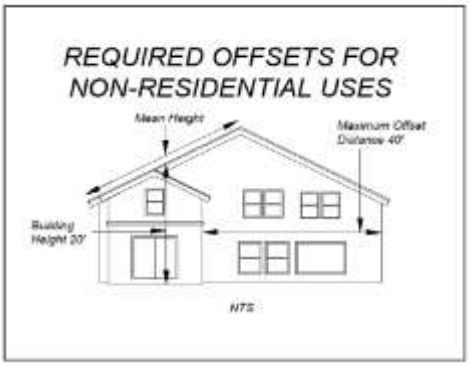
5-27-4.1.6 Building Façades. Front, rear and side façades of buildings shall contain at least two building materials which shall contrast in color and texture. At least 15% of the façade, exclusive of windows, doors and trim, shall consist of stone, brick, decorative concrete or decorative block.

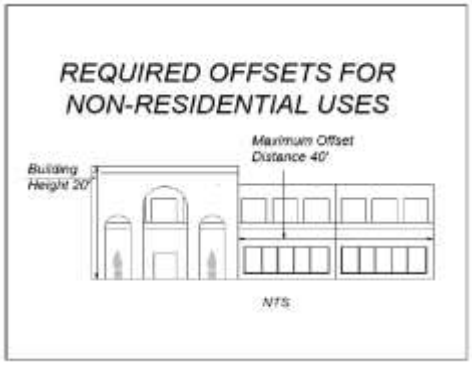
5-27-4.1.7 Windows. Windows shall either be (1) recessed a minimum of three inches from the façade or (2) trimmed. If trim is used, it shall be a minimum of four inches (nominal) in width and shall project beyond the façade.

5-27-4.1.8 Building Scale. The scale of a building is a function of the size of the individual pieces of a building and their relationship to each other. The scale of a building is important in order to contribute to the overall diversity of building types, to give visual interest, and to maintain compatibility between buildings. These design standards regulate scale by means of offsets, that is, protrusions or breaks in the plane of façades.

a) **Scale, Buildings Containing Nonresidential Uses.** The following requirements apply to any building containing nonresidential uses, regardless whether the building also contains residential uses:

1) The distance between required offsets is related to the height of the building wall on a two-to-one basis. A building façade which is less than or equal to the height of the building shall not require an offset.





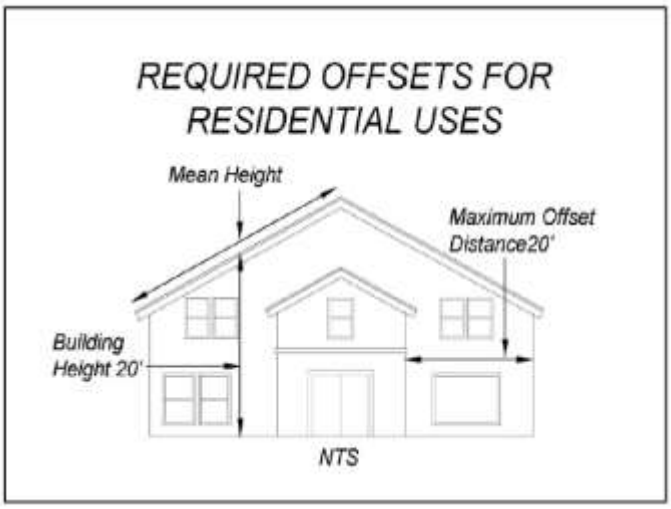
2) The height of any particular façade shall be measured from the average ground level to the mean height level between the eaves and ridge of a gable, hip or gambrel roof, or for flat roofs, to the top of the parapet.

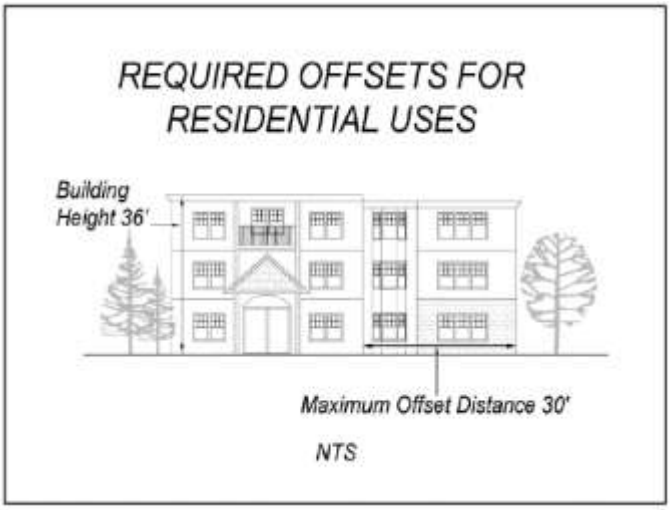
3) The depth or projection of the offset shall be 1/10th the length of the longest adjacent wall panel; provided, however, the minimum offset depth shall be one foot. By means of illustration, a building with a 20-foot wall panel shall have a two-foot offset adjacent to such wall panel.

4) Each façade of a building visible from a street or common space shall comply with the offset requirements contained herein.

b) **Scale, Buildings Containing Only Residential Uses.** The following requirements apply to any building containing only residential uses:

1) The distance between required offsets shall be related to the height of the building on a one-to-one basis; provided, however, no wall shall exceed 30 feet in length without an offset. A building façade which is less than or equal to the height of the building shall not require an offset. Provided, however, the provisions of this paragraph shall not be construed to require an offset for that portion of a façade containing a two-car garage.





2) The height of any particular façade shall be measured from the average ground level to the mean height level between the eaves and ridge of a gable, hip or gambrel roof, or, for flat roofs, to the top of the parapet.

3) Offsets shall have a minimum depth or projection of two feet regardless of the length of adjacent wall façades.

4) Each façade of a building visible from a street or common space shall comply with the offset requirements contained herein.

5-27-4.1.9 Streets and Sidewalks. Streets and sidewalks shall comply with the circulation and access requirements contained in Section 18-6-4.6, below.

5-27-4.1.10 Building Materials. Building materials shall be used consistently on the exterior of the building and shall comply with the lists of prohibited materials contained herein.

Prohibited Building Materials. Unless authorized through alternative design compliance, the following building materials shall be prohibited within the CHMU Commercial Highway Mixed Use Zoning District Classification: plain concrete block (with or without paint); corrugated or ribbed metal siding; reflective glass; more than 50% glass on any façade; roll roofing; roll siding; plain unfinished concrete (painting does not constitute a finish); aluminum; unpainted metal; exposed plain pipe columns; metal wall siding; and any other materials not customarily used in conventional construction.

5-27-4.1.11 Certain Exemptions for Single-Family and Two-Family Detached Dwellings. Detached single-family and two-family dwellings shall be exempt from the requirements contained in Sections 5-27-5.1.4 (common space) and 5-27-5.1.8 (building scale).

5-27-4.2 General Standards for Residential Developments. The following standards shall apply to developments containing only residential uses with the exception that multi-family buildings must comply with the general standards contained in Section 5-27-5.3, below.

5-27-4.2.1 General Appearance. Residential development shall contain a variation of façades and materials so that there shall not be a row or strip housing appearance. Means to accomplish this goal may include the use of dormers, gables, recessed entries, covered porch entries, bay windows, cupolas or towers, and a variation in the depth and height of walls, among others.

5-27-4.2.2 Architectural.

a) Useable porches and/or stoops, at least eight feet in width, shall be located on the front and/or side of the home.

b) Front-loading garages and carports shall be offset from the front façade of the house and visually designed to form a secondary building volume. Developers are encouraged to turn garages and carports so the openings or doors are not visible from the street. At no time shall the width of an attached garage exceed 50% of the total building façade.

c) Accessory buildings with a floor area greater than 150 ft2 shall be clad in materials similar in appearance to the principal structure.

d) Walls and fences located in the front yard shall be decorative and limited in height to no more than four feet above grade. Front-yard walls shall be of brick, stone or stucco. Front yard fences shall be wood, wrought iron or materials similar in appearance and durability. Side and rear yard fences may be chain link, wood, wrought iron, or similar material.

5-27-4.2.3 Configurations.

a) Main roofs on residential buildings shall be gables, hips or clerestory with a pitch between 5:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to a wall of the main building.

b) Foundation walls (except those under porches) shall be finished with brick, stucco or stone. If crawlspaces of porches are enclosed, they shall be enclosed with brick, stone, and lattice or any combination thereof.

5-27-4.3 General Standards for Nonresidential and Multi-Family Buildings. The following standards shall apply to all buildings containing nonresidential uses and multi-family dwellings.

5-27-4.3.1 Storage, Utility & Service Areas. Areas devoted to storage, garbage, recycling collection and utilities shall be enclosed and screened around their perimeter, and constructed of materials consistent with the principal building. Gas meters, electric meters, ground-mounted mechanical units, and any other similar structures shall be hidden from public view or screened with approved construction materials. Fences designed for screening shall be constructed of brick, stone, architectural stucco, concrete, wood or iron. Roof vents, mechanical units, utility equipment and telecommunication receiving devices located on the roof shall be screened from view. Solar technology components including solar panels and solar thermal collectors are exempt from this provision.

5-27-4.3.2 Parking & Vehicular Access. All vehicular use areas shall be set back a minimum of 20 feet from the right-of-way line of public right-of-way and shall be screened from view from such rights-of-way in accordance with Article XV, below.

5-27-4.3.3 Encroachments. Balconies, stoops, chimneys and bay windows are permitted to encroach into any setback up to five feet.

5-27-4.3.4 Roofs. Parapets and decorative cornices are required for buildings with a flat roof. Eaves shall be provided with a pitched roof.

5-27-4.4 Specific Standards for Single-Family and Two-Family Detached Dwellings.

Minimum Setbacks:	Front: 15 feet Sides: 20% of lot width. The entire setback may be allocated to one side. Rear: 10 feet
Minimum Lot Width:	50 feet
Maximum Height:	2 ½ stories.
Encroachments:	Balconies, stoops, stairs, chimneys, open porches, bay windows, roof overhangs and raised doorways are permitted to encroach into the front setback a maximum of five feet.
Accessory Structures	Side: 3 feet Rear: 3 feet

5-27-4.5 Specific Standards for Townhouses. The townhouse is a building with two or more residential units that are located side-by-side. When an entrance is provided at-grade, the townhouse may be used as a live-work unit.

Minimum Setbacks:	Front: 8 feet Sides: 0 feet (Corner 8 feet). Buildings within a development must be separated by a minimum of 15 feet Rear: 15 feet from centerline of alley, if applicable.
Minimum Lot Width:	16 feet
Maximum Height:	3 stories.
Encroachments:	Balconies, stoops, stairs, chimneys, open porches, bay windows, roof overhangs and raised doorways are permitted to encroach into the front setback a maximum of five feet. Upper story balconies may encroach into the right-of-way up to five feet with permission from the City.

Accessory Structures	Side: 3 feet Rear: 3 feet
Maximum Footprint:	400 ft2
Maximum No. of Structures:	1

5-27-4.6 Specific Standards for Multi-Family Dwellings. Multi-family dwelling consists of three or more dwelling units vertically and/or horizontally arranged. The ground floor may be available for commercial uses.

Minimum Setbacks:	Front: 10 feet Sides: 15 feet plus 5 feet for each floor above 2. Rear: 15 feet plus 5 feet for each floor above 2.
Parking:	Off-street parking shall be located in the rear or side yard only and shall be screened from view from public roadways. On- street parking is encouraged for private streets and drives.
Vehicular Access:	Primary vehicular access from public roads shall be accomplished by means of a rear lane or alley only. No curb cuts or driveways are permitted along the frontage except for vehicular access to rear parking. These limitations shall not apply to parcels or buildings where primary vehicular access is by means of a private street or drive.
Maximum Height:	4 stories.
Encroachments:	Balconies, stoops, stairs, chimneys, open porches, bay windows, roof overhangs and raised doorways are permitted to encroach into the front setback a maximum of five feet. Upper story balconies may encroach into the right-of-way up to five feet with permission from the City.
Accessory Structures	Side: 0 feet Rear: 0 feet
Maximum Footprint:	400 ft2

5-27-4.7 Specific Standards for Commercial & Institutional Buildings. Commercial buildings are structures which can accommodate a variety of uses mixed either horizontally (shopping center) or vertically (dwelling unit over a store). Office buildings, hotels and inns can be placed in commercial buildings. Buildings containing both commercial and residential uses shall be classified as commercial buildings for the purposes of this section. Institutional buildings are specialized public or semi-public buildings intended to serve as public gathering places. Such uses include governmental offices, churches or other places of worship, schools, hospitals, post offices, and nonprofit or charitable clubs and organizations. Note there are exceptions from the maximum height restrictions for steeples, cupolas and similar structures. These are contained in Section 8-2, below.

Minimum Height:	14 feet to the top of the parapet for buildings with flat roofs. There is no minimum height requirement for other buildings.
Maximum Height:	4 stories
Minimum Setbacks:	Front: 10 feet Sides: 15 feet plus 5 feet for each floor above 2. Rear: 15 feet plus 5 feet for each floor above 2.

Minimum Lot Width:	None.
Encroachments:	Balconies, stoops, chimneys, roof overhangs and bay windows are permitted to encroach into any setback up to 5 feet.
Accessory Structures	Side: 3 feet Rear: 3 feet.

Section 5-27-5 CHMUCZD Commercial Highway Mixed Use Conditional Zoning District Classification. The purpose and requirements of this classification are identical to the CHMU Commercial Highway Mixed Use Zoning District Classification except that a rezoning to CHMU Conditional Zoning District as provided for in Article VII herein, is required as a prerequisite to any use or development. The following uses shall be permitted in the CHMU Commercial Highway Mixed Use Conditional Zoning District Classification only upon rezoning to CHMUCZD.

Development or redevelopment exceeding 50,000 ft2 of gross floor area.
Telecommunications towers, subject to special requirements contained in Section 16-4, below.
Permitted uses for the CHMU Commercial Highway Mixed Use Zoning District Classification as specified in 5-27-1, above.
Conditional uses for the CHMU Commercial Highway Mixed Use Zoning District Classification as specified in 5-27-1, above.

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ARTICLE VI
GENERAL PROVISIONS

Section 6-1 Application of Regulations. The regulations set forth in this Ordinance affect all land, every building, and every use of land and/or building and shall apply as follows:

6-1-1 Use. No building or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this Ordinance for the district in which it is located.

6-1-2 Height and Density. No building shall hereafter be erected or altered so as to exceed the height limit or to exceed the density regulations of this Ordinance for the district in which it is located.

6-1-3 Lot Size. No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot width or depth, front, side or rear yard, lot area per dwelling unit, or other requirements of this Ordinance are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

6-1-4 Yard Use Limitations. No part of a yard or other open space required about any building or use for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space similarly required for another building or use.

6-1-5 One Principal Building on a Lot. Every building hereafter erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than one principal building and its customary accessory buildings on the lot, except in the case of specially designed complexes of institutional, residential, commercial or industrial buildings in an appropriate zoning district classification.

6-1-6 Lot Frontage. All lots shall front on a public street.

6-1-7 Corner Lots. In any residential district, the side yard requirements for corner lots along the side street shall be increased by ten feet. Accessory buildings shall observe all setback requirements.

6-1-8 Accessory Structures. Accessory structures shall not be located in any required front yard or any required front or side yard of a corner lot. In all other cases, the accessory structure shall meet the setback requirements for the zoning district classification in which it is located.

6-1-9 Calculation of Lot Areas. No part of a road right-of-way lying within lot lines may be used in calculating minimum lot sizes requirements.

Section 6-2 Nonconformities. The purpose of this section is to regulate and limit the continued existence of uses and structures lawfully established prior to the effective date of this ordinance, or any amendment thereto, that do not conform to such ordinance, as amended. Any nonconformity created by a change in the classification of property or the text of these regulations shall be regulated by the provisions of this section. As used in this section, the term, “effective date of this ordinance, or any amendment thereto,” refers to the date of the ordinance which first rendered a use, structure or land nonconforming.

6-2-1 Nonconforming Uses. A nonconforming use is a use of land, buildings, or structures that was lawfully established prior to the effective date of this ordinance, or any amendment thereto, but which does not conform to the regulations for the zoning classification in which it is located.

Nonconforming uses may be continued subject to the following limitations:

a) No nonconforming use shall be extended, expanded, enlarged, or moved to occupy a different or greater area of land, buildings or structures than was occupied by such use at the time it became nonconforming; provided, however, a nonconforming use may be extended throughout any parts of a building which were specifically designed and arranged for such use at the time it became nonconforming.

b) No building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, moved, or structurally altered unless such building or structure is thereafter devoted to a conforming use; provided, however, such building or structure may be enlarged or extended upon prior authorization from the Board of Adjustment, which authorization shall not be granted unless the Board of Adjustment makes each of the following findings of fact:

1) The proposed enlargement or extension shall be de minimis in relation to the existing building or structure.

2) The proposed enlargement or extension shall not increase the intensity of the nonconforming use, which is to say, it will not result in an increase in dwelling units for a residential use nor in gross floor area for a nonresidential use.

3) The proposed enlargement or extension is designed so that it will not render the use of the property any less compatible than it is in its existing circumstances.

4) The authorization of such proposed enlargement or extension is not otherwise contrary to the public health, safety or welfare.

c) A nonconforming use of a structure may not be changed to another nonconforming use unless such change is authorized by the Board of Adjustment. In order to authorize a change in nonconforming use, the Board of Adjustment shall consider the relative impacts of the existing nonconforming use and the proposed nonconforming use with regard to traffic, noise, pollution, visual appearance and compatibility with the neighborhood, and shall make the following findings:

1) The proposed use is expected to result in impacts which are less than those associated with the existing use.

2) The proposed use will be more compatible with the surrounding neighborhood than is the existing use.

3) Approval of the change in nonconforming use serves the public health, safety and general welfare.

4) Failure to approve the change in nonconforming use would result in a hardship to the owner of the property on which the nonconforming use is situated.

An existing nonconforming use shall be discontinued within 60 days of the date of approval of a change in nonconforming use. Subsequent to that time, such existing use shall become unlawful.

d) Where a nonconforming use ceases for 180 consecutive days, then the use shall not be re-established or resumed, and any subsequent use of the land or structure shall conform to the requirements of this ordinance. Vacancy and non-use of the building or structure, regardless of the intent of the owner, shall constitute discontinuance under this provision.

e) Where a building or structure devoted to a nonconforming use is damaged to the extent of 50% or more of its current value, such building or structure, if restored, shall thereafter be devoted to conforming uses. Provided, however, AM radio, FM radio, and television towers and associated facilities may, in conformance with this subsection, be repaired and used as before, so long as tower dimensions are not increased, regardless of the degree of damage. This section shall not apply to structures regulated by Article XIII of this ordinance.

6-2-2 Nonconforming Structures. A nonconforming structure is a building or other structure which lawfully existed prior to the effective date of this ordinance, or an amendment thereto, and which no longer could be built under the terms of this ordinance, as amended, by reason of restrictions on area, footprint, open space, building height, setbacks, lot width, or other requirements concerning the structure.

a) A nonconforming structure devoted to a use permitted in the zoning classification in which it is located may continue to be used only in accordance with the provisions of this section.

b) Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.

c) Except as provided in subsections (d) and (e) below, a nonconforming structure shall not undergo a change of use, renovation or expansion.

d) A nonconforming structure may undergo a change of use or renovation without having to bring the structure into conformity with the requirements of these regulations, provided that:

1) The change in use or renovation does not increase the floor area of the structure.

2) The change in use is to a permitted use within the district.

3) The number of parking spaces provided for the use is in conformity with the requirements of these regulations.

e) A nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are both brought into conformity with the requirements of this ordinance.

f) A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning classification in which it is located.

g) Where a nonconforming structure is damaged by fire, flood, wind, or other act of God, and such damage does not exceed 50% of the current assessed taxable value of the structure, it may be restored to its original dimensions and conditions as long as a building permit for the restoration is issued within 12 months of the date of the damage.

6-2-3 Nonconforming Vacant Lots. A nonconforming vacant lot is a lot that was lawfully created prior to the effective date of this ordinance, or any amendment thereto, but which does not conform to the minimum gross land area or minimum lot requirements for the zoning classification in which it is located.

a) Except as provided herein, a nonconforming vacant lot may be used for any of the uses permitted by this ordinance in the zoning classification in which it is located, provided that the use meets all limitations and minimum requirements for setback and yards, height, open space, buffers, screening, parking, density and floor area required in this ordinance for the zoning classification in which the lot is located.

b) If compliance of the structure(s) intended on the nonconforming lot with applicable setback requirements is not reasonably possible, the nonconforming lot may be used as a building site subject to the granting of a variance from such setback requirements by the Board of Adjustment in accordance with the provisions of Article X.

c) With regard to residential dwellings, variances authorized pursuant to subsection b), above, shall be limited to single-family dwellings. Two-family or multi-family residential dwellings shall not be entitled to such a variance.

d) Where a nonconforming lot abuts another lot of record (whether conforming or nonconforming) held in the same ownership at or subsequent to enactment of this section, such lots shall be combined or recombined as necessary to form a conforming lot or lots and shall not thereafter be subdivided except in compliance with all of the requirements of the Subdivision Ordinance. Where a nonconforming lot was created by public taking action or as a result of a court order, the above combination or recombination of lots shall not be required.

6-2-4 Repairs and Maintenance. Minor repairs to and routine maintenance of land, buildings, structures, or other development of land devoted to a nonconforming use or having nonconforming structures are permitted, provided the cost of such repairs and maintenance within any 12 month period does not exceed 10% of the current assessed taxable value of the land, buildings, structure, or other development of land.

Any structure or other development of land devoted to a nonconforming use that is declared unsafe by the Code Enforcement Officer or Building Inspector because of lack of repairs and maintenance shall not be restored, repaired, reconstructed, or used except in conformity with the provisions of this section.

Any structure or other development of land devoted to a nonconforming use that is declared unsafe by the Zoning/Code Enforcement Officer or Building Inspector but not because of lack of repairs and maintenance, may be repaired and restored subject to the requirements of this section.

Section 6-3 Interpretation of District Regulations. The regulations for the various zoning district classifications shall be enforced and interpreted according to the following rules:

6-3-1 Uses. Uses not designated as permitted, conditional or special, shall be prohibited. Permitted uses subject to special requirements, conditional uses and special uses shall be permitted only according to the additional regulations imposed. Permits for a conditional use shall be approved or disapproved by the Board of Adjustment. Permits for a special use shall be approved or disapproved by the City Council

6-3-2 Minimum Regulations. Regulations set forth by this Article shall be general requirements applicable to all uses in all district classifications, unless other regulations are more restrictive or establish a higher standard

6-3-3 Land Covenants. Unless restrictions established by covenants with the land are prohibited by or are contrary to the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants inoperative.

Section 6-4 Visibility at Intersections. On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half feet and ten feet in a triangular area formed by a diagonal line between two points on the right-of-way lines, 20 feet from where they intersect. This regulation does not apply in the C-1 Central Business District.

Section 6-5 Off-Street Parking.

6-5-1 Purpose. The purpose of this section is to specify off-street parking requirements that provide adequate parking facilities to meet the needs generated by the proposed use. These requirements are intended to establish standards that ensure off-street parking areas are designed and located to protect the public health, safety and welfare, expedite traffic movements, minimize congestion and protect surrounding neighborhoods and uses.

6-5-2 General Provisions.

6-5-2.1 Off-Street Parking. All new development, additions to buildings or structures, or conversions of use for which a zoning compliance permit is required shall provide permanently maintained off-street parking in accordance with the regulations of this Section.

6-5-2.2 Change of Use. When the existing use of any building, structure or property is changed to a new use, off-street parking based on the new use shall be provided as required by this Section.

6-5-2.3 Expansion of Building, Structure or Use. When a building, structure or use is enlarged or increased in square footage of floor area, seating capacity, number of employees, or otherwise, off-street parking shall be provided as required by this Section.

6-5-2.4 Multiple Uses. Where multiple uses within a building or structure are identified or multiple buildings or structures are located on a single lot, the minimum off-street parking requirements for the various uses shall be computed separately. The required parking spaces for the number of separate uses may be combined in one lot, provided the required space assigned to one use may not be assigned to another use at the same time except as otherwise provided herein.

6-5-2.5 Exemption to Off-Street Parking. Off-street parking is not required in the Seventh Avenue Municipal Service District.

6-5-2.6 Minimum Number of Parking Spaces. The minimum number of parking spaces shall be provided for each use as set forth in Table 6-5-2, except as otherwise provided by ordinance. *[See Article V, Section 5-6-3.1 for the C-1 Central Business Zoning District Classification parking and loading requirements.]* For the purposes of parking calculations, the gross floor area of any parking garage shall not be included within the gross floor area of the building. For any use not specified in Table 6-5-2 or otherwise provided by ordinance, specific requirements shall be determined by the Development Assistance Director and shall be based upon requirements for similar uses, expected traffic generated by the proposed use, and other information from appropriate traffic engineering and planning criteria.

6-5-2.7 Use of Off-Site Parking. Individual parking spaces shall be limited to the parking of motor vehicles. However, off-street parking in excess of the minimum requirements may be used for other purposes such as storage, as provided by ordinance.

6-5-2.8 Accessible Parking Spaces. Off-street parking areas shall be in accordance with the Americans with Disabilities Act (ADA) standards and the North Carolina Accessibility Code.

6-5-2.9 Landscaping Requirements for Off-Street Parking and Vehicular Use Areas. Landscaping for off-street parking and vehicular use areas shall be in accordance with the provisions of Article XV, below.

6-5-2.10 Lighting. Lighting for off-street parking and vehicular use areas shall be in accordance with the provisions of Article VI, Section 6-13-4, below.

6-5-2.11 Off-Street Loading and Unloading. Off-street loading and unloading shall be in accordance with the provisions of Article VI, Section 6-6, below.

6-5-2.12 Rounding of Quantities. When calculating the number of required parking spaces results in a fraction, the fractional requirement shall be rounded up to the next highest whole number.

6-5-2.13 Certificate of Zoning Compliance. All off-street parking and loading requirements shall be in place and ready for use prior to issuance of a certificate of zoning compliance.

Table 6-5-2

USES	PARKING SPACE REQUIREMENT
Animal hospitals & clinics	1 per each 200 ft^2 of gross floor area
Animal boarding facilities	1 per each 400 ft^2 of gross floor area
Art galleries, museums	1 per each 500 ft^2 of gross floor area
Automobile sales, service & repair	1 per 2 employees at maximum employment on a single shift and 2 per each 300 ft^2 of repair or maintenance space
Bed & breakfast facilities	2 per the dwelling unit and 1 per each lodging unit
Bowling alleys	2 per each lane plus 1 additional for each 2 employees
Breweries	1 per each 2 employees at maximum employment on a single shift
Bus stations	1 per each 4 seats in waiting area
Camps	1 per each site plus 10 additional
Car wash, full service	1 per 2 employees at maximum employment on a single shift and stacking area 10 times the capacity of the car wash.
Car wash, self service	0.5 per each wash bay plus 2 per each wash bay for stacking
Child care centers	1 per employee plus 4 drop-off and pick-up
Child care home	1 per employee plus 4 drop-off and pick-up
Cideries	1 per each 2 employees at maximum employment on a single shift
Cideries,(hard)	1 per each 2 employees at maximum employment on a single shift
Civic clubs, private clubs & fraternal organizations	1 per each 250 ft^2 of gross floor area
Conference center	1 per each 3 persons allowed based on the maximum occupancy as established by local codes
Congregate care facilities	1 per each independent dwelling unit and 1 for every 10 in- dependent dwelling units for visitors and 1 per employee on the largest shift and 1 per every 4 beds for assisted living or nursing beds

USES	PARKING SPACE REQUIREMENT
Convenience stores with or without gasoline sales	1 per each 200 ft^2 of gross floor area
Day care facilities	1 per employee plus 4 drop-off and pick-up
Day centers	1 per 2 employees and volunteers at maximum staffing on a single shift
Distilleries	1 per each 2 employees at maximum employment on a single shift
Exhibition buildings	1 per each 3 persons allowed based on the maximum occupancy as established by local codes
Fairgrounds	1 per 4 seats provided for patron use plus 1 per each 100 ft^2 of floor or ground area used for amusement or assembly but not containing fixed seats
Fitness, athletic & dance facilities	1 per each 150 ft^2 of gross floor area
Financial services	1 per each 300 ft^2 of gross floor area
Food pantries	1 per 2 employees and volunteers at maximum staffing on a single shift
Gas Station, self service	2 per each employee at maximum employment on a single shift
Gas Station, combined with other use	Follow other use parking requirement
Golf courses	4 per tee
Golf driving ranges, par 3 golf	1 per tee
Grocery stores	1 per each 200 ft^2 of gross floor area.
Hardware & home improvement center	1 per each 300 ft^2 of gross floor area
Heavy equipment, sales, rentals, leases and service	1 per 2 employees at maximum employment on a single shift
Hospitals	1 per each 2 patient beds
Hotels & motels	1 per guest room plus 1 per 600 ft^2 of public meeting area and restaurant area
Libraries	1 per each 4 seats provided for patron use
Manufacturing	1 per each 2 employees at maximum employment on a single shift
Microbreweries	1 per each 3 seats or stools plus 1 per each 2 employees on the shift with the largest employment
Mini-warehouses, exterior openings	1 per 2 employees at maximum employment on a single shift
Mini-warehouses, interior openings	1 per 2 employees at maximum employment on a single shift plus 1 per 20 rental units
Mobile food vendors	2 per vendor or motor vehicle
Mortuary , funeral homes, cemeteries, mausoleums,	1 per each 4 seats in assembly room or chapel

USES	PARKING SPACE REQUIREMENT
columbariums, memorial gardens, crematoriums	
Music & art studios	1 per each 150 ft^2 of gross floor area
Nursery & greenhouses, commercial	1 per 2 employees at maximum employment on a single shift
Nursery, lawn & garden centers	1 per each 400 ft^2 of indoor gross floor area plus 1 per each 1000 ft^2 of outdoor display and storage
Nursing homes	1 per each 6 patient beds plus 1 per each staff or visiting doctor plus 1 per each employee on the largest shift
Offices, medical	1 per each 250 ft^2 of gross floor area
Offices, professional, business or public	1 per each 400 ft^2 of gross floor area
Personal services	1 per each 200 ft^2 of gross floor area
Pharmacy/Drug store	1 per each 300 ft^2 of gross floor area
Planned residential development	1.5 per unit w/ 1 or 2 bedrooms and 2 per unit w/ 3+ bedrooms
Progressive care facilities	1 per each independent dwelling unit plus one per each 10 independent dwelling units for visitors plus 1 per every employee on the largest shift plus 1 per every 4 beds for assisted living or nursing care beds
Public assembly	1 per 4 seats provided for patron use plus 1 per each 100 ft^2 of floor or ground area used for amusement or assembly but not containing fixed seats
Recreational facilities, indoors	1 per each 200 ft^2 of gross floor area
Religious institutions	1 per each 4 seats
Residential dwellings	1 per each dwelling unit or 1.5 per each dwelling unit exceeding three bedrooms
Rest and convalescent homes, homes for the aged and similar institutions	1 per 6 patient beds and 1 for each staff or visiting doctor and 1 for every employee on the largest shift for the entire project
Restaurants	1 per each 3 seats or stools plus 1 per each 2 employees on the shift with the largest employment
Restaurants, drive – in	1 per each 3 seats or stools plus 1 per each 2 employees on the shift with the largest employment
Retail stores and shopping centers	1 per each 250 ft^2 of gross floor area. For uses with greater than 40 % gross floor area used for inventory storage not accessible to the general public, the inventory storage area may be calculated at 1 per 500 ft2
Schools, college, business, technical & vocational	1 per each 3 students plus 1 for each 2 employees
Schools, high school	1 per each 10 students plus 1 per each classroom and administrative office
Schools, primary & secondary	2 per each classroom and administrative office

USES	PARKING SPACE REQUIREMENT
Shelter facilities	1 per 2 employees and volunteers at maximum staffing on a single shift.
Theaters, indoor	1 per 4 seats provided for patron use plus 1 per each 100 ft^2 of floor or ground area used for amusement or assembly but not containing fixed seats
Theaters, outdoor	1 per 4 seats provided for patron use plus 1 per each 100 ft^2 of floor or ground area used for amusement or assembly but not containing fixed seats
Veterinary clinics	1 per each 200 ft^2 of gross floor area
Wineries	1 per each 2 employees at maximum employment on a single shift
Wholesale & industrial	1 per each 2 employees at maximum employment on a single shift

6-5-3 Shared and Off-Site Parking. Parking requirements for two or more uses may be satisfied with shared parking. Shared parking may be approved only when the subject uses have inherent differences in parking activity patterns and the right of joint use of a parking facility is evidenced by a contract establishing joint use. Shared parking shall be subject to review and approval by the Development Assistance Director or a designee.

6-5-3.1 Shared Parking Location. Parking shall be provided on the same lot or, in the case of a planned development with multiple buildings, within the planned development.

6-5-3.2 Off-Site Parking Location. Off-site parking, whether shared or not, shall be on a lot located within 200 feet of the use lot as measured from the exterior property boundary of the use lot to the exterior property boundary of the off-site parking lot.

6-5-3.3 Shared Parking Report. Calculation of shared parking requirements shall be based on a professional parking analysis and management plan provided by the applicant. The report shall include a basis for predicting the parking required for a particular mix of uses on a lot, or on a lot and the off-site lot.

6-5-3.4 Implementation. The owner or manager of a project approved under the shared and off- site parking alternative, once built, shall maintain an accurate, up-to-date record of the usage of the gross floor area for the project, both occupied and vacant, according to type of use. Development Assistance Director or a designee may require this record be provided when the owner applies for a new use or development approval for the subject lot.

6-5-3.5 Parking Affidavit. When shared or off-site parking is permitted, the owner of the site(s) on which the parking is located shall file a parking affidavit with the Development Assistance Director or a designee. The parking affidavit shall transfer the rights of a specific number of parking spaces from one property (which can no longer take credit for them) to another for the specific hours of use supported by the parking analysis.

6-5-4 Reduction of Off-Street Parking Requirements. Where it can be demonstrated through a professional parking analysis and management plan that the demand for parking is less than that required in Table 6-5-2, or as otherwise provided by ordinance, a special exception to the requirements may be granted by the Development Assistance Director or a designee to satisfy the minimum parking requirements.

6-5-4.1 Parking Report. Calculation of parking requirements shall be based on a professional parking analysis and management plan provided by the applicant and reviewed by the Development Assistance Director or a designee. The Development Assistance Director or a designee may require a parking demand study conducted by a licensed traffic engineer or other traffic professional accept-able to the Development Assistance Director or a designee.

6-5-4.2 Maximum Reduction. The maximum reduction in required parking shall not exceed 40%. This waiver of required parking may not be combined with other allowed parking reductions.

6-5-4.3 Reservation of Parking Area. The site plan shall show all required parking spaces, including those for which a reduction is requested. No structures or other improvements except parking, driveways, and underground utilities may be constructed within the unimproved parking area and said area shall be landscaped. Landscaping materials shall be subject to review and approval by the Development Assistance Director or a designee.

6-5-5 Minimum Design Requirements.

6-5-5.1 Motor vehicle parking spaces shall measure 9 feet by eighteen feet.

6-5-5.2 All parallel motor vehicle parking spaces shall measure 9 feet 6 inches by twenty-two feet.

6-5-5.3 Parking spaces shall be designed to prevent a vehicle from protruding or overhanging a sidewalk.

6-5-5.4 Uncovered off-street parking may be located in required yards.

6-5-5.5 Back-out parking into the street right-of-way is prohibited except for single, two, three and four-family dwellings.

6-5-5.6 Aisle width shall be based on parking angle and direction of flow according to Table 6-5-5.

Table 6-5-5

Parking Angle (Degrees)	One Way Aisle Width (Feet)	Two way Aisle Width (Feet)
30º	14'	18'
45º	15'	19'
60º	17'	21'
90º	24'	24'

Section 6-6 Off-Street Loading and Unloading Space. Development and redevelopment projects in all districts except the C-1 Central Business District shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley or, if there is no alley, to a street. For the purposes of this section, an off-street loading space shall have a minimum dimension adequate to accommodate the largest vehicles expected to be served and, in any event, no less than 12 feet by 40 feet and an overhead clearance of 14 feet in height above the alley or street grade.

Retail operations: One loading space for each 20,000 ft2 of gross floor area or fraction thereof.
Wholesale and Industrial Operations:

Building Area in ft^2	Number of Spaces
1 – 40,000	1
40,000 – 100,000	2
100,000 – 160,000	3
160,000 – 240,000	4
240,000 – 320,000	5
320,000 – 400,000	6
Each 90,000 above 400,000	1 additional

Section 6-7 [Reserved.] See Section 6-1-7.

Section 6-8 [Reserved.] See Section 6-1-8.

Section 6-9 Outdoor Retail Sales, Outdoor Retail Display and Outdoor Retail Storage.

6-9-1 Purpose: The purpose of this section is to provide for the appropriate location and design of outdoor retail sales, outdoor retail display and outdoor retail storage of inventory in conjunction with legally operating businesses. The intent is to protect the flow of vehicular and pedestrian traffic, maintain emergency access and minimize the visual impacts to surrounding properties and private and public rights-of-way.

6-9-2 General Provisions.

6-9-2.1 Permitted Districts: Outdoor retail sales, outdoor retail display and outdoor retail storage shall be permitted as an accessory use and seasonal outdoor retail sales not exceeding 90 consecutive days in a 12-month period shall be permitted as a principal or accessory use in the following zoning district classifications provided they meet all requirements of this section and all other requirements established in this Ordinance:

C-1 Central Business
C-2 Secondary Business
C-3 Highway Business
PMDCZD Planned Manufacturing Development Conditional Zoning District
I-1 Industrial
PCDZD Planned Commercial Development Conditional Zoning District
CMU Central Mixed Use
GHMU Greenville Highway Mixed Use
HMU Highway Mixed Use
UVCZD Urban Village Conditional Zoning District

6-9-2.2 Location: The following standards shall apply to the location of outdoor retail sales, outdoor retail display and outdoor retail storage areas:

a) Outdoor retail sales, outdoor retail display and outdoor retail storage areas shall not be located within any required front, side or rear yard areas or required building setbacks.

b) Outdoor retail sales, outdoor retail display and outdoor retail storage areas shall not disrupt the normal function of the site or its pedestrian or vehicular circulation.

c) Outdoor retail sales, outdoor retail display and outdoor retail storage areas shall be located so as not to interfere or conflict with sidewalks or pedestrian ways. A minimum of five feet of continuous unobstructed sidewalk width shall be maintained for pedestrian flow along all sidewalk and pedestrian areas provided on a lot in order to prevent pedestrians and others from having to enter the parking lot or drive aisle to maneuver around the display or storage area.

d) Outdoor retail sales, outdoor retail display and outdoor retail storage areas shall not be located within any required vehicular parking spaces, loading areas, landscape areas, interior access drives, open space, common open space, fire lane, emergency access or egress areas. Sidewalks counted towards meeting common open space requirements may be used for outdoor display areas. Vehicular parking spaces in excess of the minimum required may be used for outdoor retail display and outdoor retail storage areas.

e) Outdoor retail sales and display areas shall be allowed along the front, side and rear of a building.

f) Outdoor retail storage areas shall be limited to the side and rear of a building.

6-9-2.3 Size: Outdoor retail sales, outdoor retail display and outdoor retail storage areas shall not exceed a combined area equal to 10% of the gross floor area of the principal structure. When a business or tenant occupies a portion of a principal structure, the maximum area allowed for each business or tenant shall not exceed 10% of the gross floor area occupied by that business or tenant. Seasonal outdoor retail sales permitted as a principal use are exempt from this size provision.

6-9-2.4 Height: The height of an outdoor retail display shall not exceed eight feet as measured from finished grade. This height limitation shall not apply to individual items which by their nature exceed eight feet in height.

6-9-2.5 Screening: The following standards shall apply to the screening of outdoor retail storage areas:

a) All stored inventory shall be fully screened from adjacent properties, parking areas, pedestrian areas, public streets and private streets. Screening materials shall be opaque. Examples of opaque screening materials include chain link fences with winged privacy slats, solid board, solid vinyl and stockade fences, masonry walls and densely planted vegetation.

b) The height above grade of screening shall be at least six feet and shall not exceed the lesser of 20 feet or the height of the roofline.

6-9-2.6 Site Plan Required. Outdoor retail storage areas shall be shown on a site plan and are subject to site plan approval by the Development Assistance Director.

6-9-2.7 Exemptions. The temporary storage of materials and equipment used during construction of a building or structure for a period not to exceed one year and for which a valid building permit is issued are exempt from these provisions.

Section 6-10 Storage Containers. For purposes of administering this Section, the term “storage containers” shall include “storage trailers”. Storage containers shall require permits from the Development Assistance Director or a designee; they shall be removed from the premises upon which they are located upon the expiration of the time period designed in the permit. Two storage containers per lot shall be permitted for a period not exceeding 180 consecutive days in a 12 month period. Storage containers shall meet all setback requirements for the zoning district in which they are located and shall be placed in the rear yard wherever possible. No storage container shall be permitted on a vacant lot. No storage container shall contain facilities for

utility service. No storage container shall display any signs, lettering or advertising device, with the exception of a required owner identification sign with letters not to exceed three inches in height. This sign shall contain the name, address and phone number of the owner and may also contain a storage container identification number. These regulations shall not apply to the following:

a) Construction service trailers used for offices or for storage of tools or materials on job sites for the duration of construction;

b) Storage trailers used as construction service facilities which are a portion of the inventory of the equipment used by the business to transport materials from one job to another, and not used for purposes of storage;

c) Storage trailers, on the lot of a storage trailer sales or rental business, that constitute part of the inventory of such business and that are not currently used for purposes of storage.

Storage containers shall be permitted only in the C-3, PCD and I-1 zoning district classifications. Enforcement of these provisions shall be accomplished through Article IX, below.

Section 6-11 Use of Manufactured/Mobile Homes. It shall be unlawful for any person to place or maintain any manufactured/mobile home used for human habitation or to use any manufactured/mobile home for living, sleeping or business purposes on any premises within the City's planning jurisdiction except upon premises located within a manufactured/mobile home park, a permit for which has been granted pursuant to the requirements of this chapter; provided; however, one manufactured/mobile home may be parked or temporarily stored on any premises outside of manufactured/mobile home park for a period not exceeding 72 hours, and provided further no living quarters are maintained nor any business conducted therein while such manufactured/mobile home is so parked or temporarily stored. These regulations shall not apply to the following:

a) Manufactured/mobile homes used for office on job sites for the duration of construction;

b) Manufactured/mobile homes which have been issued Temporary Use Permits in accordance with Section 8-3 of this Ordinance;

c) One manufactured/mobile home used as an office on a manufactured/mobile home sales lot. Only one such home may be used as an office.

Section 6-12 Sidewalks. It is the intent of this section that sidewalks shall be provided in residential zoning districts on one side of every street and in nonresidential districts along both sides of the street.

Sidewalks shall be constructed from property line to property line within the street right-of-way, or, in the alternative, within areas set aside by dedication, or otherwise, in accordance with the City's Sidewalks and Driveway Entrance Standards.

Section 6-12-1 Residential Districts. Sidewalks shall be required for new construction in areas zoned PRDCZD, PMH, R-40, R-40SU, R-20, R-20SU, R-15, R-15SU, R-10, R-10SU, R-6, R-6SU when one of the following conditions is present:

a) When the property adjoins property with an existing sidewalk;

b) When an existing sidewalk is within 400 feet of the property on the same side of the street;

c) When the property is within one and one-half (1½) miles linear traverse of a school, hospital, library or government building.

Notwithstanding the foregoing, however, within the City's area of extraterritorial jurisdiction sidewalks shall not be required in the following circumstances:

a) The platting of a minor subdivision as defined in the Subdivision Ordinance;

b) The construction of a single-family or two-family dwelling on previously platted property.

The City Manager may require that a sidewalk be built across the street from the site of new construction when the following conditions exist:

a) No sidewalk adjoins the site;

b) A sidewalk exists on the other side of the street in the vicinity of the site; and

c) There is no legal impediment to constructing the sidewalk on the other side of the street.

In cases where a sidewalk already exists on the opposite side of the street, and no sidewalk exists along the property adjacent to the subject property, then a sidewalk is not required to be built along the frontage of the subject property.

Section 6-12-2 Other Districts. In all other zoning district classifications sidewalks shall be required for new construction from property line to property line. In the case of corner lots, sidewalks shall be provided along both streets.

Furthermore, if the new construction is intended for a commercial, industrial, or institutional use, sidewalks shall be required to connect street sidewalks with any entrances intended for public use.

Section 6-12-3 Payment of Fee in Lieu of Construction of Sidewalks. The City Manager may allow the applicant to pay the cost of constructing sidewalks into the City Sidewalk Fund in lieu of requiring construction of the sidewalks when one or more of the following conditions exist:

a) Construction of sidewalks will result in a hardship;

b) Construction of sidewalks will not result in useful pedestrian walkways due to one or more of the following:

1) Topographical features will result in impractical design.

2) The lack of adjacent right-of-way for future sidewalk construction.

c) The sidewalk location is not identified as a short-term recommendation, long-term recommendation or included as part of the comprehensive recommended pedestrian network in the City of Hendersonville Pedestrian Plan.

As an alternative to a payment in lieu of the installation and construction of sidewalks or a portion thereof, the City Manager may approve the applicant constructing an equivalent linear footage of sidewalk off site. The specific location for the sidewalk construction shall be at the City Manager's discretion. The off-site sidewalk construction shall be completed, inspected and approved prior to a certificate of occupancy being issued.

Section 6-13 Nuisances. It shall be a violation of this Ordinance to operate any use in such a fashion as to constitute a nuisance as specified in this section.

6-13-1 Noise. Other than ordinary construction activities, no use shall be operated so as to generate recurring noises that are unreasonably loud, cause injury, or create a nuisance to any person of ordinary sensitivities. No nonresidential use shall be operated so as to generate any noise in an adjacent district, as detected in that district without instruments, that is louder than the noise which could be generally expected from uses permitted in that district. Noise occurring activities shall also be in conformance with Chapter 20 of the City Code.

6-13-2 Fumes and Odors. No use shall emit fumes, gases, or odors in concentrations or amounts that cause injury or create a nuisance to any person of ordinary sensitivities on another property.

6-13-3 Vibration. Other than ordinary construction activities, no use shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line which create a nuisance to any person of ordinary sensitivities on another property.

6-13-4 Lighting. Lighting facilities, if provided, shall be aimed, directed, shielded or arranged so the light sources for such facilities do not cause undue glare on neighboring properties or interfere with the safe use of public rights-of-way.

Section 6-14 Burden of Proof. The burden of proof shall rest with the applicant in all proceedings required or authorized by this ordinance.

Section 6-15 Rights-of-Way for Roads and Streets.

6-15-1 Reservation of Right-of-Way. The orderly development of land is dependent upon the protection of existing and proposed major roadways in the City. The provisions of this section are intended to provide for the reservation of right-of-way for such roadways under appropriate conditions.

6-15-1.1 Reservation Under the Roadway Corridor Official Map Act. Pursuant to authority granted by Article 2E of NCGS Chapter 136, the City or the NCDOT may from time to time adopt, amend, supplement or change a roadway corridor official map for any streets or roadways identified in the Comprehensive Transportation Plan.

a) After a roadway corridor official map is filed with the Register of Deeds, no building permit shall be issued for any building or structure or part thereof located within the roadway corridor, nor shall approval of a subdivision be granted with respect to property within the roadway corridor. The provisions of this section shall not apply to valid building permits issued prior to the effective date of this section or to building permits for buildings and structures which existed prior to the filing of the roadway corridor, provided the size of the building or structure is not increased and the type of building code occupancy is not changed.

b) No application for building permit issuance or subdivision plan approval shall be delayed by the provisions of this section for more than three years from the date of the original building permit or subdivision plan submittal.

6-15-1.2 Setbacks for Existing Roadways. Applicants for development authorization for parcels adjoining existing roadways identified in the Comprehensive Transportation Plan shall propose locations for structures and other improvements which do not encroach upon the proposed rights-of-way listed in such Plan.

6-15-1.3 Variances. A variance from the provisions of this section may be granted by the Board of Adjustment or by City Council, as appropriate, upon demonstration (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. (2) The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. (3) The hardship did not result from actions taken by the applicant or property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. (4) The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

6-15-2 Dedication of Right-of-Way with Density Transfer.

a) Whenever a tract of land located within the planning jurisdiction of the City is proposed for a use requiring development authorization under Article VII below, and a portion of it is embraced within a corridor for a street or highway on a plan established and adopted pursuant to NCGS Section 136-66.2, the City may require the applicant to dedicate for street or highway purposes the right-of-way within such corridor. If the City elects to require such dedication it shall allow the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant. No dedication of right-of-way shall be required pursuant to the subsection unless the entity granting development authorization shall find, prior to the grant, that the dedication does not result in the deprivation of a reasonable use of the original tract and that the dedication is either reasonably related to the traffic generated by the proposed subdivision or use of the remaining land or the impact of the dedication is mitigated by measures provided elsewhere in the Zoning Ordinance.

b) If the City does not require the dedication of right-of-way within the corridor pursuant to subsection a), above, but an applicant for development authorization elects to dedicate the right-of-way, the City may allow the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land that is part of a common development plan.

Section 6-16 Common Open Space Standards.

6-16-1 Purpose. These common open space standards are established in order to provide for the reservation of open spaces in both residential and non-residential developments located in Hendersonville and its area of jurisdiction. Preservation of open space in developing areas serves a variety of purposes, including meeting the recreational needs of residents, reducing stormwater runoff, and enhancing air quality. The standards set forth below provide for the protection of common open space in both residential and non-residential developments. The term common open space, as used herein, means that the land is available for the enjoyment of residents of a residential development and invitees of a nonresidential development rather than the public at large.

6-16-2 Common Open Space Requirement for Residential Developments. These requirements shall apply to all planned residential development conditional zoning districts and major subdivisions (consisting of nine or more lots):

a) There shall be reserved for the use of all residents of the development either 10% of the project area or 500 ft2 per dwelling unit, whichever is more.

b) Land reserved to meet the requirements of this section shall meet the following standards:

1) Open water, wetlands, and floodplains may be used for up to 50% of the reservation requirement;

2) Land that is burdened with easements may be used provided that the easements do not interfere with the use of the land for open space and recreation purposes and do not permit future development; and

3) Perimeter setbacks may provide up to 50% of the required common open space, exclusive of perimeter landscaping and buffering.

c) The following types of land are unacceptable for common open space reservation:

1) Land occupied by streets, drives, parking areas, or structures other than recreational structures;

2) Land containing or contaminated by hazardous materials or other materials considered objectionable by the Development Assistance Director or a designee;

3) Land which exceeds a 33% slope for more than 50% of the property area;

4) Land with a minimum width of less than 24 feet unless specifically approved by the Development Assistance Director or a designee; and

5) Areas designated as open space for individual units

d) All common open space shall be set aside and improved no later than the following applicable date:

1) For subdivisions: prior to the sale of any lot;

2) For planned residential development conditional zoning districts: no later than the date on which certificates of occupancy are issued for the first 75% of the total number of dwelling units to be constructed in the project area.

e) Any structures located in any common open space shall be accessory to recreational use of the space.

f) The required common open space shall be planned and improved so that it is accessible and usable by persons living in the development. Common open space containing natural features worthy of preservation may be left unimproved.

g) Arrangements for the perpetual maintenance of common open space must be approved in writing by the Development Assistance Director or a designee. Any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed by the Development Assistance Director or a designee and recorded and filed in accordance with the times specified in paragraph d), above. The covenants and easements shall prohibit future development of any common open space for other than open space or recreation purposes and shall provide for continued maintenance of any common open space and recreational facilities.

6-16-3 Common Open Space Requirements for Non-Residential Developments. These requirements shall apply to all non-residential developments which are subject to site plan review pursuant to Section 7-3 or a conditional zoning district pursuant to Section 7-4.

a) At least 10% of the project area shall be devoted to common open space.

b) Common open space for non-residential developments shall be used for landscaping, lawns, screening or buffering. It may not contain any streets, parking or loading areas, outdoor storage, trash handling, utility or service areas, or areas with impervious surfaces other than sidewalks, recreational facilities and meeting areas.

c) Planting, installation, and maintenance of common open space shall be done in accordance with the standards contained in Article XV, below.

Section 6-17 Separability. Should any section or provision of this Zoning Ordinance be declared invalid by any court, such declaration shall not affect the validity of the Zoning Ordinance as a whole or any part thereof which is not specifically declared to be invalid.

Section 6-18 Transportation Impact Analysis. The purpose of a transportation impact analysis (TIA) is to assess the impact of a proposed development on the existing transportation system. A TIA will (1) ensure that the transportation network has adequate capacity to handle projected transportation demand associated with the project, (2) identify problems with the transportation system, (3) delineate solutions to identified problems, and (4) identify improvements to be incorporated into the proposed development.

6-18-1 TIA Required. Applicants for development authorization in which the proposed development, redevelopment, or change of use is expected to generate 100 or more peak-hour trips (a.m. or p.m.) or 1,000 or more trips daily shall have prepared by a qualified professional a TIA meeting the guidelines established in this section. In addition to the foregoing, the Development Assistance Director shall have the discretion to require a TIA when a development's traffic will substantially affect an intersection or a roadway segment already identified as operating at a failing level of service, when a development may create a hazard to public safety, or when a development will substantially change the off-site transportation system or connections to it.

6-18-2 Pre-submittal Conference. An applicant for development authorization for any project expected to meet or exceed one or both of the TIA thresholds specified in Section 6-19-1, above, shall schedule a pre-submittal conference with the City. The engineering firm selected to prepare the TIA shall attend this meeting the purpose of which is to establish the study area, the trip distribution, the traffic counts to be utilized, approved developments in the area, pass-by and internal capture percentages, additional hours of analysis, if required (other than a.m. or p.m. peak), and resolve any other questions specific to the site.

6-18-3 TIA Submission. Three copies of the TIA, if required, shall accompany the application for development authorization. The TIA shall be prepared by a licensed engineer registered to practice in the State of North Carolina who shall have traffic assessment and transportation management experience. At a minimum, the TIA shall include the following:

a) Study purpose and objectives;

b) Description of the site and study area boundaries including appropriate mapping and rationale for selection of the study area boundaries;

c) A summary of existing conditions including, but not limited to, surrounding street and key intersection traffic volumes (daily and peak-hour), turning movements, capacities, safety deficiencies, and funded transportation improvements;

d) Anticipated or approved development in the area;

e) Trip generation, trip distribution, and discussion of the following:

1) Trip generation rates shall be based on trip generation rates contained in the latest edition of *Trip Generation* published by the Institute of Transportation Engineers (ITE). The applicant shall also provide the ITE code used to identify the development trip generation rate and assumptions used or data collected for any variations from generally accepted ITE rates or equations.

2) Pass-by trip factors and assumptions.

3) Internal trip assumptions for mixed use developments.

4) Trip distribution assumptions.

f) Projection of future traffic volumes and assessment of future roadway and intersection operating conditions for the year of the ultimate completion of the project. All projections should specifically document projected background traffic as well as the traffic generated by the proposed development. If the project is to be phased; projections for each phase of the development is required. If the un-phased build-out period of the project is greater than nine years, then a minimum of one intermediate and one full build-out projection is required. All projections and assessments should include the following three scenarios:

1) No build;

2) The development as proposed;

3) The development as built with any necessary improvements.

g) Analysis of the key elements of the development and evaluation of the impacts of the development on the following:

1) **Generalized Peak Hour and/or Daily Link Level of Service (LOS) Analysis.** Using the peak hour directional volumes and daily traffic volumes forecast and service thresholds, a general evaluation shall be made of the street system for the short term and long-term horizon years. If the project is to be phased; then an assessment of conditions after the completion of each phase of the development is required. Incremental differences attributable to the land use action shall be identified. A map showing generalized levels of service shall be presented for each design year.

2) **Access Analysis.** The design, number, and location of access points to collector and arterial roadways must be fully analyzed. The number of access points shall be kept to a minimum and be designed to be consistent with the type of roadway facility. All access points, regardless of the classification of the roadway facility the access points connect to, shall follow the North Carolina Department of Transportation's most current *Policy on Street and Driveway Access to NC Highways*. In areas where current evidence suggest there is a higher than average crash rate, an access analysis may be required to include a safety evaluation of the corridor. This may include the collection and analysis of crash history in an effort to determine causational factors. This information may influence the exact location and design of proposed access points.

3) **Intersection Analysis (Signal Warrant Analysis, Phasing Analysis, Intersection Crash Analysis and Progression Analysis).** The appropriateness of the development's access locations and type must be established. For full-access locations, a signal warrant analysis based on the Manual on Uniform Traffic Control Devices must be conducted for each design year. Traffic signals specifically warranted by the land use action shall be identified.

4) **Peak Hour Intersection Level of Service.** An AM and PM peak hour intersection level of service analysis shall be conducted for each intersection, based on procedures specified in the most recent release of the Highway Capacity Manual. Levels of service for signalized intersections shall be based on the signal timings developed for the signal progression analysis.

5) **Turn Lane Requirements and Storage.** Turn lane storage needs shall be identified for the "warranted" situation, based on projected turning volumes and NCDOT guidelines. Appropriate documentation of the calculations must be provided.

6) **Sight Distance.** The identification of sight distances at all development entrances shall be conducted.

7) **Appropriateness of Acceleration or Deceleration Lanes.** All proposed development access points on arterials shall be evaluated to determine the need for acceleration lanes or deceleration lanes, with justification and basis provided for recommendations.

8) **Pedestrian and Bicycle Analysis.** Continuity and adequacy of pedestrian and bike facilities shall be provided to the nearest attraction (exiting or planned) within ¼ mile of the development site. Destinations of significance include bus stops, elementary schools, parks, activity centers and major bicycle facilities. Adherence to the Americans with Disabilities Act (ADA) shall be required.

9) **Public Transportation Analysis.** Existing and proposed (if any) public transportation facilities analysis shall be provided.

10) **Special Analysis / Issues.** The City may require specific focused traffic analyses relative to the proposed development.

h) Recommendations for site access and transportation improvements or mitigation measures needed to maintain traffic flow to, from, within and adjacent to the proposed development at an acceptable and safe level of service (generally assumed at LOS D or better). Any recommendations for roadway improvements should identify funding sources for these improvements.

i) Data collected for the study shall be made available to the City for evaluation of the study conclusions. The format for date submission as well as format for data to be provided to the City will be determined at a pre-consultation meeting between the applicant and the City.

6-18-4 TIA Review. The TIA shall be submitted for review and shall be of sufficient scope and detail to allow the evaluation of the impact of the development and the need for roadway capacity, operation and safety improvements resulting from the development. City comments regarding the review of the TIA shall be relayed by the City to the engineering firm who prepared the TIA. Any additional operational deficiencies, mitigation measures and/or safety concerns identified during the review of the TIA shall be addressed by the engineering firm who prepared the TIA. A letter of approval shall be issued by the City once the TIA is determined to be complete.

6-18-5 Improvements Required. In those cases where the City or the North Carolina Department of Transportation requires improvements to be constructed in order to accommodate additional traffic generated by the proposed development, the improvements shall be funded and/or constructed by the project developer in accordance with the standards and direction provided by the City or by the North Carolina Department of Transportation. The improvements shall be in place or under construction prior to issuance of any certificate of occupancy or certificate of completion required for any phase or portion of the project.

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ARTICLE VII
DEVELOPMENT REVIEW

Section 7-1 Purpose and Structure. It is the intent of this Article to provide the process by which proposed development is reviewed and the standards by which it is to be evaluated. All development shall require prior authorization from the appropriate person or entity. This Article establishes three levels of review: (1) zoning compliance review for small projects is set forth in Section 7-2; (2) site plan review for larger projects is set forth in Section 7-3; and (3) conditional zoning district review, which is designed for development expected to have the greatest impacts, is set forth in Section 7-4. The remaining sections of Article VII contain requirements which apply to one or more of the levels of review.

Section 7-2 Zoning Compliance Review. Except as otherwise specifically provided in this article, it shall be unlawful to undertake any development until the City Manager has issued for such development a zoning compliance permit certifying that it complies with the applicable provisions of this ordinance.

It shall also be unlawful to change the type of use or type of occupancy of any land or structure until the City Manager has issued for such intended use a zoning compliance permit certifying that it complies with the applicable provisions of this ordinance.

When a building permit or sign permit is required, such permit shall not be issued prior to issuance of the zoning compliance permit required for the development, and such building or sign permit shall comply with the approved zoning compliance permit, including all conditions of approval attached thereto.

No building or structure for which a zoning compliance permit has been issued shall be used or occupied until, after final inspection, a certificate of occupancy has been issued indicating compliance with the provisions of this ordinance and all other state and local laws, including conditions of the zoning compliance permit.

The City Manager may delegate the authority to issue zoning compliance permits to the Planning Director or Zoning Administrator or both.

Section 7-3 Site Plan Review. Some development, due to its type or magnitude, requires thorough review of development plans in order to assure compliance with the provisions of this ordinance. Site plan review and approval in accordance with this section is required prior to issuance of a zoning compliance permit for any development or use described in Section 7-2, with the following exceptions:

a) Development of a single- or two-family dwelling on a zoning lot, or any uses accessory thereto;

b) Any commercial, industrial, or institutional development consisting of less than 5,000 ft2 of floor area;

c) Addition of not more than 15% of previously existing parking spaces, or 10 parking spaces, whichever is greater;

d) Any sign;

e) Any development undergoing rezoning to a conditional zoning district pursuant to Section 7-4, below; and

f) Major or minor subdivisions.

7-3-1 Applications. There are two types of site plan review, preliminary and final, as described below. All applications for site plan approval shall be made to the Development Assistance Director or a designee on

forms prescribed by the Development Assistance Director. Applications shall include, without limitation, the name and address of the applicant, the name and address of the owner of all the property involved, the relationship of the applicant and property owner(s) in connection with the application, and a site plan conforming to the specifications of Subsection 7-3-3 for a preliminary site plan and Subsection 7-3-4 for a final site plan. If the applicant is other than the record owner of the property, the consent of the record owner to the application shall be noted on the application or in some other fashion acceptable to the Development Assistance Director. The application shall also designate an agent for the project to whom notice may be given by the City. The Development Assistance Director shall prescribe any other material that may reasonably be required to determine compliance with this article and shall require sufficient copies for necessary referrals and records.*)*

7-3-2 Fees. A fee shall be paid to the City of Hendersonville for each application for site plan approval to cover the costs of advertising and other administrative expenses. Such fee shall be set by a resolution of City Council.

7-3-3 Review of Preliminary Site Plans. Review of preliminary site plans applies to larger projects where the costs of developing detailed final plans can be substantial. It is designed to provide the applicant an opportunity to obtain at a reasonable cost binding authorization to develop property in a certain fashion. Review of preliminary plans is a function of the Planning Board. Preliminary plan review is required of all development undergoing site plan review except for the following:

a) Any commercial, industrial or institutional development consisting of less than 20,000 ft2 of floor area;

b) Addition of not more than 30 parking spaces;

c) Any development which has already received preliminary site plan approval;

d) Any minor planned residential development consisting of less than nine dwelling units.

For development projects under a) above, notice of receipt of a development application for commercial or industrial development between 10,000 ft2 to less than 20,000 ft2 of floor area shall be provided in the following manner. The City shall prominently post a notice of receipt of a development application on the site or on an adjacent public street or highway right-of-way. The notice shall be a minimum of 18 inches by 24 inches in size and shall identify the means to contact an official for information about the development application. The notice shall be posted within 10 days of receipt of a development application and remain on the site or on an adjacent public street or highway right-of-way for a minimum of 30 days.

Approval of a preliminary site plan by the Planning Board does not entitle the applicant to develop property, but it does entitle the applicant to final site plan approval pursuant to Subsection 7-3-4, below, upon submittal of an application for final site plan approval, payment of the applicable fee and submittal of a final site plan conforming to the preliminary site plan approval, including any conditions attached thereto.

7-3-3.1 Processing of Applications for Preliminary Site Plan Approval. The Development Assistance Director or a designee shall conduct a preliminary review of an application to determine if it is complete, which is to say, all information requested on the application has been provided and the site plan contains all items required by Section 7-3-3.2. If the Development Assistance Director or a designee determines that an application is incomplete, the Development Assistance Director or a designee shall notify the applicant in writing of all deficiencies. A complete application and site plan must be in the possession of the Development Assistance Director or a designee at least 32 days prior to a Planning Board meeting in order to be scheduled for that meeting.

Once the Development Assistant Director or a designee determines the application to be complete, the Development Assistance Director or a designee shall cause an analysis to be made by qualified representatives of the City and such other agencies or officials as appear appropriate in the circumstances of the case, to determine compliance with applicable provisions of this ordinance. The Development Assistance Director or a designee shall then submit to the Planning Board a report of their analysis.

Substantial modification of the site plan subsequent to the Development Assistance Director's determination of completeness may result in the application being deferred to a subsequent meeting of the Planning Board. Any material modification of the site plan within seven days of the Planning Board meeting shall result in deferral of the application to the next available meeting.

The City Manager may waive these time lines in extraordinary circumstances where strict enforcement would work a substantial hardship on the applicant and where the City's ability to make an informed decision on the application would not be compromised.

7-3-3.2 Contents of Preliminary Site Plan. Applicants for developments required to undergo preliminary site plan review shall, as a part of the application for such development, submit a preliminary site plan which shall show the following:

a) The date of the site plan or submittal, including any revisions thereto;

b) The proposed title of the project and the name of the engineer, architect, landscape architect, planner and/or licensed surveyor; developer; and owner of record;

c) The north arrow point, scale at not greater than one inch equals 40 feet and such information as the names of adjacent roads, streams, railroads, subdivisions or other landmarks sufficient to clearly identify the location of the property;

d) Location of site by an insert vicinity map at a scale no less than one inch equals 2000 feet;

e) Existing project zoning and zoning of adjacent property, to include properties abutting either side of a public right-of-way;

f) City limits line or a note indicating that the project site and any adjoining parcels are totally within or without the city limits;

g) Names of adjacent property owners;

h) Boundary survey of site and the location of all existing easements, buildings, rights-of-way or other encroachments;

i) Location of 100-year floodplain and floodway, if applicable. Other significant natural features affecting the site including but not limited to wetlands, major rock outcrops and lakes or streams;

j) All proposed streets with proposed names, pavement widths and rights-of-way and showing sight distances for all entrances and exits and their relationship to street and driveway intersections within a 200-foot radius of the intersection such entrance and exit with any public right of way. All alleys, driveways, curb cuts for public streets and handicap ramps, loading areas and provisions for off-street parking spaces and sidewalks; calculations indicating the number of parking spaces required and the number provided. All streets shall be clearly identified as public or private; a typical cross-section of the public or private street shall be included;

k) Preliminary utility layout, including location and size of existing and proposed water, sanitary and storm sewer lines;

l) Location and size of all existing and proposed entrances and exits to the site. All proposed entrance and exit points, regardless of the classification of the roadway facility the entrance and exit points connect to, shall follow the North Carolina Department of Transportation's most current *Policy on Street and Driveway Access to NC Highways*;

m) Proposed reservations or dedications for parks, playgrounds, school sites and open spaces and a note indicating ownership and maintenance provisions;

n) A survey showing tree line before site preparation with species and diameter of trees 12 inches or greater DBH (diameter at breast height) indicated and showing areas to be screened, fenced, walled and/or landscaped;

o) General location and intended use of all buildings with their dimensions, the number of floors, total floor area and maximum height above lowest ground point of each building;

p) Notations to include the total project area, proposed lot areas (or individual areas owned by a homeowners association), the amount and percentage of the site to be covered by buildings, open space, streets and parking and other facilities;

q) General location, size, height, orientation and appearance of proposed signs;

r) General location of proposed project phasing lines and notation including special conditions pertinent to establishing sales or model units, if applicable;

s) A transportation impact analysis, if one is required by the terms of Section 6-19, above, demonstrating the project will comply with the requirements of Section 7-11, below.

The Development Assistant Director or a designee has the authority to waive any application requirement where the type of use or scale of proposal makes providing that information unnecessary or impractical. The Development Assistance Director or a designee, Planning Board or City Council may require additional information from the applicant where such is necessary to enable a fully informed decision on the matter.

If the project is to be completed in phases, items a), b), and c), above, may be submitted in phases as well.

7-3-3.3 Planning Board Action. Action on an application for preliminary site plan approval shall be taken by the Planning Board only after consideration at a regular or special meeting. Notice of the date, time and place of the meeting at which the matter is to be considered shall be published once in a newspaper of general circulation not less than five nor more than 15 days prior to the date of the hearing. Similar notice shall also be mailed to the owner of the property which is the subject of the application and the owners of all parcels of land adjacent thereto. Ownership shall be determined by reference to the Henderson County tax listing. If the Development Assistance Director or a designee deems that a proposed project is likely to have significant impacts on additional neighboring properties, may mail notice to the owners of such neighboring properties.

7-3-3.4 Standards for Review. An application for preliminary site plan approval shall not be approved unless the Planning Board determines that the application and final site plan demonstrate compliance with

this ordinance, including the provisions of Section 7-11 below, and other applicable regulations. The Planning Board may impose such reasonable conditions on an approval as will ensure such compliance with this ordinance.

7-3-3.5 Review by City Council. Within 15 days of the date of the meeting at which the Planning Board makes a decision on an application for preliminary site plan approval, any substantially affected party may file a notice with the city clerk requesting City Council to review such decision. Upon receipt of a notice of review, the city clerk shall schedule a public hearing for the next available meeting of City Council, which shall render a decision based upon the standards for review contained in Subsection 7-3-3.4 Final site plan approval pursuant to Section 7-3-4, below, shall not be granted until such time as the time to seek review as provided herein has passed or, if review is requested, until such time as City Council has taken final action on such application.

7-3-3.6 Effect of Preliminary Site Plan Approval. Approval of a preliminary site plan shall entitle the applicant to the issuance of a zoning compliance permit upon submittal of an application and final site plans meeting the requirements of Section 7-3-4, below. Approval of a preliminary site plan shall constitute a vested right pursuant to Chapter 40 of the City Code. The applicant shall have two years from the date of such approval to obtain final site plan approval. An applicant who has been granted preliminary site plan approval shall be divested of the right to develop in accordance with such preliminary site plan approval if the applicant fails to obtain final site plan approval in accordance with this section.

7-3-4 Review of Final Site Plans. All development for which site plan approval is required shall undergo final site plan review, including development which has received preliminary site plan approval pursuant to Subsection 7-3-3, above.

Final site plan review is required of smaller projects and projects which have already undergone preliminary or conceptual plan review as a final step prior to issuance of a zoning compliance permit. The process is intended to provide a means for city staff to review detailed plans to ensure the project meets development standards in the Zoning Ordinance as well as any conditions which may have been imposed as a part of any preliminary or conceptual approval.

7-3-4.1 Processing of Applications for Final Site Plan Approval. The Development Assistance Director or a designee shall conduct a preliminary review of an application to determine if it is contains all items required by Section 7-3-4.3. If the Development Assistance Director or a designee determines that an application is incomplete, the Development Assistance Director or designee shall notify the applicant in writing of all deficiencies. Once the Development Assistance Director or designee determines the application to be complete, the Development Assistance Director or designee shall cause an analysis to be made by qualified representatives of the City and such other agencies or officials as appear appropriate in the circumstances of the case, to determine compliance with applicable provisions of this ordinance. The Development Assistance Director or designee shall then submit to the City Manager, or a designee appointed by the City Manager, a report of their analysis.

7-3-4.2 Standards for Review. The City Manager, or a designee appointed by the City Manager, shall render a decision in writing either approving or denying the application. An application for site plan approval shall not be approved unless the City Manager, or a designee appointed by the City Manager, determines that the application and site plan demonstrate compliance with this ordinance, including the provisions of Section 7-11, below, and other applicable regulations. If the decision is to deny the application, the City Manager, or a designee appointed by the City Manager, shall recite with specificity the reasons for such denial.

7-3-4.3 Contents of Final Site Plan. A site plan showing the following shall accompany an application for site plan approval:

a) The date of the site plan or submittal, including any revisions thereto;

b) The proposed title of the project and the name of the engineer, architect, landscape architect, planner and/or licensed surveyor; developer; and owner of record;

c) The north arrow point, scale at not greater than one inch equals 40 feet and such information as the names of adjacent roads, streams, railroads, subdivisions or other landmarks sufficient to clearly identify the location of the property;

d) Location of site by an insert vicinity map at a scale no less than one inch equals 2000 feet;

e) Existing project zoning and zoning of adjacent property, to include properties abutting either side of a public right-of-way;

f) City limits line or a note indicating that the project site and any adjoining parcels are totally within or without the city limits;

g) Names of adjacent property owners;

h) Boundary survey of site and the location of all existing easements, buildings, rights-of-way or other encroachments;

i) Existing topography and proposed finished contours at not more than two-foot intervals, with project bench mark clearly identified. Location of 100-year floodplain and floodway, if applicable. Other significant natural features affecting the site including but not limited to wetlands, major rock outcrops and lakes or streams. The Development Assistance Director or a designee may require topography at intervals smaller than two feet if such is necessary to permit an informed analysis of the site plan;

j) All proposed streets and/or driveways with proposed names, pavement widths and rights-of-way, and showing sight distances and their relationship to all street and driveway intersections within a 200-foot radius of the intersection of such entrances and exits with any public road. All alleys, driveways, curb cuts for public streets and handicap ramps, loading areas and provisions for off-street parking spaces and sidewalks; calculations indicating the number of parking spaces required and the number provided. All streets shall be clearly identified as public or private; a typical cross-section of public or private streets and/or driveways shall be included;

k) Utility layout, including location and size of existing and proposed water, sanitary and storm sewer lines, electrical transmission lines, gas pipelines, street lights, fire hydrants, and garbage disposal facilities;

l) Proposed reservations or dedications for parks, playgrounds, school sites and open spaces and a note indicating ownership and maintenance provisions. Include a copy of condominium declaration and/or maintenance agreements, if applicable;

m) A landscape plan showing wood line before site preparation with typical species and average diameter of trees indicated and showing areas to be screened, fenced, walled and/ or landscaped, including required buffers, existing and proposed, with details of fences or walls and plant locations, sizes and species;

n) Proposed location and intended use of all buildings with their dimensions, the number of floors, total floor area and maximum height above average grade for each building;

o) Notations to include the total project area, proposed lot areas (or individual areas owned by a homeowners association), the amount and percentage of the site to be covered by buildings, open space, streets and parking and other facilities;

p) General location, size, height, orientation and appearance of proposed signs;

q) General location of proposed project phasing lines and notation including special conditions pertinent to establishing sales or model units, if applicable;

r) Site lighting plan;

s) Road profiles, if required by the Development Assistance Director;

t) A letter from the Henderson County Erosion Control Local Program indicating that plans have been filed and approved. In those instances when a letter from the Henderson County Erosion Control Local Program is not required, the applicant shall demonstrate on the site plan and/or in such accompanying documents as may be necessary that the proposed development will comply with the mandatory standards contained in NCGS Section 113A-57;

u) Any other permits required by the project;

v) Final stormwater management plan meeting the requirements of the City of Hendersonville Code of Ordinances;

The Development Assistance Director may establish additional requirements for site plans, which may be triggered by conditions such as density, topography, location and anticipated traffic volumes on or near the site. In addition, if the Development Assistance Director determines that one or more of the above submittal requirements is not applicable to the proposed project, it may be waived.

7-3-4.4 Review by City Council. Within 15 days of the rendition of a decision denying an application for final site plan approval, the applicant may file a notice with the city clerk requesting City Council to review such decision. Upon receipt of a notice of review, the city clerk shall schedule a public hearing for the next available meeting of City Council, which shall render a decision based upon the standards for review contained in Subsection 7-3-4.2.

Section 7-4 Conditional Zoning Districts. Conditional Zoning Districts are created for the purpose of providing an optional rezoning choice where the owner of property proposes to rezone property and, in order to, among other reasons carry out the purposes of the Comprehensive Plan, proposes to impose special limitations and conditions on the use of the property proposed for rezoning.

Conditional Zoning Districts are zoning districts in which the development and use of the property is subject to predetermined standards and the rules, regulations and conditions imposes as part of the legislative decision creating the district and applying it to each individual development project. For the R-40, R-20, R-15, R-10, R-6, C-1, C-2, C-3, C-4, I-1, MIC, CMU, RCT, GHMU, HMU, and CHMU zoning district classifications, there are hereby established parallel conditional zoning district classifications zoned R-40CZD, R-20CZD, R-15CZD, R-10CZD, R-6CZD, C-1CZD, C-2CZD, C-2CZD, C-3CZD, C-4CZD, I-1CZD, MICCZD, CMUCZD,

RCTCZD, GHMUCZD, HMUCZD and CHMUCZD. Also established are the PMDCZD, PRDCZD, PMHCZD, UVCZD and URCZD. These were established to replace special use zoning districts.

Certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Some land uses are of a nature or scale that may have significant impacts on both the immediately surrounding area and the entire community, which cannot be controlled by district standards. There also circumstances in which district designations allow a use by right that would not be appropriate for a particular property though the use could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted comprehensive plan, and adopted district. The review process established in this section provided for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with the neighboring properties.

The conditional zoning district is a means by which such special conditions can be imposed. The Conditional Zoning District classification will be considered for rezoning only with the consent of the property owner. If, for any reason, any condition imposes pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this ordinance that the authorization of such Conditional Zoning District shall be null and void and of no effect and that proceedings shall be instituted to rezone the property to its previous zoning classification.

7-4-1 Fee. A fee shall be paid to the City of Hendersonville for each application for a rezoning to a Conditional Zoning District to cover the costs of advertising and other administrative expenses. The fee shall be set by a resolution of City Council.

7-4-2 Pre-application conference. It is recommended that any person desiring to rezone a property to a conditional zoning district schedule a pre-application conference with the Development Assistance Director or designee to become familiar with the conditional zoning district rezoning process and to identify and correct, if possible, potential problem areas with a development concept. Submittals for a pre-application meeting include a location map and a sketch plan of the project, including property boundaries, building footprints, parking, driveways, entrance locations, and such other information which may be requested by the Development Assistance Department staff.

7-4-3 Application. Property may be rezoned to a Conditional Zoning District only in response to, and consistent with, an application (petition) submitted on forms provided by the Development Assistance Department, by the owners of all of the property to be included in the district. An application for conditional zoning must include a site plan (as described below) and supporting information and text that specifies the actual use or uses intended for the property and any conditions that in addition to predetermined requirements, will govern the development and use of the property.

7-4-3.1 Conceptual Plan. To facilitate the discussion during the neighborhood compatibility meeting required by Section 7-4-4, the applicant shall submit to the Development Assistance Department, as a part of the application for a conditional zoning district rezoning, a conceptual plan showing how development is proposed for the site. The conceptual plan shall show the location and boundaries of the property and how individual buildings are to be situated on the site, including distances from these buildings to property lines, as well as proposed drives and parking. The locations of signs and outdoor lighting shall also be shown where appropriate. Proposed restrictive covenants, if available, shall also be presented. The conceptual plan need not be exactly to scale; although, all distances and dimensions shall be shown.

7-4-4 Neighborhood Compatibility Meeting. This ordinance provides a process whereby affected property owners, residents and developers have an opportunity to participate in a dialog as to how development is to be integrated into their neighborhoods. This is accomplished by a neighborhood compatibility meeting to be

facilitated by the Development Assistance Director or a designee, within 21 days of receipt of a complete application, including the required fee and conceptual plan.

7-4-4.1. Notification of Participants. At least seven calendar days prior to the meeting, notice of the meeting shall be given in the following fashion:

a) The developer shall be informed of the meeting by mail. Failure of the developer, or their authorized agent, to attend this meeting shall lead to an automatic annulment of the application.

b) Property owners within 400 feet of any property line of the proposed sites shall be informed of the meeting by mail.

c) All other persons shall be informed of the meeting by a conspicuously placed standardized on-site sign.

7-4-4.2 The Developer's Presentation. During the neighborhood compatibility meeting the developer shall explain to the affected property owners the proposed use for the site. The presentation shall include the developer's position on the compatibility of the project. It is always the developer's responsibility to propose a compatible project.

7-4-4.3 Relevant Topics to Be Discussed. Following the developer's presentation, affected property owners and residents shall be permitted time to question the developer about points which remain unclear. Questioning shall center on the proposal's compatibility as presented, not the question of whether the site should be developed or its use changed.

7-4-4.4 Result of Neighborhood Compatibility Meeting. Following the exchange of views between the developer and affected property owners/residents, the Development Assistance Director or a designee shall review orally the points voiced during the informal compatibility meeting. Included in the review shall be proposals or counter-proposals to which both parties have agreed in an effort to make the project compatible, as well as those points where disagreement still exists. Upon conclusion of the review, the Development Assistance Director or a designee shall ask those assembled if the positions presented represent an accurate consensus of the opinions expressed by the developer and affected property owners/residents. When they do, the meeting shall be concluded and the Development Assistance Director or a designee shall record the opinions in the Development Assistance Director's report. The Development Assistance Director's report shall become a part of the application file.

7-4-4.5 Final Site Plan and Completeness Review. Upon completion of the neighborhood compatibility meeting, it shall be the responsibility of the applicant to submit a final site plan meeting the requirements of Section 7-3-4.3, above.

7-4-5 Processing of Application. The completion date for the application shall be the date of receipt of all information requested by the Development Assistance Director pursuant to Section 7-3-4.3. The applicant will be scheduled for the next Planning Board meeting which is at least 24 days in the future. Substantial modification of the application subsequent to the complete date may result in the application being deferred to a subsequent meeting of the Planning Board. Any material modification of the application within seven days prior to the Planning Board meeting shall result in deferral of the application to the next available meeting.

7-4-6 Conditions to Approval of Conditional Zoning District. In approving an application for the reclassification of property to a Conditional Zoning District, the Planning Board may recommend, and the City Council may recommend that reasonable and appropriate conditions be attached to the approval of the rezoning. Conditions and site specific standards shall be limited to those that address the conformance of the development and use of the site to City of Hendersonville ordinances and comprehensive plan. Any such

conditions should relate to the impact of the proposed use on surrounding properties, support facilities, pedestrian and vehicular circulation systems, screening and buffering areas, timing of development, road and right-of-way improvements, water and sewer improvements, stormwater drainage, open space and other matters that the Planning Board and/or City Council may find appropriate or the applicant may propose. The Tree Board may make recommendations to City Council concerning the proposed landscape plan. The applicant shall have a reasonable opportunity to consider and respond to any such conditions prior to the final action by the City Council. Only those conditions mutually approved by the City Council and the applicant may be incorporated into the rezoning approval.

7-4-7 Mediation. Based on the level of contentiousness concerning the application, the City may recommend mediation. Even if the City does not recommend mediation, the opposing parties may choose to mediate at any point in the process.

If mediation is employed, which is wholly voluntary, the Planning Director, in consultation with the applicant and one or more representatives of those contesting the application, shall choose a mediator. The mediator should consult with the planning department on the past history of the property, visit the site of the proposed land development, and review the proposed plan.

The mediator then works with the planning staff, the applicant and other parties, to arrange a meeting space, set ground rules and time limits, and to attempt to negotiate a mediated agreement. The planners participate in the mediation, representing the interests and concerns of the City.

If the mediation results in a mutually acceptable settlement among the interested parties, the mediator prepares a written agreement which all parties sign. Copies of the mediated agreement are given to all parties.

The time requirements of this section are suspended for the time an application is in the mediation process.

7-4-8 Public Hearing. Within 45 days of receiving the recommendation of the Planning Board or receipt of the mediator's report, whichever last occurs, City Council shall conduct a public hearing on the application. Notice of the date, time and place of the public hearing shall be published in a newspaper of general circulation once a week for two successive weeks with the first notice to be published not less than ten nor more than 25 days prior to the date of the hearing.

Notice of the date, time and place of the public hearing shall also be mailed to the owner of the property which is the subject of the application, the person or entity whose application or request is the subject of the hearing, and the owners of all parcels of land situated within 400 feet of any of the boundaries of the subject parcel. Ownership shall be determined by reference to the Henderson County tax listing. The notice shall be deposited in the mail not less than ten nor more than 25 days prior to the date of the hearing. Within that same time period, the City shall prominently post a notice of the public hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

7-4-9 Final Action. The City Council may request that reasonable and appropriate conditions be attached to the reclassification of a property to a Conditional Zoning District. If a reclassification of a property to a Conditional Zoning District is approved, the development and use of the property shall be governed by the existing zoning ordinance requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the official zoning map.

Only those uses and structures indicated in the approved rezoning application and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to Section 7-6 of this ordinance.

7-4-9.1 Conditions to Approval of Rezoning to a Conditional Zoning District. In approving a petition for the reclassification of property to a conditional zoning district, the Planning Board may recommend and City Council may request that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that City Council may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the City, County or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by City Council.

7-4-9.2 Effect of approval. If a petition is approved under this Section, the district that is established, the approved petition, and all conditions which may have been attached to the approval, are binding on the property as an amendment to this ordinance and to the Zoning Map. All subsequent development and use of the property shall be in accordance with the standards for the approved conditional zoning district, the approved petition, including the conceptual site plan, and all conditions attached to the approval, unless such approval shall lapse or the property is rezoned.

If a petition is approved, the petitioner shall comply with all requirements established for obtaining a zoning compliance permit, a building permit and certificate of occupancy. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. Any development in the district shall comply with all provisions of and conditions to the approved petition and site plan.

7-4-10 Revised Final Site Plans. Revised Final site plans shall be reviewed by the Development Assistance Director or a designee to ensure conformance with any modifications agreed to as conditions of a petition for the reclassification of property to a conditional zoning district.

7-4-11 Issuance of Zoning Compliance Permit. A zoning compliance permit shall be issued upon certification by the Development Assistance Director or a designee that a revised final site plan demonstrating compliance with any modifications agreed to as conditions of the petition for reclassification of the property to a conditional zoning district has been received.

7-4-12 Review of Approval of a Conditional Zoning District. It is intended that property shall be reclassified to a Conditional Zoning District only in the event of firm plans to develop the property. Therefore, no sooner than three (3) years after the date of approval of the petition, the Planning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the City Council a report, which may recommend that the property be classified to another district.

Section 7-5 Project Phasing. If a project is to be developed in phases, the plan for the entire development will be used to determine the nature of review it will receive. Before development may commence, the entity with power to issue development authorization, that is, the City Manager, Planning Board, or City Council, as the case may be, must approve a master plan for the entire development site.

Final plans for the development may be submitted in stages and may be approved by the entity which approved the master plan provided that the following requirements are met:

a) All stages shall be shown with precise boundaries on the master plan and shall be numbered in the expected order of development.

b) Each phase must be able to function independently of subsequent phases.

c) All the data required for the project as a whole shall be given for each stage shown on the plan.

d) A proportionate share of open space shall be included in each stage of the development.

e) The phasing shall be consistent with the traffic circulation, drainage, and utilities plan for the entire development.

Section 7-6 Modification of Development Authorizations. Development may only take place in accordance with approvals granted hereunder. Any deviation from approved development requires review and approval pursuant to this section.

In general, the entity which approved the development for which modification is sought will be responsible for deciding whether to approve modifications to such development. There are two exceptions to this rule. First, in some circumstances, as defined herein, the City Manager, or a designee appointed by the City Manager, may authorize modifications which are deemed minor. Second, if the intensity of the entire development, taking into consideration the proposed modification and any previous modifications, would exceed the threshold for a higher level of review and if such modifications, viewed cumulatively, do not qualify as de minimis, as defined herein, the entire development will be required to undergo the higher level of review.

Proposed modifications shall qualify as de minimis if the cumulative effect of such modifications would not increase the established intensity of the development by more than 10%. Intensity shall be measured in terms of dwellings or persons per acre, whichever is applicable, for residential developments and in terms of gross floor area for non-residential developments. The established intensity shall be the intensity approved in the initial zoning compliance permit for the development or the intensity existing as of 6 September 1996, whichever occurs later.

By way of illustration, if the owner of a commercial development with an established intensity of 45,000 ft2 of floor area proposed a 6,000 ft2 addition, the entire development, including that which is existing or previously approved, will be required to undergo rezoning to a conditional zoning district in accordance with Section 7-4. If the owner of such development proposed a 4,000 ft2 addition, the modification would qualify as de minimis and would be processed under site plan review.

7-6-1 Modifications of Developments Authorized Under Zoning Compliance Review. The City Manager shall approve modifications to developments authorized under zoning compliance review so long as the total development, including all modifications, complies with applicable provisions of the Zoning Ordinance and so long as the total development does not exceed the thresholds for site plan review.

7-6-2 Modifications of Developments Authorized Under Site Plan Review. The City Manager may approve a modification of a zoning compliance permit for changes to plans approved under site plan review as long as such changes continue to comply with the approving action of the Planning Board and all other applicable requirements and so long as the total development, including all modifications, does not exceed the threshold for rezoning to a conditional zoning district. The City Manager shall not have the authority to

approve a modification for any substantial changes to plans approved under site plan review unless such changes are specifically required by a condition of approval.

If a substantial change is proposed, the City Manager shall require the filing of an application for approval of the modification which shall be reviewed in accordance with the procedures established in Section 7-3.

7-6-3 Modifications of Developments Authorized Under Special Use Review and Conditional Zoning Districts. The City Manager is authorized to approve minor modifications to the approved final plans of developments authorized under special use review and conditional zoning districts but major modifications may only be authorized by City Council in accordance with procedures set forth herein. A modification shall be deemed minor if it is not a major modification. A modification shall be deemed major if it proposes a substantial departure from the approving action of City Council with regard to the original application or any subsequent modifications. Substantial departure from such approving action shall exist whenever the proposed modification would result in one or more of the following:

a) A substantial change in the boundaries of the site approved by City Council;

b) A substantial change from the use(s) approved by City Council;

c) A substantial increase in the floor area approved by City Council;

d) A substantial increase in the number of residential dwelling units;

e) A substantial increase in the density of nursing homes, rest homes, congregate care facilities or progressive care facilities;

f) A substantial change in the location of one or more principal and/or accessory structures approved by City Council;

g) Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown on the plans approved by City Council;

h) A substantial change in pedestrian or vehicular access or circulation approved by City Council; and

i) A substantial change in the amount or location of open space, landscaping or buffer screens approved by City Council.

If the proposed action is determined to be a major modification, the City Manager shall require the filing of a request for a map amendment. The City Manager shall prescribe the form(s) of application as well as any other material reasonably required to determine compliance with this article.

Section 7-7 Expiration and Revocation of Zoning Compliance Permits. This section governs the expiration and revocation of zoning compliance permits issued subsequent to zoning compliance review or site plan review. The expiration and revocation of zoning compliance permits issued subsequent to rezoning to a conditional zoning district are governed by the provisions of Subsection 7-4-12.

7-7-1 Commencement. If a building permit for the use, construction, or activity authorized by approval of an application for a zoning compliance permit or modification of a zoning compliance permit is not obtained within six months of the date of approval, or within such further time stipulated in the approval, the approval shall expire and any City permit issued pursuant to the approval shall be void. The City Manager may grant a single extension of the starting time limit for up to 12 months unless the City Manager determines that

paramount considerations of health, the general welfare, or public safety require reconsideration by the entity which granted development authorization. The City Manager shall determine whether the use, construction, or activity has started.

7-7-2 Completion. If all construction and actions authorized or required by a zoning compliance permit or modification thereof are not completed within 18 months or such other completion date stipulated in the permit or modification, the permit holder may request an extension of the completion time limit from the City Manager. The City Manager may grant extensions of the time limit for periods of up to 12 months if the City Manager determines the following: a) the permit holder requested the extension prior to the expiration of the completion time limit; b) the permit holder has proceeded with due diligence and good faith; and c) conditions have not changed so substantially as to warrant reconsideration of the approved development. The City Manager shall determine whether or not all construction and actions authorized or required have been completed.

7-7-3 Revocation. If any conditions of a zoning compliance permit or modification, including completion time limits, or requirements of this ordinance applicable to the permit or modification are violated, the City Manager may revoke the permit or modification.

The City Manager may reinstate a revoked zoning compliance permit or modification of zoning compliance permit if the City Manager determines the following: a) the holder of the revoked permit or modification submitted a request for reinstatement within 90 days of revocation; b) the violations that were the cause of the revocation have been corrected; and c) the development fully complies with all conditions of the permit or modification and all applicable requirements of this ordinance.

Section 7-8 Planned Developments. This section applies to all planned developments regardless of use district or classification and regardless of the development review process required. A planned development consists of land that is under unified control and planned and developed as a whole and which includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development shall be constructed according to comprehensive and detailed plans which include not only streets, utilities, lots or building sites, and the like, but also site plans and floor plans for all buildings as intended to be located, constructed, used, and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings.

A planned development shall include a program for the provision, operation, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.

7-8-1 Statement of Purpose. The purpose of this section is to promote the efficient and well-planned use of land through unified development of sites while providing the City with open space, compatible uses, optimum service of community facilities and adequate vehicular access and circulation. A planned development is situated, designed, landscaped and buffered in such a manner that it will be compatible with environmentally sensitive areas, such as flood plains or steep slopes, and with existing or proposed land uses in adjoining neighborhoods.

7-8-2 Ownership Control. The land in a planned development shall be under single ownership or management at the time of construction or proper assurances shall be provided that the project can be successfully completed.

7-8-3 Establishment of Planned Developments. Except for minor planned residential developments, which may be developed in certain use district as specified herein, planned developments may only be established in one of the planned development conditional zoning district classifications, that is, PRDCZD, PCDCZD,

PMDCZD, PIDCZD, or PMHCZD. Planned developments shall be appropriately located with respect to intended functions, to the pattern and timing of development indicated in the Comprehensive Plan and to public and private facilities existing or clearly to be available by the time the development reaches the stage where they will be needed.

Section 7-9 "As-Built" or Record Drawings. This section applies only to development which has undergone site plan or is within a conditional zoning district. "As-built" or record drawings shall be submitted prior to the issuance of the last Certificate of Occupancy for the project. These drawings shall be submitted in two parts. The first, at a scale not greater than one inch equals 40 feet, shall show all features on the site plan. The second, at a scale not greater than one inch equals 200 feet, may show only all underground facilities on the site and the depth of bury. Plans and verifications shall be signed and sealed by an architect, engineer or surveyor licensed to practice in the State of North Carolina.

Section 7-10 Project Infrastructure. Project infrastructure refers to the improvements, such as water and wastewater lines, streets and roads, stormwater management facilities, sidewalks and street lighting, which are necessary to sustain the intended use of a project.

7-10-1 Construction of Project Infrastructure. Upon approval of the final site plan by the City Council, the applicant shall proceed with the construction of project infrastructure, including but not limited to, roads, water and sewer facilities, drainage, sedimentation and erosion control facilities, and lighting.

Except as provided in Section 7-10-2 below, and prior to issuance of a building permit, the applicant shall complete, install and provide for the dedication of all project infrastructure as specified on the approved final site plan. The applicant shall certify the dedication of said improvements in a form acceptable to the City.

All construction undertaken pursuant to the final site plan shall be inspected and approved by the City of Hendersonville and/or appropriate local, state, and federal agencies prior to issuance of a certificate of occupancy for the development.

7-10-2 Guarantee in Lieu of Construction of Project Infrastructure. In lieu of requiring the completion, installation and dedication of all project infrastructure prior to the issuance of a building permit, the City of Hendersonville may accept a bond with approved surety or a letter of credit payable to the City of Hendersonville in an amount equal to 120% of the estimated cost of the installation of the required improvements, whereby the improvements may be constructed and utilities installed without cost to the City in the event of default of the developer.

The letter of credit or bond shall remain in full force and effect until such time as the construction of project infrastructure is completed and accepted by the City of Hendersonville. No bond or letter of credit may be called without 60-days prior written notice to the City.

Failure to maintain in effect a City-approved financial guarantee of any incomplete improvement shall suspend the approval of the plan and any permits issued as a result of the plan approval.

All financial guarantees must contain language requiring the completion of all project infrastructure as shown on the approved final site plan and the guarantee of these improvements for an 18-month warranty after they have been accepted by the City.

All financial guarantees must either be issued from a financial institution incorporated in the State of North Carolina or be redeemable at a financial institution incorporated in the State of North Carolina.

Section 7-11 Adequate Facilities Review. Certain developments, due to their type, size and/or location, tend to have greater impacts on public services and facilities than does development generally. In order to ensure that such development is undertaken only when there are adequate public facilities to serve it, no development undergoing site plan review or conditional zoning district review shall be approved unless City staff, the Planning Board or City Council, as the case may be, first determines that adequate facilities and services will be available to such development before it is occupied. Specifically, no development undergoing site plan review or rezoning to a conditional zoning district shall be approved unless City staff, the Planning Board or City Council, as the case may be, finds that all of the following conditions exist or will exist on or before the date that buildings or land in the proposed development will be occupied:

a) **Water Supply.** There will be an adequate potable water supply available for the proposed occupancy. An adequate public water supply shall include adequate potable water for consumption and other inside and outside uses, and adequate water pressure and fire flow to meet established standards of the City for fire protection.

b) **Wastewater.** There will be adequate connections to public wastewater disposal systems with adequate capacity to handle the type and volume of flow from the proposed occupancy.

c) **Roads.** The road system in the development will connect to segments of the public road system with adequate capacity to handle the projected traffic flow, both on an average basis and at peak hours. Furthermore, the development shall be so located with respect to major street, bicycle and pedestrian networks, or public transportation facilities, and shall be so designed, as to provide direct access to the development without creating substantial additional traffic in residential neighborhoods outside the development.

Developments failing to meet these criteria may be approved if the applicant a) provides private facilities, utilities, and services approved by appropriate public agencies as substituting on an equivalent basis, and assures their satisfactory continuing operation, permanently or until similar public utilities, facilities, or services are available and used; or b) makes provision acceptable to the City for offsetting any added net public cost of early commitment of public funds made necessary by such development.

In determining net public costs, the difference in anticipated public installation, operation, and maintenance costs and the difference in anticipated public revenue shall be considered. Expenses involved in making such determinations shall be paid by the applicant. Determinations shall be made by the City or by experts acceptable to the City.

Section 7-12 Aggregation. Two or more developments shall be aggregated and treated as a single development under this ordinance when they are determined to be part of a unified plan of development and are physically proximate to one another. Each of the criteria listed below is indicative of a unified plan of development. Whenever one or more are found to exist, the reviewing authority may, but is not required to, determine that two or more projects are part of a unified plan of development:

a) The same person has control of the developments;

b) The same person has ownership or a significant legal or equitable interest in the developments;

c) There is common management controlling the form of physical development or disposition of parcels of the development;

d) There is a reasonable closeness in time between the completion of some or all of one development and the submission of an application for authorization of other development which is indicative of a common developmental effort;

e) A master plan or series of plans or drawings exists covering the developments sought to be aggregated;

f) There is a voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments sought to be aggregated;

g) There is a common advertising scheme or promotional plan in effect for the developments sought to be aggregated.

Section 7-13 Appeals of Development Decisions. Development decisions rendered pursuant to this article are subject to review in the manner set forth herein.

7-13-1 Administrative Remedies. There are two separate bodies charged with responsibility for administrative review of development decisions: City Council and the Board of Adjustment. In no case will decisions of either of those bodies be subject to review by the other. Judicial review from their decisions may be available in accordance with Section 7-13-2, below.

The following development decisions are subject to administrative review in the manner indicated:

a) **Zoning compliance permits.** Decisions regarding applications for issuance of zoning compliance permits under Section 7-2 are subject to review by the Board of Adjustment upon the timely filing of an appeal pursuant to Section 10-6, below.

b) **Preliminary site plans.** Decisions of the Planning Board regarding applications for preliminary site plan approval under Section 7-3-3 are subject to review by City Council upon the timely filing of a notice of review pursuant to Section 7-3-3.5, above.

c) **Final site plans.** Decisions regarding applications for final site plan approval under Section 7-3-4 are subject to review by City Council upon the timely filing of a notice of review pursuant to Section 7-3-4.4, above.

7-13-2 Judicial Review. Judicial review of development decisions rendered pursuant to this article shall be in accordance with this section and with NCGS. In no event shall a party be entitled to judicial review until such time as all administrative remedies have been exhausted.

a) **Zoning compliance permits.** Decisions of the Board of Adjustment regarding appeals from development decisions concerning applications for zoning compliance permits may be appealed to the Superior Court in accordance with Section 10-10, below. Such appeals shall be in the nature of certiorari.

b) **Preliminary site plans.** Decisions of the City Council regarding appeals from development decisions concerning applications for preliminary site plan approval may be appealed to the Superior Court by any aggrieved party. Such appeals shall be in the nature of certiorari and must be filed within 30 days after the filing of the decision in the office of the City Clerk or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Clerk at the time of the hearing, whichever is later. The copy of the decision of the Council may be delivered to aggrieved parties either by personal service or by registered mail or certified mail return receipt requested.

c) **Final site plans.** Decisions of the City Council regarding appeals from development decisions concerning applications for final site plan approval may be appealed to the Superior Court by any aggrieved party in the same manner as decisions regarding preliminary site plans set forth in the preceding paragraph.

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ARTICLE VIII
EXCEPTIONS AND MODIFICATIONS

Compliance with the requirements of this Ordinance is mandatory except that under the specific conditions enumerated in the following sections, the requirements may be waived or modified as so stated.

Section 8-1 Minimum Required Front Yard for Dwellings. The minimum required front yard requirements of this Ordinance for dwellings shall not apply on any lot where the average front yard of existing buildings located wholly or in part within 100 feet on each side of such lot within the same block and zoning district and fronting on the same side of the street is less than the minimum required front yard. In such cases, front yard on such lot may be less than the required front yard, but not less than the average of the front yards of the aforementioned existing buildings.

8-1-1 Exceptions to Setback Regulations. The following features shall not be subject to the required minimum setbacks:

Bridges
Doghouses
Driveways, walks and parking areas
Fences and walls not exceeding nine feet in height
Landscape features such as entrance piers, columns, gates, planters and gardens
Playhouses, not exceeding 64 ft2 in floor area
Required building entry ramps
Retaining walls
Stormwater management facilities such as head walls and culverts

Section 8-2 Height Limitations. The following structures may exceed the height limitations contained in Article V of this Ordinance by no more than 20% of that specified for any zoning district classification: church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, chimneys, smokestacks, conveyors, flag poles, masts and similar structures, except as otherwise restricted in the vicinity of airports or elsewhere in this Ordinance.

Section 8-3 Temporary Use Permits for Manufactured/Mobile Homes. No more than one manufactured/mobile home may be permitted in the rear yard of a residential dwelling on a platted lot as an accessory structure, provided, the manufactured/mobile home shall meet the principal structure setback requirements for the district in which it is located. Such use shall be temporary and shall be based on a finding by Board of Adjustment that a personal hardship situation exists (such as the need to care for elderly parents or other dependents) which justifies a special exception of this nature. Temporary Use Permit shall be issued in such cases for one year, and may be renewed by the Zoning Administrator so long as the hardship continues to exist.

All such manufactured/mobile homes situated in rear yards must have access to city water and sewer service or individual systems approved in writing by the County Health Officer and such manufactured/ mobile homes must be maintained in such a way as to create no nuisance conditions. Furthermore, if any such manufactured/mobile home must be situated closer to the side or rear yard line than the required setback for the district involved, a variance must be obtained from the Zoning Board of Adjustment.

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ARTICLE IX
ADMINISTRATION, ENFORCEMENT, BUILDING PERMITS, CERTIFICATE OF ZONING COMPLIANCE AND PENALTIES

Section 9-1 Administrative Officer. An Administrative Officer designated by the City Council shall administer and enforce this Ordinance.

If the Administrative Officer shall find that any of the provisions of this Ordinance are being violated, the Administrative Officer shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Administrative Officer shall order discontinuance of illegal buildings or structures or illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

Section 9-2 Building Permits Required. No building or other structure shall be erected, moved, added to or structurally altered without a building permit issued by the Administrative Officer. No building permit shall be issued by the Administrative Officer except in conformity with the provisions of this Ordinance, unless the Administrative Officer receives a written order from the Board of Adjustment in the form of an administrative review, conditional use, or variance as provided by this Ordinance.

Section 9-3 Application for a Building Permit. All applications for a building permit shall be accompanied by a fee according to a sliding scale currently in use by the City and plans in duplicate drawn to scale which indicate the following:

9-3-1 The shape and dimensions of the lot on which the proposed building or use is to be erected or constructed.

9-3-2 The location of the said lot with respect to adjacent rights-of-way.

9-3-3 The shape, dimensions and location of all buildings, existing and proposed on the said lot.

9-3-4 The nature of the proposed use of the buildings or land, including the extent and location of the use on the said lot.

9-3-5 The location and dimensions of off-street parking and means of ingress and egress to such space.

9-3-6 Any other information which the Administrative Officer may deem necessary for consideration in enforcing the provisions of this Ordinance.

One copy of the plans shall be returned to the applicant by the Administrative Officer, after the Administrative Officer has marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and one copy of the plans similarly marked shall be retained by the Administrative Officer.

Section 9-4 Construction and Use to be as Provided In Applications, Plans, Permits and Certificates of Zoning Compliance. Building permits or certificates or zoning compliance issued on the basis of plans and applications approved by the Administrative Officer authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction differing with that authorized shall be deemed a violation of this Ordinance and punishable as provided by Section 9-7 hereof.

Section 9-5 Remedies. If any building is erected, constructed, reconstructed, repaired, converted or maintained or any building, structure or land is used in violation of this Ordinance, the Administrative Officer or other appropriate authority or any adjacent or other property owner who would be damaged by such violation, may institute injunction or other appropriate action in proceeding to stop the violation.

Section 9-6 Procedures Upon Discovery of Violations.

a) If the Administrative Officer finds that any provision of this Ordinance is being violated, the Administrative Officer shall send a Violation Notice by certified mail, return receipt requested or by hand delivery to the owner of record of the real property. The Administrative Officer may also deliver such Notice to the occupant, tenant or user of the property subject to the violation. The Administrative Officer shall indicate the nature of the violation and order the action necessary to correct it. Additional written Notices may be sent at the Administrative Officer's discretion.

b) The final written Notice (and the initial written Notice may be the final Notice) shall state what action the Administrative Officer intends to take if the violation is not corrected.

Section 9-7 Violations.

a) Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special or conditional use permits, shall subject the offender to a civil penalty in the amount of $500. Violators shall be issued a written Notice which must be paid within ten days.

b) Each day's continuing violation shall be a separate and distinct offense.

c) A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a Notice of Violation in accordance with Section 9-7 and did not take an appeal to the Board of Adjustment within the prescribed time.

d) Notwithstanding subsection a) above, provisions of this Ordinance may be enforced through equitable remedies issued by a court of competent jurisdiction.

e) In addition to or in lieu of remedies authorized in subsections a) and d) above, violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or conditional zoning districts or conditional use permits, may be prosecuted as a misdemeanor, punishable as provided in NCGS 14-4.

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ARTICLE X
BOARD OF ADJUSTMENT

Section 10-1 Establishment of Board of Adjustment and Qualifications of Members. A Board of Adjustment is hereby established. Said Board of Adjustment shall consist of ten members; seven members of the Board of Adjustment shall be citizens of the City of Hendersonville and shall be appointed by City Council and three members who reside in the City's area of extraterritorial jurisdiction shall be appointed by the Board of Commissioners of Henderson County.

Terms shall be three years; however, City Council and the Henderson County Board of Commissioners may appoint members for a lesser term in order to achieve a balanced system of overlapping terms. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board of Adjustment. Notwithstanding the foregoing, the City Council may remove any member of the Board of Adjustment for the exhibition of a pattern of conduct that materially impairs or seriously threatens the ability of the Board of Adjustment to carry out its designation functions.

The three members appointed to the Board of Adjustment by the Board of County Commissioners as representatives of the City of Hendersonville's Extraterritorial Jurisdiction shall have equal rights, privileges and duties with other members of the Board in all matters pertaining to the regulation of the Zoning Ordinance in the City and its extraterritorial jurisdiction.

City Council or the County Board of Commissioners, as appropriate, may appoint alternate members to serve on the Board of Adjustment in the absence of any regular members. Alternate members shall be appointed for the same term and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the Board of Adjustment and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

Section 10-2 Powers of the Board of Adjustment. The Board of Adjustment shall have the following powers:

a) To hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of the Zoning Ordinance or the Subdivision Ordinance and may hear appeals arising out of any other ordinance that regulates land use or development. As used in this section, the term "decision" includes any final or binding order, requirement or determination.

b) To hear and decide requests for variances from the dimensional requirements of the Zoning Ordinance, in accordance with Section 10-8, below;

c) To review applications for conditional use permits and to issue conditional use permits in accordance with the provisions of Section 10-7, below;

d) To make interpretations of the Official Zoning Map and to pass upon disputed questions of lot lines or district boundary lines and similar questions as arise in the administration of the Zoning Ordinance;

e) To enter, at reasonable times, upon private lands and make examinations or surveys as necessary for the performance of its official duties;

f) To request City Council to hold public hearings on matters within the purview of the Board of Adjustment;

g) To hear and decide any other matter as required by the provisions of the Zoning Ordinance and the Code of the City of Hendersonville;

h) To adopt rules not inconsistent with the Zoning Ordinance or NCGS governing the organization of the Board of Adjustment and proceedings before the Board of Adjustment.

Section 10-3 Officers. The Board of Adjustment shall elect one member to serve as Chair and preside over its meetings and shall create and fill such offices and committees as it may deem necessary. The term of the Chair and other offices shall be one year with eligibility for re-election. The Chair, or any member temporarily acting as chair, is authorized to administer oaths to any witnesses in any matter coming before the Board of Adjustment.

Section 10-4 Meetings. The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it may take action as expeditiously as reasonably possible. All meetings of the Board of Adjustment shall be open to the public.

Notice of date, time and place of the public hearing conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the Zoning Ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice shall be deposited in the mail not less than 10 nor more than 25 days prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the public hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

The Board of Adjustment shall keep a record of its meetings, including attendance of its members, the vote of each member on every question, a complete summary of the evidence submitted to it, documents submitted to it, and all official actions.

If any member of the Board of Adjustment misses more than three consecutive regular meetings or more than half of the regular meetings in a calendar year, their status as a member of the Board of Adjustment shall be replaced or reappointed by City Council or the County Board of Commissioners, as appropriate. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Board of Adjustment, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

The chair of the Board of Adjustment or any member acting as chair and the clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board of Adjustment. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

The Board of Adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393 (d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment.

If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

Section 10-5 Quorum and Voting. The concurring vote of seven (7) members of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board of Adjustment and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board of Adjustment for the calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

A member of any Board of Adjustment exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

Section 10-6 Appeals of Administrative Decisions. The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of the Ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

a) Any person who has standing under G.S. 160A-393 (d) or the city may appeal a decision of the Board of Adjustment. An appeal is taken by filing notice of appeal with the City Clerk. The notice of appeal shall state the grounds of the appeal.

b) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

c) The owner or other party shall have 30 days from receipt of written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

d) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision provided the sign remains on the property for at least 10 days. Posting of the signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Posting of the signs is not required.

e) The official who made the decision shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

f) An appeal of a notice of violation or other enforcement order stays all legal proceedings in furtherance of the action appealed from, unless the Administrative Officer certifies to the Board of Adjustment, after the notice of appeal has been filed with the city clerk, that because of facts stated in an affidavit, a stay would, cause imminent peril to life or property or that because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In such case proceedings shall not be stayed except by a restraining order, which may be granted by a court.

g) If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of the property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board of Adjustment may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

h) Subject to the provisions of subdivision (f) of this subsection, the Board of Adjustment shall hear and decide the appeal within a reasonable time.

i) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any part of the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board of Adjustment shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make an order, requirement, decision, or determination that ought to be made. The Board of Adjustment shall have all powers of the official who made the decision.

j) When hearing an appeal pursuant to G.S. 160A-400.9 (e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).

k) The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution.

Section 10-7 Conditional Use Permits. A conditional use permit from the Board of Adjustment is required for all conditional uses.

10-7-1 Application. When a conditional use permit is required by the terms of this Ordinance, application for such permit, along with a fee established by resolution of City Council, shall accompany the application for a building permit.

10-7-2 Preliminary Site Plan. The application for a conditional use permit shall be accompanied by seven copies of a preliminary site plan showing the following:

a) The proposed title of the project and the name of the engineer, architect, designer, landscape architect, planner and/or licensed surveyor, developer and owner of record;

b) The north arrow point, scale at not greater than one inch equals 40 feet, and such information as the names of adjacent roads, streams, railroads, subdivisions or other landmarks sufficient to clearly identify the location of the property;

c) Location of site by an insert vicinity map at a scale no less than one inch equals 2,000 feet;

d) Existing project zoning and zoning of adjacent property, to include properties abutting either side of a public right-of-way;

e) City limits line;

f) Names of adjacent property owners;

g) Boundary survey of site and the location of all existing easements, buildings, rights-of-way or other encroachments;

h) Existing topography and proposed finished contours at not more than five feet intervals, with project bench mark clearly identified. Location of the 100 year floodplain, if applicable. Other significant natural features affecting the site including but not limited to marshes, major rock outcrops and lakes or streams;

i) All proposed streets with proposed names, pavement widths and rights-of-ways. All alleys, drive-ways, curb cuts for public streets and handicap ramps, loading areas, and provisions for off-street parking spaces and sidewalks; calculations indicating the number of parking spaces required and the number provided. All streets shall be clearly identified as public or private; a typical cross-section of the public or private street shall be included;

j) Preliminary utility layout including location and size of existing and proposed water, sanitary and storm sewer lines; proposed location of electrical transmission lines, gas pipelines, street lights, fire hydrants and the location of garbage disposal facilities or a note indicating arrangements for these facilities;

k) Location and size of all entrances and exits to the site showing sight distances and their relation-ship to all street and driveway intersections within 25 feet for driveways and 200 feet for street intersections;

l) A landscape plan showing wood line before site preparation with species and average diameter of trees indicated and areas to be screened, fenced, walled and/or landscaped; also location of buffer strips, if required;

m) Proposed location and intended use of all buildings with their dimensions, the number of floors, total floor area and maximum height above lowest ground point of each building;

n) Notations to include the total project area, the amount and percentage of the site to be covered by buildings, open space, streets and parking;

o) General location, size, height, orientation, and appearance of proposed signs.

As a matter of discretion, the Administrative Officer may require additional items for preliminary site plans, which would be necessitated by conditions such as topography, location and anticipated traffic volumes on or near the site. The requirements may include but not be limited to traffic, noise, visual or fiscal impact studies, architect's models, renderings and other studies or data. In addition, if the Administrative Officer determines that one or more of the above submittal requirements is not applicable to the proposed project, it may be waived.

Upon receipt of an application and site plan, the Administrative Officer shall review same to deter- mine if all required information has been provided or if additional information is needed. If the site plan is insufficient, the Administrative Officer shall notify the applicant in writing of such deficiencies. An application for a conditional use permit will not be scheduled for public hearing until such time as the Board of Adjustment is

in receipt of a complete application and site plan, that is, an application and site plan containing all the information required under this Ordinance.

10-7-3 Public Hearings on Applications for Conditional Use Permits. Once the Administrative Officer is in receipt of a complete application and seven copies of a complete site plan, the Administrative Officer will schedule the application for a public hearing before the Board of Adjustment. The Administrative Officer shall mail or deliver written notice of the public hearing to the person or entity whose application or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The Board of Adjustment shall conduct a quasi-judicial hearing on the application and shall allow any interested party to appear, either in person or by agent or attorney.

10-7-4 Board of Adjustment Action on Applications for Conditional Use Permits. After the public hearing, and on consideration of the record, the Board of Adjustment shall take action on the application, either (1) denying it, (2) approving it, or (3) approving it subject to one or more reasonable and appropriate conditions. The Board of Adjustment shall not approve an application for a conditional use permit, with or without conditions, unless it makes each of the following findings of fact:

a) The proposed use complies with the standards for such use contained in Article XVI;

b) The proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood of such proposed use; and

c) The proposed use will not be detrimental or injurious to property or public improvements in the neighborhood of such proposed use.

Section 10-8 Variances. A variance is a means whereby the City may grant relief from the effect of the Zoning Ordinance in cases of hardship. A variance constitutes permission to depart from the literal requirements of the ordinance.

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of the following:

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

b) The variance is in harmony with the general purpose and intent of the ordinance, preserves its spirit, public safety is secured, and substantial justice is achieved.

c) The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

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

The Board of Adjustment shall not have authority to grant a variance when to do so would: 1) result in the extension of a nonconformity regulated pursuant to Section 6-2, above, or 2) permit a use of land, building or structure which is not permitted within the applicable zoning district classification.

Section 10-9 Processing of Applications Before the Board of Adjustment. An application to the Board of Adjustment pursuant to the terms of this Article, whether it be in the nature of a request for a variance or a conditional use permit or an appeal from an administrative determination, must be received by the Zoning Administrator at least 20 days prior to the date of a Board of Adjustment meeting in order to be scheduled for such meeting.

Section 10-10 Quasi-Judicial Decisions and Judicial Review.

a) The Board of Adjustment shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board of Adjustment's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the Board of Adjustment. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board of Adjustment. The decision of the Board of Adjustment shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

b) Every quasi-judicial decision shall be subject to review by the Superior Court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. A petition for review shall be filed with the clerk of Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first class mail is used to deliver notice, three days shall be added to the time to file the petition.

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ARTICLE XI
AMENDMENTS

Section 11-1 Initiation of Amendments. This Zoning Ordinance, including the Official Zoning Map, may be amended only by the City Council. Changes or amendments may be initiated by City Council, the Planning Board, Board of Adjustment, City Staff, or by one or more private citizens.

Section 11-2 Application.

a) An application for any amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary to be applied, the names and addresses of the owner or owners of the lot in question, the use of each adjacent property and such other information as shall be requested by the Planning Director. Such application shall be filed not less than 30 days prior to the Planning Board's meeting at which the application is to be considered.

b) No application for any change in the zoning regulations applicable to the same property or any part thereof shall be filed until the expiration of one year from the date of final determination by City Council. Provided, however, the one-year waiting period shall not be applicable to the rezoning of all or any part of property previously considered by City Council where the new application requests assignment of a different zoning district classification.

Section 11-3 Fee. A fee shall be paid to the City of Hendersonville for each application for an amendment to cover the cost of advertising and other administrative expenses. The fee shall be determined by a resolution of City Council and may be amended at any time in like manner.

Section 11-4 Standards. The advisability of amending the text of this Zoning Ordinance or the Official Zoning Map is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or disapprove the proposed amendment to the text of this Ordinance or the Official Zoning Map, the City Council shall consider the following factors among others:

a) **Comprehensive Plan Consistency.** Consistency with the Comprehensive Plan and amendments thereto.

b) **Compatibility with surrounding uses.** Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property.

c) **Changed conditions.** Whether and the extent to which there are changed conditions, trends or facts that require an amendment.

d) **Public Interest.** Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare.

e) **Public facilities.** Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment.

f) **Effect on natural environment.** Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife.

Section 11-5 Action by the City Council.

11-5-1 Notice of Public Hearing. No amendment shall be adopted by the City Council until after a public notice and hearing. Notice of the date, time and place of the public hearing shall be published in a newspaper of general circulation once a week for two successive weeks, with the first notice to be published not less than ten nor more than 25 days prior to the date of the hearing.

a) When a zoning map amendment is proposed, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail not less than ten nor more than 25 days prior to the date of the public hearing. The person of persons mailing such notices shall certify to the City Council that fact, and such certificate shall be deemed conclusive in the absence of fraud.

b) The first class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the city elects to use the expanded published notice provided for in this subsection. In this instance, the City may elect to either make the mailed notice provided for in subsection (a) of this section, or may as an alternative elect to publish notice of the hearing in a newspaper of general circulation once a week for two successive weeks, with the first notice to be published not less than ten nor more than 25 days prior to the date of the hearing, provided that each advertisement shall not be less than one-half of a newspaper page in size.

c) When a zoning map amendment is proposed, the City shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. The notice shall be a minimum of 18 inches by 24 inches in size. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the city shall post sufficient notices to provide reasonable notice to interested persons.

11-5-2 Planning Board Action. Before taking any action on a proposed amendment to the Zoning Ordinance, Subdivision Ordinance, or the Official Zoning Map, the City Council shall consider the Planning Board's written recommendations regarding adoption of the amendment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that Board, the City Council may proceed in its consideration of the amendment without the Planning Board report.

11-5-3 Protest Petitions.

11-5-3.1 Effect. In case of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths (3/4) of all members of the City Council. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the Ordinance as a result of annexation.

To qualify as a protest against a zoning map amendment, the petition must be signed by the owners of either 20% or more of the area included in the proposed change or 5% of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to that contrary, the city may rely on the county tax listing to determine the 'owners' of potentially qualifying areas.

11-5-3.2 Petition Form and Requirements. No protest against any change in, or amendment to the Zoning Map shall be valid or effective for the purposes of this section unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the City Clerk in sufficient time to allow the City at least two normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. In addition to the proper owner signatures, a protest petition shall identify each property owner signing the petition by address and by parcel qualifying the property owner to protest. Identification of qualifying parcel shall be by Henderson County Land Records map and parcel identification number. A person who has signed a protest petition may withdraw their name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in this section at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.

11-5-4 Property Owner Consent Under Certain Circumstances. Amendments, modifications, supplements, repeal or other changes in Zoning regulations and restrictions and zone boundaries shall not be applicable or enforceable without the consent of the owner with regard to lots for which building permits have been issued pursuant to NCGS 160A-417 prior to the enactment of the Ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to NCGS 160A-418 and unrevoked pursuant to NCGS 160A-422.

Section 11-6 Scope of Proceedings. It is the intent of this ordinance that applicants for rezoning to any district other than a conditional zoning district shall be prohibited from discussing the specific manner in which they intend to use or develop the property.

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ARTICLE XII
DEFINITION OF TERMS

For the purpose of interpreting this Ordinance, certain words and terms are herein defined. The following words shall, for the purpose of this Ordinance, have the meaning herein indicated.

Section 12-1 Interpretation of Commonly Used Terms and Words.

Words in the present tense include the future tense.

Words used in the singular number include the plural and words used in the plural include the singular unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust and company as well as an individual.

The words "used for" shall include the meaning "designed for".

The word "structure" shall include the word "building".

The word "lot" shall include the words "plot", "parcel", or "tract".

The word "shall" is always mandatory and not merely directory.

The word "map" or "zoning map" shall mean the "Official Zoning Map, City of Hendersonville".

Section 12-2 Definition of Commonly Used Terms and Words.

Accessory Use or Structure: A use or structure on the same lot with, and of nature customarily incidental or subordinate to the principal use or structure.

Accessory Dwelling Unit: A separate and complete dwelling unit which is contained on the same lot as the structure of a single-family dwelling or business.

Adaptive Reuse. The development of a new use for an older building or buildings.

Administrative Officer: The official charged with the enforcement of the Zoning Ordinance.

Adult Care Center: A facility where an individual, agency, or organization provides supervision or care for more than six adults in a place other than their usual place of abode.

Adult Care Home: A home where an individual provides supervision or care for no more than six adults in the individual's home.

Adult Establishment: Any structure or use of land which is an adult establishment as defined in NCGS Section 14-202-10 (or any successor thereto). Provided, however, the term shall not include massage therapy establishments or the provision of massage therapy as regulated under Chapter 16, City Code.

Agriculture: means the use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal husbandry, and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities. The term shall not include agricultural industries such as commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial greenhouses, commercial fish or poultry hatcheries, and other similar activities.

Alley: A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Animal Boarding Facility. A facility whose primary purpose is the boarding of household pets. This term includes animal kennels, which are commercial establishments where the grooming, boarding, training, and selling of animals may be conducted, and animal shelters, which are typically governmental or nonprofit organizations devoted to the welfare, protection and humane treatment of animals. The term shall not be construed to include facilities where the boarding of animals is an incidental use, such as animal hospitals or clinics and pet stores.

Antenna: Communications equipment that transmits and receives electromagnetic radio signals in the provision of all types of wireless communications services.

Antenna, Concealed: An antenna that is designed and erected on or in a building in such a way that it blends in with the existing facade and/or is located such that it is not readily visible to an individual at adjacent street level.

Base Flood: The flood having a 1% chance of being equaled or exceeded in any given year, that is, the 100-year flood.

Bed and Breakfast Facilities: An establishment that supplies temporary accommodations and breakfast to overnight guests for a fee.

Berm: A mound of earth.

Breweries: An establishment that engages in the production of malt beverages as defined in North Carolina General Statue 18B-101.

Broadleaf: Leaves which are broad, not needle or scalelike.

Buffer: A specified land area together with the planting, landscaping and improvements required on the land used to visibly separate one use from another or to shield or block noise, lights or other nuisances.

Buildable Area: The portion of a lot remaining after required yards have been provided.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, materials, or business activity of any kind or nature.

Building, Accessory: A building subordinate to the main building on a lot and used for the purposes customarily incidental to those of the main building.

Building, Height of: The vertical distance measured from the average grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

Building Materials: Any material or inventory which is used for the construction, alteration, or repair of a building or structure and is physically incorporated into the building or structure.

Building Permit: An official administrative authorization issued by the city or the city's designee prior to beginning construction consistent with the provisions of G.S. 160A-417.

Building, Principal: A building in which is conducted the main or principal use of the lot on which said building is situated.

Building, Setback Line: A line establishing the minimum allowable distance between the nearest portion of any building (excluding the outermost three feet of any uncovered porches, steps, eaves, gutter and similar fixtures) and the street or highway right-of-way when measured perpendicularly thereto.

Bus Station: Any premises for the transient housing or parking of motor-driven buses and the loading and unloading of passengers.

Business Services: Establishments primarily engaged in rendering services to business establishments on a contract or fee basis, such as advertising, credit reporting, collection of claims, mailing, reproduction, stenographic, news syndicates, computer programming, photocopying, duplicating, data processing, services to buildings, and help supply services.

Canopy Tree: A tree with a large, broad spreading crown, usually broadleaf and deciduous with a minimum mature height of 40 feet.

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes.

Child Care Center: An individual, agency or organization providing supervision or care on a regular basis to more than six children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

Child Care Home: A facility run by an individual that provides supervision or care on a regular basis in the individual's home for not more than six children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

Cideries, hard: An establishment that engages in the production of hard ciders classified as unfortified wine as defined in North Carolina General Statue 18B-101.

Civic Club: A building and related facilities owned or operated by a corporation, association, or group of individuals established for the fraternal, social, educational, recreational, or cultural enrichment of its members and whose members meet certain prescribed qualifications for membership. Civic clubs by definition shall be limited to those clubs, associations, organizations or corporations which are not operated for profit.

Collocation: The installation of new wireless facilities on previously approved structures, including towers, building, utility poles, and water tanks.

Common Space: Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects.

Community Association: A homeowners association, condominium association, or similar organization, organized to own, maintain and operate common facilities and to enhance and protect their common interests.

Congregate Care Facility: A facility composed of residential and congregate areas and affording health-sustaining services to assist the residents. The residential components shall be considered as self-contained dwelling units as defined in the NC Building Code. The facility shall also have congregate areas for use by or service to the residents which may include dining, recreation and medical areas. In addition, services may be provided such as custodial care, physical therapy, social, and recreation coordination.

Construction Trades Facility: An establishment primarily engaged in construction, including new work, additions, alterations, reconstruction, and repairs. Offices for construction trades which are separate from and do not include construction plants or storage should be classified as offices for purposes of this ordinance.

Cultural Arts Building: A building which may include "live" or legitimate theater, art galleries, museums and/or offices for related groups and societies operated by non-profit organizations. Only incidental retail sales of tickets or admission to displays or performances and sale of refreshments are permitted.

Day Centers: An establishment that provides a combination of case management, resources or a range of like services to aid persons who are primarily indigent, needy, homeless, or transient.

Dish Antenna: A dish antenna, or earth station, or satellite TV antenna is defined as an accessory structure and shall mean a combination of 1) an antenna or dish antenna whose purpose is to receive communication or other signal from orbiting satellites and other extraterrestrial sources; 2) a low-noise amplifier which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and 3) a coaxial cable whose purpose is to carry the signals into the interior of the building.

Dish Antenna Height: The height of the antenna or dish shall be that distance as measured vertically from the highest point of the antenna or dish, when positioned at its lowest angle for operation, to ground level at the bottom of the base which supports the antenna.

Dish Antenna Setback: The setback of a dish antenna shall be measured from the center mounting post supporting the antenna.

Display Area, Outdoor: That portion of a lot used for the display of inventory available for immediate purchase from a business located on that same lot and not in an enclosed building or under a permanent roof structure. For purposes of this definition, the parking or display of vehicles, recreational vehicles, campers, travel trailers, toy haulers, boats, trailers, rental equipment, building materials, bulk landscaping materials, and prefabricated buildings associated with a legally established business, and, salvage building materials [and second hand appliances] displayed for sale on the premises of a commercial enterprise whose principal business is the sale of salvage building materials from stock shall be excluded. Permanent garden centers associated with a retail establishment which are located within a fenced self-contained area shall not be considered outdoor retail display or outdoor retail storage.

Distilleries: An establishment that engages in the production of spirituous liquors or liquors as defined in North Carolina General Statue 18B-101.

District: Any section of the City of Hendersonville or its extraterritorial area in which zoning regulations are uniform.

Dry Cleaning Establishment, Limited: A dry cleaning establishment which occupies a space of no greater than 2,000 ft2 of ground area, has a volume of no more than 40,000 cubic feet, all operations are contained on premises within the structure, which may have a pick-up and drop-off window for customer service and provided the dry cleaning operation and all chemicals related thereto shall be in compliance with all applicable standards and requirements of the Environmental Protection Agency (EPA) and all other applicable agencies.

Dwelling: Any building, or portion thereof, which is designed for living and/or sleeping purposes.

Dwelling, Apartment: A structure of at least two stories where dwelling units are located above other units.

Dwelling, Multi-Family: A building arranged to be occupied by three or more families living independently of each other.

Dwelling, Single-Family Attached: A one-family dwelling attached to two or more one-family dwellings by common vertical walls. No dwelling unit may be located above another unit.

Dwelling, Single-Family Detached: A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.

Dwelling, Two-Family: A building arranged to be occupied by two families living independently of each other, the structure having two dwelling units.

Dwelling Unit: A building, or portion thereof, designed, arranged and/or used for living quarters for one or more persons living as a single housekeeping unit with cooking facilities, but not including mobile homes or units in hotels or other structures designed for transient residence.

Electronic Gaming Operation: Any business enterprise, whether as a principal or accessory use, where persons use electronic machines to conduct games of chance and where money, credit, merchandise or other items or allowance of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. “Electronic Gaming Operation” as used herein shall not include (1) any lottery operated pursuant to NCGS Chapter 18C or any other like operation expressly permitted to operate in North Carolina by applicable statute or (2) any game, machine, operation or device permitted to be operated by virtue of NCGS 14-306(b) or any successor provision.

Evergreen: A plant which has green foliage throughout the year.

Fall Zone: The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Flood Insurance Rate Map (FIRM): An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Food Pantry: A nonprofit establishment that primarily distributes food but may also distribute non-food items and other resources to needy individuals and families.

Food Processing Establishment: A commercial establishment in which food is processed or otherwise prepared for human consumption but not consumed on the premises.

Greenhouse: A permanent structure, designed to protect plants. This structure may or may not have a permanent heating system installed in it. For the purposes of this Ordinance, cold frames (temporary structures covered with plastic or other materials, supported by metal pipes) are included in this definition.

Hazardous Waste Facility: All contiguous land, and structures, other appurtenances, and improvements on the land, used for treating or disposing of hazardous waste. A facility may consist of several treatment or disposal operation units (e.g. one or more landfills, surface impoundments, or combinations of them) (from 15A NCAC 13A - Part 260.10 at (32)).

Home Occupation: An occupation conducted in a dwelling unit provided that:

a) No person other than members of the family residing on the premises shall be engaged in such occupation.

b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the principal structure or one thousand ft2, whichever is smaller, shall be used in the conduct of the home occupation.

c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one ft2 in area, non-illuminated, and mounted flat against the wall of the principal building.

d) No accessory structures or outside storage of materials or equipment shall be allowed in connection with the home occupation.

e) There shall be no sales on the premises in connection with such home occupation.

f) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard or side yard.

g) Only vehicles used primarily as passenger vehicles (passenger automobiles, passenger vans and passenger pick-up trucks, each having a load capacity of one ton or less) shall be permitted in connection with the home occupation.

h) Home occupations may be in operation only between the hours of 7:00 a.m. and 9:00 p.m.

Inventory: Goods, other than farm products, which:

a) Are held by a person for sale or to be furnished under a contract of service;
b) Are furnished by a person under a contract of service; or
c) Consist of raw materials, work in process, or materials used or consumed in a business.

Land Disturbing Activity: Any activity involving the clearing, cutting, excavating, filling, or grading of land or any other activity which alters land topography or vegetative cover.

Lot: A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belong to the same.

Lot, Corner: A lot which occupies the interior angle at the intersection of two street lines. The street lines forming the least frontage shall be deemed the front of the lot except where the two street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning compliance permit.

Lot, Depth: The depth of a lot is the mean distance of the side lines of the lot measured from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot of Record: A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Henderson County, or a lot described by metes and bounds, the description of which has been so recorded.

Lot Width: The distance between side lot lines measured at the building setback line.

Mini-Warehouse: A building containing separate storage units of varying sizes leased or rented on an individual basis for the dead storage of customers' goods.

Manufactured/Mobile Home: A structure, transported in one or more sections, which, in the traveling mode, is eight feet or more in width or is 40 feet or more in length, or when erected on site, is 320 or more ft2 and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein, and which is regulated as outlined in the "North Carolina Regulations for Manufactured/Mobile Homes" published by the NC Department of Insurance.

Manufactured Home Park: A contiguous parcel of land under single ownership which has been developed for the placement of manufactured/mobile homes for non-transient use. This definition shall not include manufactured/mobile home sales lots on which unoccupied manufactured/mobile homes are parking for purposed of inspection and sale.

Manufacturing, Heavy: Any manufacturing other than light manufacturing as defined herein.

Manufacturing, Light: The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in such processes does not exceed 25% of the floor area of all buildings on the property.

Merchandise Gaming Operation: Any game, machine, operation or device permitted to be operated by virtue of NCGS 14-306(b) or any successor provision.

Microbreweries: An establishment that engages in the production of malt beverages as defined in North Carolina General Statue 18B-101. Annual production shall be less than 15,000 barrels.

Miscellaneous Repair Services: Establishments primarily engaged in miscellaneous repair services, such as radio and television repair, refrigeration and air conditioning repair, electrical and electronic repair, reupholstery and furniture repair, watch repair, etc.

Mobile Food Vendor: Are licensed motor vehicles or mobile food units which offer for sale and consumption food and beverages (excluding alcohol). This definition shall not apply to approved vendors during a permitted special event or as an accessory use to an approved primary use.

Motor Freight Terminal: A building or area in which trucks, including tractor or trailer units, are parked, stored, or serviced, including the transfer, loading or unloading of goods. A terminal may include facilities for the temporary storage of loads prior to transshipment.

Neighborhood Community Center: A facility used for recreational, social, educational and cultural activities, owned and operated by a community association, as defined herein, a non-profit corporation recognized as a charitable, religious or education organization pursuant to Section 501c(3) of the Internal Revenue Code, or a public group or agency and integral to and serving the residents of an identified neighborhood. The term shall not include facilities owned or operated by a fraternal organization.

Nonconforming Use: A legal use of a building and/or land that antedates the adoption of future amendments of these regulations and does not conform to the regulations for the district in which it is located.

Nonresidential Floor Area: Nonresidential floor area is the sum of enclosed areas on all floors of a non-residential building or buildings measured from the outside faces of the exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor areas used for access and storage. Not countable as floor area are:

a) Open terraces, patios, atriums, or balconies;
b) Carports, garages;
c) Breezeways;
d) Below-grade areas with no external access which are used for storage.

Nonresidential Floor Area Allowance: Nonresidential floor area allowance (NFAA) is the amount of nonresidential floor area which may be permitted on any lot. It shall be determined by applying the factors for any given zoning district classification to the gross area of a development lying within the roadway corridor and the gross area of any portion of a development lying outside the roadway corridor.

Nursing Home: A facility for chronic or convalescent patients. It is designed to provide long-term care for persons who require medical or nursing care. Nursing homes require skilled nursing personnel and life-support systems and are licensed by the State of North Carolina.

Open Space: The total gross land area on a development site which is not covered by buildings or vehicular use areas. Portions of a development site which qualify as common space, as defined herein, shall also qualify as open space. Open space is essentially unimproved pervious area but does include common space and pedestrian facilities. Minimum open space required shall be the number of square feet derived by multiplying gross land area by the applicable open space ratio (OSR).

Open Storage: Unroofed storage areas, whether fenced or not.

Parking Space: A storage space of not less than nine feet by 18 feet for one automobile, plus the necessary access space. It shall always be located outside the street right-of-way.

Personal Services: Establishments primarily engaged in providing services generally to individuals, such as dry-cleaning and laundry pick-up facilities, portrait photographic studios, beauty and barber shops, seamstress shops, shoe repair shops, and clothing rental shops.

Pet-Sitting: The temporary boarding of no more than six (6) household pets at one time in a dwelling unit.

Planned Unit Development: A residential or commercial development which promotes the efficient and well-planned use of land through unified development while providing the City with open space, compatible uses, optimum service of community facilities and adequate vehicular access and circulation.

Principal Structure: A structure containing the principal or primary use on the lot.

Private Club: Any person, firm, corporation or association, key club, bottle club, locker club, pool club or any other kind of club or association having, possessing or requiring membership and excluding the general public from its premises or place of meeting, or congregating, or operating, or exercising control over any other place where persons are permitted to drink alcoholic beverages, consume food, observe entertainment, live or otherwise, play at video, mechanical or electronic games and/or dance, other than in a private home. Nothing in this definition or elsewhere in this ordinance permits a Private Club to conduct, contain or house an Electronic Gaming Operation in any district in which it is not otherwise expressly permitted by this ordinance.

Public Utility Facility: Any structure or facility transmitting a service provided by a government or public utility, including, without limitation, fire stations, emergency medical service centers, telephone and repeater stations, pumping substations, and water towers, but not including telecommunication towers, antennas, and other telecommunication devices.

Recreational Facilities, Outdoor, Commercial. Any business establishment operating for profit, which is primarily engaged in providing outdoor recreational activities to the general public. “Commercial outdoor recreation” includes such uses as miniature golf courses, skateboard courses, water slides, mechanical rides, fish ranches or other similar uses.

Recreational Facility, Indoors: An establishment providing amusement, entertainment or recreation indoors typically for an admission charge. Types of indoor recreational facilities include, but are not limited to: dance halls, studios, live theater, bands, bowling. An establishment is not an indoor recreational facility under this definition solely because it conducts, contains or houses an Electronic Gaming Operation, whether as a principal or accessory use.

Religious Institutions: To include churches, synagogues, temples, or other buildings or site designated as a place of worship on a continuous, reoccurring basis.

Residential Care Facility: Establishments primarily engaged in the provision of residential, social and personal care for children, the aged and special categories of persons with some limits on ability for self-care but where medical care is not a major element. Such facilities include homes for the aged and infirm and other similar residential care uses not otherwise defined in this ordinance.

Rest Homes: A facility for the care of the aged and infirm whose principal need is a home with such sheltered and custodial care as their age and infirmities require. Medical care is only occasional, such as may be required in the home of any individual. The residents of such homes will not, as a rule, have remedial ailments for which continuing skilled planned medical and nursing care is indicated.

Restaurant: An establishment designed, in whole or in part, to accommodate the consumption of food and/or beverages. Unless specifically noted otherwise, this term shall not include establishments with drive-in or drive-through facilities.

Restaurant with Drive-Through Facility: A building or portion thereof where food and/or beverages are sold, and where a driveway is located so that vehicles may drive up to a window and received food and/or beverages for consumption either on the premises or elsewhere.

Retail Sales, Outdoor: The use of an area not in an enclosed building or under a permanent roof structure for the display of inventory.

Retail Sales, Seasonal Outdoor: Temporary outdoor use of an area for the display of inventory related to a holiday, season of the year or otherwise not offered on a regular basis.

Retail Storage, Outdoor: Outdoor storage of goods for retail sale.

Retail Store: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Such use may process some of the products which it sells so long as such processing is incidental to such retail sales. The term shall not be deemed to include establishments in which the sale of goods or merchandise is incidental to another use, such as junk yards and wrecking yards as defined by NCGS 136-143.

Roadway Corridor: Roadway corridors are areas established adjacent to principal roadways the purpose of which is to assist in establishing the nonresidential floor area allowance for any development. Unless otherwise specified, the roadway corridor shall contain all land situated within 250 feet of the right-of-way line for the roadway.

Salvage Building Materials: Any article or material that has been reclaimed or salvaged from a building or permanent structure and that constituted real property or fixtures at the time of such reclamation or salvage.

Search Ring: The area within which a wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

Setback: An open, unobstructed area that is required by this Zoning Ordinance to be provided from the furthermost projection of a structure to the property line of the lot on which the building is located.

Shelter Facility: A building or group of buildings owned or operated by a governmental or non-profit organization used for the purpose of providing boarding and/or lodging and ancillary services on the premises to primarily indigent, needy, homeless, or transient persons.

Shrub: A woody plant, usually multi-stemmed or well-branched from the base, the branches being retained to the ground. When used for buffer plantings, shrubs must also reach a mature height between four and 15 feet.

Sign: Any outdoor notice containing words, letters, figures, numerals, emblems, devices, trademarks or trade names or combination thereof.

Sign, Advertising: Any sign or display, pictorial or otherwise, including any standard poster panel, painted bulletin or billboard, either free-standing or attached to a structure, which advertises or directs attention to any business commodity, service, entertainment or other activity conducted, sold or offered elsewhere than on the premises on which the sign is located, or which is conducted, sold or offered on such premises only incidentally, if at all.

Sign Area: The area of a sign shall be considered to be that of the smallest rectangular figure which encompasses all lettering, wording, design or symbols, together with any background on which the sign is located and any illuminated part of the sign, if such background or such illuminated part of the sign is designed as an integral part of and related to the sign. Any cutouts or extensions shall be included in the area of a sign, but supports and bracing which are not intended as part of the sign shall be excluded. In the case of a multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction.

Sign, Animated: A sign that uses mechanical, electrical or illuminating devices that blink, flash, flicker, scintillate, scroll, vary in intensity, brightness or color that depicts or gives the appearance of action, motion, movement or rotation.

Sign, Business Identification: A sign which directs attention to a business, commodity, service, entertainment, or other activity conducted, sold or offered on the premises upon which the sign is located.

Sign, Changeable Message: A sign that is designed for displaying words, numbers, symbols, figures, or images that can be changed to indicate a different message.

Sign, Ground: Any sign placed upon or supported by the ground independent of any other structure.

Sign, Monument: A ground sign that is monolithic, with a solid-appearing base that is flush with the ground.

Sign, Off-Premises: Any sign used for the purpose of displaying, advertising, identifying or directing attention to business products, operations or services sold or offered at a site other than the site where such sign is displayed.

Sign, Pole: A ground sign that is mounted on a free standing pole or other support so that the bottom edge of the sign face is six feet or more above grade.

Sign, Portable: Any permanent or temporary sign which is affixed to or placed in or upon any parked vehicle, trailer or other parked device designed or capable of being towed or transported, the primary purpose of which is to direct attention to a business, commodity, service, entertainment or other activity.

Sign, Projecting: A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.

Sign, Roof: A sign that is mounted on the roof of a building or which is wholly dependent for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable or hip roof or the deck line of a building with a mansard roof.

Sign, Wall: A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than 12 inches from such building or structure.

Sign, Window: A sign that is applied or attached to the exterior or interior of a window or located in such manner within a building that it can be seen from the exterior of the structure through a window.

Significant Negative Environmental Impact: (applicable to the PMDCZD District) Any use of a building, structure or land producing an effect, exceeding the following standards:

a) **Electrical Disturbance or Interference**

1) Electrical disturbance that adversely affects any operations or equipment, as measured at the boundary of the zoning lot.

2) Otherwise cause, create, or contribute to the interference with electronic signals (including television, and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

b) **Noise.** Any use generating noise levels greater than 67 decibels (dBa), as measured at the boundary of the nearest residential zoning district.

c) **Vibration.** Any use generating transmitted vibration that is perceptible to the human sense of touch, as measured at the boundary of the zoning lot.

d) **Air Pollution.** Any use that emits any "air contaminant" including any odorous emissions, as defined in NCGS 143-213, that exceeds applicable State of North Carolina standards concerning air pollution.

Special Flood Hazard Area: The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year.

Storage Container: A structure towed or transported by vehicle and used for the storage of goods. The removal of the structure's wheels, if any, or any other alteration to the structure shall not eliminate or change any requirement pertaining to storage containers. For the purposes of this Ordinance, a storage container is considered to be a temporary use.

Storage, Outdoor: The storage of any inventory associated with the primary use, located outside a building and not under a permanent roof structure for a period of time exceeding 48 hours, the storage of which is not accessory to a residential use. For retail uses, outdoor storage areas are not readily accessible to the buying public. For purposes of this definition, the outdoor storage of vehicles, recreational vehicles, campers, travel trailers, toy haulers, boats, trailers, rental equipment, building materials, bulk landscaping materials, and prefabricated buildings associated with a legally established business, and, salvage building materials [and second hand appliances] displayed for sale on the premises of a commercial enterprise whose principal business is the sale of salvage building materials from stock shall be excluded.

Story: A space in a building between the upper surface of a floor and the upper surface of the floor or roof next above; provided, however, that where the floor level of the first story is at least five feet below the adjoining finished grade, the space shall be considered a basement and not counted as a story.

Story, Half: A story under a gable, hip or gambrel roof of which the wall plates on at least two opposite exterior walls are not more than four and one-half feet above the floor of such story.

Street: A dedicated public or private right-of-way for vehicular traffic which affords the principal means of access to abutting property.

Street Line: The dividing line between a right-of-way and the contiguous property.

Structure: A combination of material assembled, constructed or erected at a fixed location, including a building, the use of which required attachment to the ground or to something attached to the ground.

Telecommunications: The transmittal or reception of signals over the airwaves as a commercial or public service, including, without limitation, telephonic, radio, television, cable television, or microwave signals. For

purposes of this ordinance, the term shall not include a non-commercial individual use such as residential television antennas, satellite dishes, or ham radio antennas, or a commercial use that is purely incidental to other business activities of the owner.

Telecommunications Tower: A tower, pole, or similar structure, exceeding 20 feet in height, which supports or incorporates, or is intended to support or incorporate, one or more telecommunications antennas operated for commercial or public purposes above ground, whether freestanding, guyed, or affixed to a building. The term shall include mobile towers.

Telecommunications Tower, Concealed: A telecommunications tower designed and installed in a manner such that the antenna(s), supporting apparatus and associated structures are aesthetically and architecturally appropriate with regards to an existing structure or immediate environment in which the tower is located.

Temporary Use: Any building, structure or use of land which is designated by this Ordinance as temporary in nature and subordinate to a primary building, structure or use of land. A temporary use shall require a building permit issued for a specified period of time given in this Ordinance.

Tower Height: The vertical distance measured from the ground to the uppermost point of the telecommunications tower and any antenna affixed thereto.

Tree: A living, woody, self-supporting perennial plant, ten feet or more in height when mature, usually having a single elongated main stem and distinct crown.

Understory Tree: A small (approximately ten to 25 feet high when mature), usually shade tolerant tree, capable of thriving in the lower light intensities found under the canopy of tall trees.

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

Variance: A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area and size of a structure or size of yards and open space.

Vehicular use area: All portions of a site or property designed to receive vehicular traffic, including parking, driveways, loading or unloading areas, which have an improved surface such as gravel, asphalt, brick, or concrete pavement.

Wineries: An establishment that engages in the production of unfortified wines as defined in North Carolina General Statue 18B-101.

Wireless facility: The set of equipment and network components, exclusive of the underlying support structure of tower, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and telecommunications services to a discrete geographic area.

Wireless support structure: A new or existing structure, such as a monopole, lattice lower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

Yard: An open space on the same lot with a principal building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

Yard, Front: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the street or highway right-of-way line and the front line of the building, projected to the side lines of the lot.

Yard, Rear: An open, unoccupied space on the same lot with the principal building (excluding the outermost three feet of any uncovered porches, steps, eaves, gutters and similar fixtures), extending the full width of the lot and situated between the rear line of the lot and the rear line of the building to the side lines of the lot.

Yard, Side: An open, unoccupied space on the same lot with a principal building (excluding the outermost three feet of any uncovered porches, steps, eaves, gutters and similar fixtures), situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

Zero Lot Line: The location of a building on a lot in such a manner that one of the building's sides rests directly on a lot line.

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ARTICLE XIII
SIGN REGULATION MAINTENANCE AND ENFORCEMENT

Section 13-1 General Sign Compliance. No type of exterior sign may be erected, posted, reposted, placed, replaced, hung, painted, or repainted in any use district except in accordance with this Article. Signs not specifically authorized by these regulations are prohibited. The Board of Adjustment shall not have the authority to grant variances so as to allow prohibited signs to be installed.

13-1-1 Signs not requiring a permit. The following types of signs are allowed in any use district without a permit:

a) Any sign not exceeding 2 ft2 in area and bearing only address numbers, names of occupants or business and professional signs not exceeding 2 ft2 in area.

b) Temporary signs advertising the sale, rental or lease of the property on which said signs are located, provided such signs are non-illuminated and do not exceed two signs per lot, do not exceed four feet in height and do not exceed 4 ft2 per face for property zoned residential or do not exceed eight feet in height and do not exceed 32 ft2 per face for property zoned other than residential. All such signs shall be removed within seven days after the closing of the sale, rental, or lease of the property.

c) Directional signs or information signs of a public or quasi-public nature, not exceeding eight ft2 in area, such as community names, place of worship, meeting place of a civic body, or event of public interest. Signs identifying a residential PRDCZD, Planned Residential Development Conditional Zoning District or subdivision may be erected provided that they do not exceed 24 ft2 in area, are not greater than five feet in height and are only lighted indirectly.

d) Signs for churches or public buildings (including bulletin boards, lighted or unlighted not to exceed 15 ft2 in area. Such signs must meet the yard requirements for the district in which they are located.

e) Signs advertising agricultural products for sale which are produced on the premises, not to exceed 20 ft2 in area.

f) Legal notices, identification, information or directional signs required by governmental bodies.

g) Signs not exceeding six ft2 in area directing and guiding traffic to parking areas on private property but bearing no advertising material.

h) Other signs and devices including plaques, banners, pennants, streamers and posters for a period of not more than two weeks before and after the opening of a new business or sale. The Zoning Department shall be notified of the posting of such signs and devices in order to track the time period. Portable commercial signs are not included in this provision.

i) One construction sign shall be allowed on a construction site provided such sign does not exceed 32 ft2 in area per display face and a maximum of ten feet in height. Construction signs shall not be erected prior to the issuance of a building permit and shall be removed within seven days of the issuance of a certificate of occupancy.

j) Signs which are not visible beyond the boundaries of the lot upon which they are located and/or from any public thoroughfare or right-of-way.

k) Political signs not exceeding three ft2 permitted from 60 days prior to three days following the day of the election.

13-1-2 Signs Requiring a Permit. No sign except those listed in 13-1-1 shall be erected in the PRDCZD, PMHCZD, R-40, R-20, R-15, R-10 or R-6 zoning district classifications nor in corresponding conditional zoning districts, if any. No sign except those listed in 13-1-1 shall be erected in the PCDCZD, RCT, C-1, C-2, C-3, C-4, MIC, CMU, I-1, PMDCZD, PIDCZD, GHMU, HMU, UVCZD, URCZD, MSH or CHMU zoning district classifications, nor in corresponding conditional zoning districts, if any, without a permit obtained from the Administrative Officer. Each application for a permit shall be accompanied by plans which show the following:

a) Identify the proposed site by means of the property owner, location and present use;

b) Show location of the sign on the lot in relation to property lines and existing signs or structures;

c) Show complete structural specifications; and

d) Any additional information needed to determine if such sign will be erected in conformance with the Ordinance.

13-1-3 Sign Location

a) No sign when attached to a building shall project closer than 18 inches to the curb line and it shall be at least ten feet above the level of any sidewalk it may overhang. Painted wall advertising signs are not permitted except in association with a previously-existing painted advertising sign.

b) No sign except those erected for governmental purposes shall be permitted on any public property or right-of-way.

c) Double-faced signs shall be permitted only in areas designated in the Ordinance.

13-1-4 Height of Sign

a) Ground signs, including supports, shall not exceed a height of 12 feet in a residential district.

b) No sign attached to a structure shall project more than ten feet above the top of the exterior wall of such structure at the location of the sign.

c) Free-standing signs, including off-premises signs, shall comply with applicable regulations set forth below.

13-1-5 Animated and Illuminated Signs

a) A sign may be illuminated externally if such illumination is confined to or directed to the surface of the sign, or internally. No animated sign shall be permitted except in the C-2, C-3 and I-1 zoning district classifications or in corresponding conditional zoning districts, if any.

b) For externally illuminated signage, the light source of the signs shall be so designed and shielded that it cannot be seen from beyond the property lines on which the sign is located. Signs illuminated internally by fluorescent bulb, light emitting diodes (LED's), fiber optics, plasma or other similar technology, and neon tubes shall be limited to commercial and industrial use districts.*)*

13-1-6 Business Identification Signs. Each business on a development parcel shall be entitled to install one or more business identification signs on the premises where the business is located so long as the total amount of such signage does not exceed the business identification sign allowance for any building housing one or more businesses. The business identification sign allowance for any such building shall be calculated as follows: one ft2 for each linear foot of the front facade for that business plus one ft2 for each three linear feet of any additional facade which has a door designed and used for public access or 250 ft2, whichever is less. Such signs may be placed on any facade of the building or on awnings, canopies or marquees attached to or closely associated with any such facade. Provided, however, buildings within the Downtown Special Tax District may be determined to have more than one main entrance, as defined herein, in which event the business identification sign allowance for such building shall be one ft2 for each linear foot of the front facade for each main entrance. For a building to qualify for the multiple main entrance allowance, the following criteria must apply:

a) The building must front on two or more streets, each of which has a right-of-way of 30 or more feet;

b) Each entrance shall comply with all relevant building code provisions and shall provide significant pedestrian access to the business or businesses being identified; and

c) Each entrance shall be architecturally designed as a front entrance for the building.

Notwithstanding the foregoing, business identification signs on any given building facade shall not exceed one ft2 for each linear foot of the building facade on which it is located or 250 ft2, whichever is less.

13-1-7 Free-Standing Signs. Each development parcel may include no more than one freestanding sign for each thoroughfare on which the parcel has driveway access, which may be either a business identification sign or, where permitted, an off-premises sign. Free-standing signs must be permanently affixed to the site; portable signs are prohibited.

13-1-7.1 Free-standing business identification signs shall not exceed 70 ft2 in size and 18 feet in height, measured from street grade, for each thoroughfare on which the site has driveway access. For purposes of this paragraph, a development parcel does not include out parcels associated with shopping centers and other multiple-business development sites.

13-1-7.2 Free-standing off-premises signs shall meet the requirements of Section 13-2, below.

13-1-8 Special Requirements for Signs in Downtown Special Tax District. The following special requirements apply to signs in the Downtown Special Tax District.

a) Only one projecting sign per business is allowed.

b) The maximum projection of a sign over the sidewalk shall be no greater than seven feet, but shall not project nearer than 18 inches to the front or side curb line and shall be at least ten feet above the level of any walkway it may overhang.

c) Should lighting be provided, signs shall be lit in such a way as to prevent direct lighting from shining onto streets or adjacent properties. Lighting shall not interfere with the possible residential use of upper floors. No flashing, rotating or intermittent illumination shall be permitted.

d) No permit for a sign shall be issued until it has been reviewed by the, Development Assistance Director or a designee following the guidelines set forth in the Section 13-1-9, below. In order to review the

design, the applicant shall submit a drawing of the sign indicating materials, color, message and dimensions; a drawing or photograph of the building facade and proposed sign location on the building, and a drawing or photograph of the site and adjoining properties' existing graphics. The Development Assistance Director or a designee shall have ten days to review the sign; if it has not been reviewed within this time, then it shall be considered to have been reviewed.

13-1-9 Design Guidelines for Signs in Downtown Special Tax District. The following design guidelines shall guide decisions of the Development Assistance Director, or a designee appointed by the Development Assistance Director, regarding applications for signs in the Downtown Special Tax District.

a) Signs should be regarded as an integral and complimentary element of the overall architectural and streetscape composition and should be integrated with the buildings and landscape design.

b) Signs should not obscure distinctive architectural features, such as cornices and windows.

c) Signs should be placed so they fit into the originally designated areas on the building, such as above the first floor lintel, or on the transom, or on the wall space above the storefront.

d) Signs projecting out from the building should be hung just above the lintel.

e) Signs should not be so large that they overwhelm the building.

f) Signs on a single building should provide a coherent and harmonious appearance.

g) Signs are encouraged to be at a consistent height along the street, so they respect the existing "sign line" established by signs on adjacent stores.

h) Signs are encouraged to coordinate with neighboring store fronts, so that the sign relates well to its own storefront as well as to other signs and storefronts along the block.

i) The Development Assistance Director or a designee shall judge signs according to style, color, location, ornamentation, materials, and the architecture of the building on which it is to be placed. In order to review the design, the applicant shall submit a drawing or photograph of the site and adjoining properties' existing graphics.

13-1-10 Noncommercial Messages. Any sign, display, or device allowed under this Article and which complies with size, lighting, and spacing requirements of this Article may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale.

Section 13-2 Advertising Sign Regulations. In addition to the general regulations and standards set forth in Section 13-1, all advertising signs shall comply with the regulations of this section.
[By ordinance #99-0657, adopted 6-17-99, no new outdoor advertising signs shall be permitted within the planning jurisdiction of the City.]

13-2-1 Permits. All outdoor advertising signs shall have a permit from the Administrative Officer prior to any construction, erection, structural alteration or site preparation.

13-2-2 Permitted Use Districts. Outdoor advertising signs shall be permitted only in the C-3 and I-1 use districts.

13-2-3 Spacing. The spacing requirements for advertising signs shall apply to advertising signs located on the same side of the street, road or highway. Advertising signs shall be spaced so that no such sign structure shall be placed closer to the next adjacent advertising sign structure than the minimum distance as herein defined.

The minimum spacing required for any advertising sign adjacent to an advertising sign measuring 300 ft2 or larger shall be 500 lineal feet. The minimum spacing required for adjacent advertising signs measuring less than 300 ft2 shall be 300 lineal feet. The minimum spacing distance shall be measured horizontally between the closest points of any two such signs. If adjacent signs have different sign face areas on each side of the sign structure, the larger sign face area shall be used in calculating the minimum spacing distance between the signs.

13-2-4 Setbacks. Setbacks for advertising signs shall be measured horizontally from the adjacent edge of the right-of-way to the nearest edge of the sign structure, provided that no part of the sign or sign structure shall encroach upon a public right-of-way. Where property abuts more than one street or road, signs shall be set back an equivalent distance from each roadway no less than minimum setback required for the sign size.

13-2-5 Maximum Sign Height. Maximum sign height shall be measured from the existing street grade to the uppermost point on the sign structure.

13-2-6 Minimum Sign Height. Minimum sign height shall be measured from the existing street grade to the lowest point on the horizontal portion of the sign structure. Minimum sign heights are not required if advertising signs are set back in accordance with Section 13-2-4 and Table 13A.

13-2-7 Number and Arrangement of Signs on a Sign Structure. No sign structure shall be permitted to have more than one sign face per side.

13-2-8 Maintenance and Enforcement. In addition to provisions of this section, all advertising signs shall comply with the provisions of Section 13-3 of this Ordinance.

13-2-9 Sign Size, **Height and Setback Requirements.** Regulations governing the maximum sign size, setbacks and maximum and minimum heights are shown on Table 13A.

13-2-10 Nonconforming Off-Premise Signs (Amortization). All nonconforming outdoor advertising signs shall be discontinued or made conforming (amortized) within five and one-half (5½) years from the effective date of this section unless explicitly prohibited by state statute. All outdoor advertising signs which are made nonconforming by an amendment to this Article or to the official zoning map, or extension of the areas in which this section is applicable shall be discontinued or made conforming (amortized) within five and one-half (5½) years after the date of such amendment or extension, unless explicitly prohibited by State Statute. *[This section became effective the fourth day of June, 1987.]*

Section 13-3 Maintenance and Enforcement.

13-3-1 Maintenance Requirements. The following maintenance requirements must be observed for all signs visible from all public street or highway within the jurisdiction of this Ordinance:

a) No sign shall be in a state of disrepair where more than 20% of its surface area is covered with disfigured, cracked, ripped or peeling paint or poster paper.

b) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts, or be allowed to stand more than 15 degrees from the perpendicular.

c) No sign shall be allowed to have weeds, trees, vines or other vegetation growing on it or obscuring it from the street or highway from which it is intended to be viewed.

d) No neon or internally illuminated sign shall be allowed to stand with only partial illumination.

13-3-2 Authority of the Administrative Office. To enforce the regulations set forth in this Ordinance, the procedures and penalties outlined in Section 9-6 and 9-7 shall be used.

Section 13-4 Nonconforming Signs.

a) After the effective date of this Ordinance, it shall be unlawful for any person to erect, construct or place any sign which does not conform to the requirements set out herein on any parcel of real property within the jurisdiction of this Ordinance.

b) Any advertising sign or business identification sign which is not specifically prohibited and is permanently affixed to a building, structure or the ground, which is nonconforming because of its height, size, setback or location shall be allowed to continue and shall be maintained as provided for in the preceding sections, but shall not be:

1) Changed to another nonconforming sign;

2) Structurally altered (except to meet safety requirements);

3) Altered so as to increase the degree of non-conformity of the sign;

4) Expanded;

5) Re-established after its discontinuance for 60 days;

6) Continued in use after cessation or change of the business or activity to which the sign pertains; or

7) Re-established after deterioration, damage, destruction or voluntary demolition if the cost of reconstruction exceeds 60% of the replacement cost of a sign of comparable quality.

Regulations for Advertising signs - Table 13A

Permitted Sign Area** (in ft^2)	Streets & Highways Where Outdoor Advertising Signs Are Permitted	Required Setbacks from Streets and Highways **	Maximum Permitted Height of Sign Structure	Minimum Permitted Height of Sign Structure
0 to 72	All streets and highways	10	25	None
73 to 380	All streets and highways	20	35	15

** All setbacks shall be measured from the edge of the right-of-way to the nearest edge of the sign structure.

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ARTICLE XIV
COMPREHENSIVE PLAN

Section 14-1 Role of the Comprehensive Plan. It is the intent of the City of Hendersonville to administer this Zoning Ordinance in accordance with the City's current, adopted Comprehensive Plan. This means that any decisions made under this Ordinance must comply with the Comprehensive Plan, as it may be amended from time to time. The Comprehensive Plan sets forth the goals and policies which serve as the basic policy guide for development in the City of Hendersonville and its extraterritorial jurisdiction. These goals and policies may be amended from time to time to meet the changing requirements of the City and its extraterritorial jurisdiction.

Section 14-2 Amendments to the Comprehensive Plan. Amendments to the Comprehensive Plan may be initiated at any time and shall be made in accordance with the following procedures:

a) An amendment to the Plan may be adopted only by City Council, either on its own initiative or at the request of the Planning Board or any other person or agency.

b) Requests to amend the Comprehensive Plan shall first be reviewed by City Council. If Council is willing to consider the proposed amendment, it will refer the matter to Planning Board which shall make a recommendation thereon to Council.

c) City Council shall hold at least one public hearing on each amendment or group of amendments initiated. Notice of the public hearing shall be provided and the public hearing shall be conducted in accordance with Section 7-4-9 of this Ordinance. Nothing in this chapter shall be construed as preventing this public hearing from being held at the same meeting as a public hearing for the rezoning of a particular tract or parcel affected by the amendment. In cases where a public hearing on the zoning amendment is to be held at the same time as the public hearing on the amendment to the Comprehensive Plan, the notice of the public hearing shall state that both issues shall be considered at the hearing.

d) Upon receiving the recommendation of the Planning Board, City Council may:

1) Adopt the proposed amendment;

2) Revise and adopt the proposed amendment;

3) Reject the proposed amendment;

4) Refer the matter back to the Planning Board for further consideration or hearing; or

5) Conduct an additional hearing on the proposed amendment.

e) In deciding whether to adopt a proposed amendment to the Plan, the City Council shall consider whether the amendment is necessary or desirable and whether it will promote the health, safety, and welfare of the City of Hendersonville.

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ARTICLE XV
BUFFERING, SCREENING & LANDSCAPING

Section 15-1 Purpose and Intent. The City of Hendersonville has an abundant and diverse tree and vegetative cover that contributes to the aesthetic value of the City and provides numerous ecological and economic benefits. The landscaping, buffering and screening standards set forth below require landscaping in certain circumstances and locations in order to:

a) Encourage the preservation of existing trees and vegetation and replenish removed vegetation;

b) Improve the visual quality of the City of Hendersonville and minimize potential negative impacts of development such as noise, dust, glare of lights, parking lots, traffic, heat, overcrowding, and odor;

c) Provide environmental benefits such as climate modification, decreased energy consumption, reduced stormwater runoff, decreased erosion, improved water and air quality, and protection of wildlife habitat;

d) Provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development and preserve the character and value of a property and provide a sense of privacy;

e) Improve standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of Hendersonville while allowing flexibility to promote well designed and creative landscape plantings;

f) Require the maintenance of landscaping installed to meet the requirements of these standards to ensure that the landscaping continues to thrive and enhance the visual quality of the City of Hendersonville.

Section 15-2 Landscaping, Buffering and Screening Required. Landscaping, buffering and screening shall be required for developments within the planning jurisdiction of the City of Hendersonville, including its extraterritorial jurisdiction, as set forth herein.

a) The following developments must bring the entire site into full compliance with the requirements of this Article:

1) Any new public or private development with the exception of single or two-family homes;

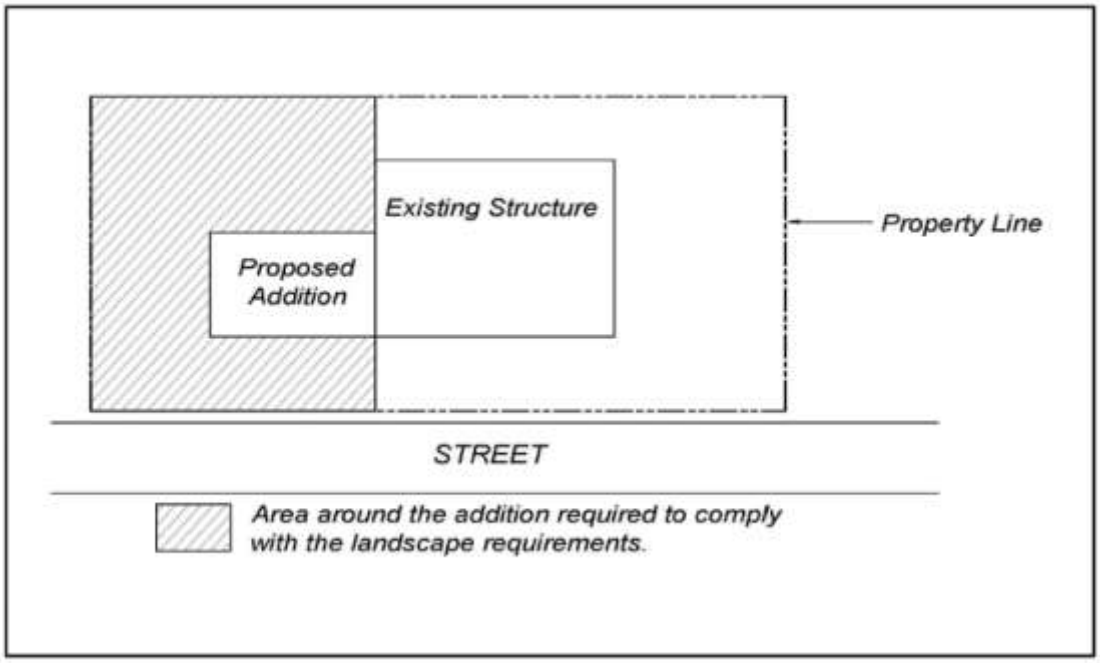
2) A change of use to a higher impact. For purposes of this section, the following list ranks differing uses from lowest to highest impact: residential, mobile home park, institutional & cultural, commercial, industrial;

3) Renovations with a total cost exceeding 50% of the assessed value of the building according to Henderson County tax records or an appraisal by a state licensed appraiser;

4) Expansions exceeding 50% of the pre-expansion floor area or paved surface;

5) Existing unpaved parking lots which are paved over.

b) Expansions or additions that are less than 50% of the pre-expansion floor area and/or pavement surface must meet the landscaping requirements only in the area around the addition which is parallel to any edge of the expansion area and extending to the property line or street pavement edge.



Section 15-3 Alternative Compliance. The landscape requirements are intended to set minimum standards for quality development and environmental protection and are not intended to be arbitrary or inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternate method of compliance with the landscape requirements. The reviewing authority, as specified in Article VII, above, may alter the requirements of this section as long as existing or added landscape features of the development site comply with the intent of this article. Requests for alternative compliance shall be accepted if one or more of the following conditions are met:

a) Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements;

b) Space limitations, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding neighborhood (such as use of a specific type of vegetation) may justify alternative compliance when changing the use type of an existing building in an established mature neighborhood or when developing in an historic district; or

c) An alternative compliance proposal is equal or better than normal compliance in its ability to fulfill the intent of this article and exhibits superior design quality.

Section 15-4 Existing Vegetation.

a) **Preservation of Existing Vegetation.** Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to a proposed development. It is recommended that groups of trees be preserved, as well as individual trees. Existing preserved trees and shrubs may be credited towards required buffer trees, street trees, and parking lot trees, in accordance with paragraph b), below.

b) **Credits and Other Incentives to Preserve Vegetation.** Preserved trees may be credited at the following rate:

2 – 6 inch caliper tree = 1 tree
7 – 12 inch caliper tree = 2 trees
13 – 18 inch caliper tree = 3 trees
19 – 24 inch caliper tree = 4 trees
25+ inch caliper tree = 5 trees.

In order to receive credit, preserved vegetation must be in good health and condition. Trees designated to be preserved must be indicated on the site plan and on landscape and grading plans. Protective barriers, if utilized in accordance with paragraph c), below, must also be shown on the landscape and grading plans. A preserved tree shall be replaced with the total number of trees which were credited to the existing tree under the following circumstances: a) when the developer has elected to protect existing trees during construction in accordance with paragraph c), below, if the preserved tree dies within five years of completion of the project; b) when the developer has not elected to protect existing trees in accordance with paragraph c), below, if the preserved tree dies within ten years of completion of the project.

c) **Protection of Existing Trees During Construction.** The regulations contained in this paragraph shall apply in those circumstances when a developer has elected to protect trees during construction and, thus, after the passage of five years, be excused from the requirement to replace preserved trees.

1) No grading or other land-disturbing activity can occur on a site with existing trees which are designated to be preserved in order to meet landscaping requirements until protective barriers are installed by the developer and approved by the Development Assistance Director or a designee appointed by the Development Assistance Director. Trees designated for preservation which are counted toward the landscape requirements must be protected by barriers, while trees designated for preservation which do not count toward the landscape requirements are encouraged to be protected by barriers. The diameter of the preserved trees and the location of protective barriers must be shown on landscape and grading plans with the dimension between the tree trunk and barrier indicated.

   Barricades shall be placed around the critical root zone of preserved trees that are within 50 feet of any grading or construction activity. The critical root zone is a circle extending around the tree with a one-foot radius for every one inch of tree diameter. For example, a ten-inch diameter tree would have a barricade surrounding it, erected ten feet away from the trunk. All protective barriers must be maintained throughout the building construction process.

   Protective barriers shall consist of either:

   A) A fence which is at least three feet high and constructed in a post and rail configuration, using two-by-four posts and one-by-four rails; or

   B) A fence with two-by-four posts placed no farther than ten feet apart covered with a four-foot orange polyethylene laminar safety fencing.

2) All contractors must be made aware of the areas designated for protection. No disturbance can occur within the tree protection areas including the following:

   A) Grading;

B) Filling, unless an aeration system, certified by a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist, is installed to protect the tree from suffocation;

C) Parking;

D) Storage of debris or materials, including topsoil;

E) Disposal of hazardous wastes or concrete washout; and

F) Attaching of nails, ropes, cables, signs, or fencing to any tree designated for preservation.

If any area within the critical root zone will be disturbed for any reason, a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist must recommend measures to minimize any potential impact and certify that the activity will not damage the tree under normal circumstances.

3) The developer should coordinate with utility companies early in the design process to resolve potential conflicts about the placement of utilities and landscape requirements. Utilities must either be placed outside of the tree protection area or, with Planning Department approval, tunneled at least two feet directly below the tree roots, to minimize root damage.

4) If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of a tree protection zone in order to prevent sediment from accumulating in the critical root zone area.

d) **Trees in Public Rights-of-Way.** Trees located in any public right-of-way cannot be pruned or removed without a permit from the Public Works Department in accordance with the City of Hendersonville Tree Ordinance.

Section 15-5 General Standards. The following general standards shall apply to all landscaping requirements in this article.

a) Unless otherwise specified, the exact placement of required plants and structures shall be the decision of the developer. The type of plants used shall be limited to those on the approved "Species List" which shall be published and revised from time to time by the Planning Director in consultation with the Tree Board. Required landscaping shall be designed in such a manner as to impart its aesthetic character when viewed from any area accessible to the public or from adjacent properties.

b) **Plant Material.** Plant materials used for installation shall conform to the standards established by the American Association of Nurserymen in the "American Standard for Nursery Stock," for each type (i.e., canopy tree, shrub, etc.) with minimum size as appropriate for the minimum caliper size designated in paragraph a), above. Grass sod, when made a part of a buffer, must be healthy, clean and reasonably free of weeds, noxious pests or diseases.

c) **Installation.** All landscaping/screening shall be installed in a sound, workmanlike manner and according to accepted good planting procedures with the quantity and quality of plant materials as described. All elements of landscaping shall be installed so as to meet all other applicable ordinances and code requirements.

d) **Maintenance.** The owner, occupant, tenant and the respective agent of each, if any, shall be jointly and severally responsible for the maintenance of all buffer and landscaping. Buffers and landscaping shall be maintained in a good condition so as to present a healthy, neat and orderly appearance at least equal to the

original installation and shall be kept free from refuse and debris. Dead vegetation and landscaping material shall be promptly replaced with healthy, living plantings. Evergreen hedges shall be trimmed annually or as needed to provide a full visual screen and, in any event, shall not be allowed to exceed eight feet in height without written approval of the Zoning Administrator.

e) **Walls and Fences.** Any walls used for screening or as part of a buffer shall be constructed in a durable fashion of brick, stone, or other masonry materials. When concrete block is utilized, it shall be finished with stucco on both sides. Wood posts and planks or metal or other materials specifically designed as fencing materials may be approved by the Zoning Administrator for use in a Type C Buffer. Other materials may also be considered through the alternative buffer and screening process described in Section 15-3. No more than 10% of the surface of a fence or wall shall be left open and the finished side of the fence or wall shall face the abutting property. A chain link fence may not be used to satisfy the requirements of this Article.

f) **Overhead Utilities.** Landscaping plans, including plant spacing and species selection shall be such that landscaping required under this article does not conflict with overhead utilities.

g) **Species Diversity.** When the total number of trees required under the provisions of this article equals 20 or more, then no single tree species shall comprise more than 25% of the trees planted on the development site.

Section 15-6 Bufferyards. Certain land uses may create an adverse impact when developed adjacent to other less intensive land uses. A bufferyard is a permanent unit of land together with plantings and structure(s), if any, which is designed to ameliorate such adverse impacts. Bufferyards, as required in this section, shall be depicted on any site plans reviewed under this ordinance and shall be depicted and described on drawings submitted for the purpose of zoning compliance review. Unless deferred pursuant to a letter of compliance issued under Section 15-8, below, buffers shall be emplaced and approved prior to issuance of any certificate of occupancy for the development.

a) **Location of Buffers.** Buffers shall be located on lot or parcel boundary lines. Buffers shall not be located on any portion of an existing public or private street or right-of-way, whether opened or unopened.

b) **Determination of Buffer Requirements.** To determine a buffer required between two adjacent parcels or between a parcel and a street, the following procedure shall be followed:

1) Identify the proposed land use;

2) Identify the use or, if vacant, the zoning district classification, of land adjacent to the proposed use;

3) Determine the buffer required on each boundary (or segment thereof) of the subject parcel by referring to the following Table of Buffer Requirements. This specifies the buffer required between proposed land uses and existing adjacent land uses or zoning districts.

TABLE OF BUFFER REQUIREMENTS

Proposed Land Use	**Existing Land Use /Zoning District[1]**				
	Residential[2]	Mobile Home Park[3]	Institutional & Cultural[4]	Commercial[5]	Industrial[6]
Residential	X	X	X	X	X
Mobile Home Park	10-foot B	X	8-foot A	10-foot B	X
Institutional & Cultural	10-foot B	8-foot A	X	X	X
Commercial	10-foot B	10-foot B	8-foot A	X	X
Industrial	25-foot C	25-foot C	15-foot B	15-foot B	X

Notes for Table of Buffer Requirements:

1 Buffering is required if adjacent parcel of land is used or zoned for the category noted regardless whether adjacent parcel is located in the City, the City's extraterritorial jurisdiction (ETJ), or the planning jurisdiction of another governmental entity. Existing adjacent land use takes precedence over zoning district. Buffer requirement for the district will be used if adjacent land is vacant.

2 Includes the following use districts: R-40, R-20, R-15, R-10, R-6, RCT, PRD.

3 Includes the PMH district or an existing mobile/manufactured home park.

4 This category includes religious, recreational, child care and educational uses and the following use districts: MIC and PID.

5 Includes the following use districts: C-1, C-2, C-3, C-4, PCD, CMU, GHMU, HMU, UV, UR and CHMU.

6 Includes the following use districts: I-1, PMD.

c) **Buffer Specifications.**

1) The following schedule sets forth the specifications of each of the buffers included in the Table of Buffer Requirements. Unless noted differently, the column entitled Planting Requirements refers to number of individual plants required per 100 linear feet of the buffer. The column entitled Size Requirements refers to the minimum size of individual plants at the time of planting. Unless otherwise noted, dimensions refer to height.

Type of Buffer	Planting Requirements per 100 Linear Feet	Size Requirements
A	3 broadleaf canopy trees 20 evergreen shrubs (4-foot centers 25 flowering shrubs	5-6 feet 18-24 inches 12-18 inches
B	4 broadleaf canopy tree 25 evergreen shrubs (4-foot centers) 33 flowering shrubs	1 1/2 - 1 3/4 inch caliper 18-24 inches 18-24 inches
C	4 broadleaf canopy tree 10 understory trees 33 flowering shrubs berm fence or wall on top of berm	1 3/4 -2 inch caliper 5-6 feet 18-24 inches 6 feet 8 feet
X	No buffer required	Not applicable

2) For type A and B buffers, the developer may, at their option, substitute a masonry wall for the evergreen shrubs. A wooden fence may be incorporated into a buffer but shall not be allowed to substitute for evergreen shrubs.

d) **Use of Buffer.** If approved by the Planning Department, a buffer may be used for passive recreation; however, no plant material may be removed and such use shall not be a nuisance.

e) **Buffers Part of Required Yards.** Where front, side and rear yards are required by this Ordinance, buffers may be established within such required yards.

f) **Buffer Requirements when a Street Separates Incompatible Uses.** If a street with right-of-way of less than 30 feet lies between two land uses which would require a bufferyard between them, a buffer shall be required along the affected side or rear property lines of the developing use. No bufferyard is required along the front property line.

g) **Bufferyards in the Central Business District.** In order to preserve and promote existing development patterns within the Central Business District, the bufferyard requirements of Article XV shall not apply within the Central Business District.

Section 15-7 Screening. These screening requirements shall apply to any development or use other than single-family or two-family residences. A buffer as specified in this Article may be used to meet the requirements of this Section. Where practicable, the following uses must be screened from abutting property and from public view from a public right-of-way or a parking lot:

a) Dumpsters or trash handling areas;

b) Utility structures associated with a building;

c) Loading docks or spaces;

d) Outdoor storage of materials, stock and equipment, which shall not include the display of goods for sale; and

e) Any other uses for which screening is required under this Ordinance.

As far as practicable, any screening used to comply with the provisions of this Section shall consist of a planting area which is at least five feet wide. This area may contain any type screening materials sufficient to separate visually the land uses, provided such materials meet the requirements of this Article. If only a wall or fence is used, then the area devoted to the screen need only be wide enough to accommodate the wall or fence and allow for its maintenance. Where practicable, screening shall be designed and maintained in such a manner as to conceal the use from view from the street, from vehicular use areas, and from adjoining properties.

Section 15-8 Letter of Compliance. It is recognized that land development occurs continuously and that vegetation used in buffers should be planted at certain times of the year to ensure the best chance of survival. In order to ensure compliance with this article and to reduce the potential expense of replacing buffering, landscaping or screening materials which were installed in an untimely or improper fashion, a letter of compliance must be filed with the Zoning Administrator at the time of zoning compliance review. A letter of compliance will allow the issuance of a conditional certificate of occupancy. This letter will acknowledge that the applicant for a certificate of zoning compliance is aware of any buffer, landscaping or screening requirements which may apply to their property and that the applicant will comply with those requirements by a specific date, generally to be within the next planting season, but in no case more than one year after the completion of construction of that portion of the project or building for which the certificate was issued. In no event shall a final certificate of occupancy be issued prior to emplacement and approval of the required buffer, landscaping or screening. Failure to comply with the provisions of this section within the time noted in the letter of compliance will be a violation of the Zoning Ordinance.

Section 15-9 Landscaping for Vehicular Use Areas. Trees and shrubs are required in and around vehicular use areas with more than six spaces to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, reduce glare from vehicular use areas, and to help filter exhaust from vehicles.

a) **Perimeter and Interior Plantings.** Vehicular use areas must be planted with at least one tree and two shrubs for every 4,000 ft2 of vehicular use area, which includes parking spaces, aisles, driveways, and loading areas. Trees shall be spaced so that no parking space is more than 63 feet from a tree. At least 75% of the required parking lot trees must be broadleaf canopy trees. Trees and shrubs must be planted within 20 feet of the vehicular use area to count as parking lot landscaping; provided, however, all street trees required by other provisions of this Zoning Ordinance shall count as parking lot landscaping.

When a development contains 20 or more parking spaces, 50% of the trees and shrubs required by paragraph a), above, must be planted in islands or medians located within the parking lot. Tree islands shall be evenly distributed throughout the parking lot in order to provide an even tree canopy throughout the lot. At a minimum, such tree islands shall consist of an area at least equal in size to two parking places side-by-side (360 ft2). Parking bays shall be broken up with landscaped islands or medians to avoid long monotonous rows of parking. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow.

At the time of planting, trees and shrubs required in this section shall meet the following minimum size requirements:

1) Broadleaf canopy trees: one and one-half to two-inch caliper;

2) All other trees: five to six feet in height;

3) All shrubs: height or spread of 18 to 24 inches.

b) **Planting Strips.** When a vehicular use area lot is located within 100 feet of an abutting property and no bufferyard is required, a planting strip which is a minimum of five feet wide shall be planted between the vehicular use area and the abutting property, except along approved driveway openings which run perpendicular to the planting strip. One large evergreen or deciduous tree and five evergreen or deciduous shrubs shall be planted for every 40 linear feet of property line that parallels the vehicular use area. Fifty percent of these trees and shrubs may be counted toward the parking lot trees and shrubs required in paragraph a), above, if the planting strip is located within 20 feet of the vehicular use area. Adjacent businesses on separate lots which share parking or driveways shall be exempt from this requirement

provided that the required planting strip would interfere with the reasonable use of the shared parking or driveway. Vehicular use areas located behind buildings and screened from view from public rights-of-way shall be exempt from this requirement.

c) **Buffering from Street.** Vehicular use areas greater than 4,000 ft2 any portion of which is located within 50 feet of the right-of-way of a street must be buffered from the street. The buffer shall be at least three feet high at maturity and can consist of plant material alone, or berms, fences, walls, or grade changed combined with plant material. A vegetative buffer shall consist of at least one evergreen or deciduous shrub planted for every five linear feet of buffer required. If a fence or wall is used, it must be constructed of wood, brick, stone or other masonry and be architecturally compatible with the proposed structure. Seventy-five percent of the fence or wall must be opaque with any spaces evenly distributed. The finished side of the fence or wall shall face the street. At least one shrub shall be planted on the street side for each eight linear feet of fence or wall. Berms and grade changes must be completely covered with vegetation. All shrubs planted can count toward the parking lot landscaping requirements.

d) **Structured parking facilities.** Structured parking facilities, or parking decks, shall be excused from the parking lot landscaping requirements contained in this section but shall comply with the provisions of this paragraph. In the event that any openings for ventilation, service, or emergency access are located at the first floor level in the building facade, then they shall be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances shall be designed to minimize visibility of parked cars. The remainder of street level frontage shall be either commercial space or an architecturally articulated facade designed to minimize the visibility of parked cars. All levels of a structured parking facility shall be designed and screened in such a way as to minimize visibility of parked cars. In no instance will rails or cabling alone be sufficient to meet this screening requirement.

The design elements of this paragraph shall only apply to building facades which are visible from a public right-of-way.

e) **Automobile Sales Facilities.** Automobile sales facilities, due to the fact that inventory is typically stored and displayed for sale on vehicular use areas, require separate analysis with regard to the parking lot landscaping requirements in this section. Automobile sales facilities are, accordingly, exempted from the need to comply with interior parking lot landscaping requirements for that portion of an automobile sales facility utilized exclusively for the display of goods for sale. Automobile sales facilities are required to comply with the perimeter and planting strip requirements of this section; provided, however, such facilities shall be permitted one display area, which shall not be required to be screened, for each 100 feet of roadway frontage. Each display area shall extend no more than 50 feet in length.

f) **Effect on Other Regulations.** Areas devoted to meeting the landscaping requirements of this section may count toward the common open space requirements contained in Section 6-16, above. Where site characteristics and development considerations make it prudent and feasible, landscaping proposed to meet the requirements of this section may also contribute toward meeting the buffering and screening requirements contained in this article.

g) **Small lots.** Small lots, defined as lots with less than 100 feet of frontage on a roadway or with less than 100 feet of depth, may have site constraints which make strict compliance with the regulations contained in this section a hardship. In such cases, the approving authority for the City may approve deviations from such regulations so long as the plans of development are consistent with the goals and objectives stated herein.

Section 15-10 Buffer Requirements When a Street Separates Incompatible Uses. If a street with right-of-way of less than 30 feet lies between two land uses which would require a bufferyard between them, a buffer

shall be required along the affected side or rear property lines of the developing use. No bufferyard is required along the front property line.

Section 15-11 Bufferyards in the Central Business District. In order to preserve and promote existing development patterns the bufferyard requirements of Article XV shall not apply within the C-1 Central Business District.

Section 15-12 Special Provisions Regarding Residential Dwellings in Nonresidential Zoning Designations. Residential uses developed after January 8, 1998 and situated in areas zoned C-2, C-3, C-4 or I-1 shall receive special treatment with regard to these buffering, screening and landscaping regulations. They shall be treated as if they were commercial uses, if located in a commercial designation, or industrial uses, if located in an industrial designation, for the purpose of determining what buffering requirements will be imposed on adjacent uses which develop subsequent to such residential uses.

Section 15-13 Special Provisions Regarding Open Space Landscaping in Mixed Use Districts. In addition to all other landscaping required by this Zoning Ordinance, each development parcel in a mixed use zoning district shall contain a minimum of one tree and five shrubs for every 4,000 ft2 of open space on such development parcel. A minimum of 50% of the trees shall be canopy trees.

At the time of planting, trees and shrubs required in this section shall meet the following minimum size requirements:

(a) Broadleaf canopy trees: one-and-one-half to two-inch caliper;

(b) All other trees: five to six feet in height;

(c) All shrubs: height or spread of 18 to 24 inches.

No landscaped area shall be constructed with more than 10% of the total area of gravel, stone, concrete, asphalt, or other similar material, excepting necessary walks and vehicular use areas.

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ARTICLE XVI
SPECIAL REQUIREMENTS FOR CERTAIN USES

Section 16-1 Purpose. This article provides for the regulation of certain land uses which, because of their nature or locational requirements, demand additional unique standards in order to be compatible with other permitted or conditional uses within the relevant zoning district.

Section 16-2 Applicability. These standards apply to a particular use only when it is designated as a conditional use, conditional zoning district or a "permitted use subject to special requirements" in any particular zoning classification. They do not apply when a use is a permitted use that is permitted by right. In such a situation, the general development standards contained in Article VI and the applicable district standards will guide development and use. It is important to note this distinction because the same use may be a conditional use or a permitted use subject to special requirements in one zoning classification, in which case the standards contained in this article would apply, and a permitted use in another classification in which case they would not.

The standards contained in this article also serve as minimum requirements for developments undergoing rezoning to a conditional zoning district; provided, however, nothing herein shall be construed to limit applicants from proposing, and City Council from approving, plans which exceed these standards.

Section 16-3 Procedures for Applying Standards. This article does not distinguish between standards on the basis of procedural review. Please refer to the appropriate zoning classification to determine if the proposed use is a conditional zoning district, a conditional use or a permitted use subject to special requirements. If it is a conditional use, then a conditional use permit must be obtained from the Zoning Board of Adjustment in accordance with Article X, above. If the proposed use is a conditional zoning district or a permitted use subject to special requirements, then the standards will be applied during the applicable development review procedure in accordance with Article VII, above.

Section 16-4 Standards. As stated herein, the following standards apply to the indicated use when such use is either a conditional zoning district, a conditional use or a permitted use subject to special requirements. These standards are in addition to other applicable development standards contained in this ordinance.

16-4-1 Accessory Dwelling Units.

a) Accessory dwelling units may only be situated on a lot on which a principal residential dwelling unit is also situated and shall be clearly incidental or accessory to such principal residential structure.

b) No more than one accessory dwelling unit may be situated on any lot.

c) Accessory dwelling units may not exceed 800 ft2 of floor area.

16-4-2 Adaptive Reuses. This section is intended to allow a means for the development of new uses for a building originally designed for a different use. It is intended to have application in two particular areas. The first is for the reuse of a structure which has been used historically for a use permitted in the zoning district classification but for which there is no longer any reasonable demand for such previous use. Example of this first class include church buildings and schools. The second class involves situations in which structures have been devoted historically to a nonconforming use, the owner of the property no longer desires to devote the property to that use or the use has ceased, and there is no reasonable likelihood that the property will revert to a use permitted in the Zoning District Classification.

Adaptive reuses may only be authorized by means of a rezoning to a conditional zoning district processed through the conditional zoning district requirements of Article VII, above. In addition to the standards set forth therein, adaptive reuses must also meet the following special requirements:

a) The developer proposes the reuse of a structure or structures used historically for a use permitted in the zoning district classification but for which there is no longer any reasonable demand for such previous use, or the developer proposes the reuse of a structure or structures used historically as nonconforming use and there is no reasonable likelihood that the property will revert to a use permitted in the zoning district classification.

b) The developer shall state the precise nature of the proposed adaptive reuse, which shall be compatible with neighboring residential uses. If a special use permit is granted for the adaptive reuse, future use of the property shall be limited to the specified use unless 1) the use is changed to another use permitted in the zoning classification or 2) a new adaptive reuse is approved.

c) The adaptive reuse shall be housed in an existing structure or structures.

d) Such structures may be modified or expanded so long as the gross floor area is not increased by more than 10% and so long as the appearance of the modification is in harmony with the neighboring residential uses.

e) Off-street parking meeting the requirements of Section 6-5, above, shall be provided. Such off-street parking shall be screened so that it is not readily visible from the street or from adjoining residential uses.

f) The adaptive reuse may have one sign not exceeding four ft2 in area.

g) The developer shall propose, install and maintain landscaping which will assist in giving it a residential appearance.

h) The adaptive reuse shall provide open space which shall be not less than 60% of the total area of the development parcel.

i) Lighting for the adaptive reuse shall be no more than is necessary for safe use of the facility, and shall be designed and installed so that it is directed away from the roadway and any adjacent properties.

j) Traffic generated by the adaptive reuse shall not be expected to cause an inconvenience to residents of the neighborhood.

k) The developer shall propose hours of operation for the adaptive reuse which are designed to be compatible with neighboring residential uses. Such hours of operation shall become a condition of the special use permit, violation of which shall be grounds for revocation of the permit.

16-4-3 Adult Establishments.

a) It shall be unlawful to develop or operate an adult establishment within the planning jurisdiction of the City of Hendersonville without a conditional use permit issued by the Board of Adjustment as provided herein.

b) The standards for issuance of a conditional use permit are as follows:

1) The owner/operator of the adult establishment must have a current, valid permit to operate an adult establishment issued pursuant to Article V, Chapter 5, City Code.

2) No portion of the premises on which the adult establishment is located shall be situated within 300 feet of any of the following zoning districts: R-40 Estate Residential, R-20 Low Density Residential, R-15 Medium Density Residential, R-10 Medium Density Residential, R-6 High Density Residential, PRD Planned Residential Development, PMH Planned Manufactured Housing, MIC Medical Institutional Cultural, RCT Residential Commercial Transition.

3) No portion of the premises on which the adult establishment is located shall be situated within 750 feet of a lot line of a primary or secondary school or a public park.

4) No portion of the premises on which the adult establishment is located shall be situated within 1000 feet of a lot line of another adult establishment or of any enterprise engaged in the retail sale or distribution of alcoholic beverages.

5) There shall be no more than one adult establishment business in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult establishment business.

6) The structure in which the adult establishment is located shall contain no sleeping quarters.

7) The adult establishment shall not be open for business between the hours of 12 Midnight and 12 Noon.

8) If dancers are employed as a feature of the adult establishment, the performing areas for such dancers shall be separated from patrons by at least ten feet.

9) If viewing booths are provided, such are to be designed so as to allow the person of occupants to be completely visible from a portion of the premises open and available to the public.

10) The applicant shall propose and implement a site-lighting plan adequate to ensure public safety.

11) An adult establishment may be advertised by one sign on the premises which is not greater than 70 ft2 in size and which is illuminated by not more than one 150-watt bulb. No printed material, video, photograph, written text, live show, or other visual presentation format shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.

12) No off-site advertising (billboard) signs shall be allowed on the site of an adult establishment.

13) No alcoholic beverage as defined by NCGS § 18B-101.4 or any successor statute shall be served, possessed or consumed on the premises. No person who is under the influence of an impairing substance or alcohol or who has an alcohol concentration of 0.08 or more shall be or remain upon the premises of any adult establishment.

c) A conditional use permit issued pursuant to this section shall function as an operating permit and shall have a term of one year. The operator of an adult establishment must reapply each year and be issued a new conditional use permit in order to continue in operation. Such conditional use permit shall be issued so long as the operator demonstrates compliance with the standards set forth in paragraph b), above, and so long as the establishment has not violated any of the grounds for revocation contained in paragraph e), below.

d) Anyone desiring to operate an adult establishment shall make application for a conditional use permit, shall pay a fee therefor as established by resolution of City Council, and shall demonstrate compliance with the standards contained in paragraph b), above. Such application shall include the names, including aliases, and addresses of the owners, operators, and employees of such adult establishment.

e) Notwithstanding any of the foregoing, a conditional use permit issued to operate an adult establishment may be revoked by the Board of Adjustment, after notice and hearing, upon one or more of the following grounds:

1) Failure to maintain the premises in such a way as to comply with the standards for issuance of a conditional use permit contained in paragraph b), above;

2) Employment of any person under the age of 18;

3) Operating an establishment disruptive of peace and good order as evidenced by three convictions, in any one year period, of criminal offenses, a material element of which occurred on the premises of the adult establishment;

4) Ownership by or employment of a person with a criminal record that includes offenses reasonably related to the legal or illegal operation of sexually oriented businesses.

16-4-4 Animal Boarding Facilities. The standards in this section shall apply to facilities, such as animal kennels and animal shelters, where the primary purpose is the boarding of household pets. It shall not apply to boarding facilities incidental to the operation of an animal hospital or clinic or to pet stores.

a) No animal boarding facility shall be operated without all necessary licensure, certification or other form of permission from the state and any other governmental agency with jurisdiction over its operation. Loss of such permission shall be grounds for revocation of any conditional use permit or conditional zoning district authorizing an animal boarding facility.

b) No animal boarding facility shall be located within 500 feet of the nearest lot line of a residential use or a residential zoning district.

c) Animal boarding facilities shall be adequately buffered to prevent sounds from constituting a nuisance to neighboring properties.

d) Housing facilities for animals shall be structurally sound and shall be maintained in good repair, shall be designed so as to protect the animals from injury, shall contain the animals, and shall restrict the entrance of other animals.

e) Electric power shall be supplied in conformance with the state electrical codes adequate to supply lighting and heat as may be required by this section. Water shall be supplied at sufficient pressure and quantity to clean indoor housing facilities and primary enclosures of debris and excreta.

f) Food and bedding shall be stored at facilities adequate to provide protection against infestation or contamination by insects or rodents. Refrigeration shall be provided for the protection of perishable foods.

g) The applicant shall establish procedures for the safe and sanitary removal and disposal of animal and food waste, bedding, dead animals and debris and shall abide by such procedures. Disposal facilities shall

be maintained in a sanitary condition, free from the infestation or contamination of insects or rodents or disease, and from obnoxious or foul odors.

h) Washroom facilities, including sinks and toilets, shall be provided for animal caretakers.

i) Indoor housing facilities shall be adequately ventilated to provide for the health of animals contained therein and to assist in the removal of foul and obnoxious odors. Provision shall be made so that the volume of air within any enclosed indoor facility shall be changed three times or more each hour. This may be accomplished through the location and periodic opening of doors and windows. If fans or ventilating equipment are used, they shall be constructed in conformance with current standards of good engineering practice with respect to noise and minimization of drafts.

j) Indoor housing facilities for animals shall have sufficient natural or artificial lighting to permit routine inspection and cleaning at any time of day. In addition, sufficient natural or artificial lighting shall be supplied in the area of sinks and toilets to provide for the hygiene of animal caretakers.

k) Interior wall, ceiling and floor surfaces of indoor housing facilities shall be constructed of materials which are resistant to the absorption of moisture and odors, or such surfaces shall be treated with a sealant or with paint when such materials are not originally resistant to moisture or odors. Floor surfaces shall not be unsealed wood. In addition, interior walls shall be constructed so that the interface with floor surfaces is sealed from the flow or accumulation of moisture or debris.

l) Indoor housing facilities shall contain a drainage system which shall be connected to a sanitary sewer or septic tank system which conforms to the standards of the state building code and shall be designed to rapidly remove water and excreta in the cleaning of such indoor housing facility under any condition or weather or temperature.

m) Outdoor facilities shall be constructed to provide shelter from excessive sunlight, rain, snow, wind or other elements. In addition, such facilities shall be constructed to provide sufficient space for the exercise and movement of each animal contained therein.

n) All outdoor facilities shall be constructed to provide drainage and to prevent the accumulation of water, mud, debris, excreta or other materials, and shall be designed so that all animal and food wastes are directed into an approved sanitary sewer system or septic tank.

o) All outdoor facilities shall be constructed with adequate walls or fences to contain the animals kept therein and to prevent entrance of other animals.

p) Primary enclosures for animals shall be constructed and maintained so as to provide sufficient space to allow each animal to turn about freely and to easily stand, sit and lie in a comfortably normal position.

q) Facilities shall be operated in compliance with regulations adopted pursuant to the Animal Welfare Act, N.C.G.S. §19A-20, et seq., as it may be amended from time to time.

r) No animal boarding facility shall be operated at any time after it has been designated by a public health official pursuant to city, state or federal statues or regulations concerning health, as being infested with insects, rodents or disease which may endanger the public health, until the health officer having jurisdiction shall have certified that the condition has been corrected and the premises then comply with applicable health standards and regulations.

16-4-5 Bed and Breakfast Facilities.

a) The facility shall be located in a structure originally constructed as a single-family dwelling or as an inn.

b) The facility shall be limited in the number of guest rooms it contains. Bed and breakfast facilities in residential districts shall contain no more than six guest rooms. Bed and breakfast facilities in other zoning districts shall contain no more than eight guest rooms.

c) The owner of the bed and breakfast or a resident manager shall live on the premises.

d) There shall be no exterior advertising except a sign not to exceed four ft2 in area in a residential district. Bed and breakfasts in other districts shall conform with the sign requirements for the district in which they are located.

e) The facility shall meet all building and fire codes, as well as all applicable requirements, including any regulations adopted under authority of the NCGS.

f) There shall be a buffer strip meeting the specifications of Article XV of the Zoning Ordinance along any property adjoining a residential use or district.

g) No cooking facilities shall be allowed in the lodging units.

h) Off-street parking meeting the requirements of Section 6-5, above, shall be provided. Parking area(s) in or adjacent to residential use districts shall be screened by vegetation, fencing or walls so that vehicles are not visible from the street or from adjacent properties. The applicant shall submit a site plan which shall indicate where the parking is to be located and the manner in which it is to be screened.

16-4-6 Bus Stations.

a) The facility shall provide one off-street loading and unloading space for each bus reasonably expected to utilize the facility at any one time.

b) Off-street parking meeting the requirements of Section 6-5, above, shall be provided.

16-4-7 Cemeteries.

a) Tombstones, crypts, monuments, mausoleums, and other structures associated with cemeteries must be located at least 25 feet from any side or rear lot line which adjoins lots in a residential district and at least 10 feet from any side or rear lot line which adjoins lots in nonresidential districts. In any case, they must be at least 40 feet from any street right-of-way.

b) Buildings for the maintenance, management, rent and/or sale of cemetery lots must be located at least 100 feet from any lot lines which adjoin lots in any residential district. Otherwise any such buildings must conform to the requirements for principal uses in the district where they are located.

c) Crematory services may be provided for human corpses as an accessory use within cemeteries situated on a site containing at least 30 acres, subject to the following special requirements:

1) All applicable local, state, and federal laws and regulations shall be complied with.

2) The crematory shall be enclosed within a building meeting Building and Fire Code requirements.

3) The placement of crematory facilities within property in any residential district shall be 100 feet or more from any exterior property line.

16-4-8 Child Care Centers.

a) Play space must be provided in accordance with the regulations of the NC Department of Human Resources. Any required outdoor play space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas or land otherwise unsuited for children's play space and may not be in the required setback.

b) Setback, yard and height requirements will be the minimum required for the district in which it is located.

c) Parking shall be provided as specified in Section 6-5.

d) No outdoor play shall be permitted after sundown.

16-4-9 Civic Clubs & Fraternal Organizations.

a) All buildings, off-street parking and service areas will be separated by a buffer meeting the requirements of Article XV from any abutting residential use or residential district.

b) The use will be located on a lot that fronts a minor or major thoroughfare and primary vehicular access will be provided by means of such minor or major thoroughfare.

16-4-10 Congregate Care Facilities.

a) Such facilities may only be situated on a site which contains no less than three acres.

b) A minimum of 65% of the project tract shall be designated as open space.

c) Maximum density for congregate care facilities shall be 20 people per acre in all districts. City Council shall have the right to determine a lower density applying as criteria the following: site constraints including but not limited to slopes over 20%, poor soils, presence of floodplain or other factors such as the traffic-bearing capability of existing roads that would pose a threat to public health, safety or welfare, or violate any of the review standards contained in this Article.

d) Density under this subsection shall be calculated according to the following formula:

1) Studio apartments shall be assumed to house one person.

2) One-bedroom apartments shall be assumed to house 1.5 persons.

3) Two-bedroom apartments shall be assumed to house two persons.

16-4-11 Cultural Arts Buildings.

a) The provision of off-street parking in accordance with the standard for places of public assembly contained in Section 6-5.

b) When the facility is to be located adjacent to either a residential district or existing residential uses, any boundaries adjoining such residential district or use shall contain a 10-foot B-type buffer consistent with the requirements of Article XV, above.

c) Any structures associated with the cultural arts building shall be set back from any adjoining residential use or district a minimum of 100 feet.

16-4-12 Day Center.

a) The parcel on which a day center is situated shall not be closer than 1,500 feet to any parcel on which another day center is situated.

b) The parcel on which a day center is situated shall not be adjacent to a residential use. For purposes of this paragraph, parcels situated across a street right-of-way from a proposed day center shall be deemed to be adjacent.

c) The parcel on which a day center is situated shall not be within 200 feet of a residential district.

d) Permissible hours of operations shall be limited to the hours between 6:00 a.m. and 6:00 p.m.

16-4-13 Food Pantries.

a) The parcel on which a food pantry is situated shall not be closer than 1,500 feet to any parcel on which another food pantry is situated.

b) Storage of items for distribution shall be located entirely within the building.

16-4-14 Golf Driving Ranges.

a) Lighting, if any, shall be designed and installed so that it is directed away from the roadway and adjacent residentially-zoned or used properties and does not interfere with the safe use of public rights-of-way.

b) Adequate assurance shall be provided, by means of separation, fencing or other means, that the operation of such facility shall not constitute a danger to person or property.

c) Total signage on the property shall not exceed 32 ft2. One freestanding sign may be installed provided it does not exceed eight feet in height. Signs shall not be illuminated except by means of one light bulb per sign face not exceeding 150 watts.

16-4-15 Microbreweries.

a) Shall include one or more accessory uses such as a tasting room, tap room, restaurant, retail, demonstration area, education and training facility or other uses incidental to the brewery and open and accessible to the public.

b) Storage of materials used in the manufacturing, processing and for distribution shall be located entirely within the building.

c) Shall be designed such that all newly constructed loading and unloading facilities are internal to the site, in service alleys or at the back of the building.

d) The sides and rear yard or setback requirement shall be increased to 25 feet for the C-2 Secondary Business, C-3 Highway Business, GHMU Greenville Highway Mixed Use and HMU Highway Mixed Use Zoning District Classifications.

16-4-16 Mini-Warehouses.

a) One way interior travel lanes shall have a minimum width of 15 feet in addition to a ten foot wide parking lane. All two-way interior travel lanes serving storage units shall have two 12- foot wide travel lanes and be provided with a ten foot wide parking lane. All portions of the site shall be readily accessible by police and fire equipment and personnel.

b) Storage units shall be designed for individual storage. They shall contain no facilities for utility service. They shall not be used for sales or service or for habitation by humans or animals.

c) No outside storage shall be permitted when the proposed use is situated in a zoning district classification other than I-1.

16-4-17 Mobile Food Vendor.

a) Zoning Compliance Permits for mobile food vendor sites and mobile food vendors shall be valid for a period of one year, and shall be renewed annually.

b) Mobile food vendors must have a base of operations, such as a restaurant or commissary, and must report to said base daily for supplies, cleaning, and servicing unless exempted by the Health Department. If the base of operations is under different ownership than the mobile food vendor, a written agreement for use must be submitted as part of the application. No waste, grease, or wastewater shall be released into the city's sanitary sewer or stormwater collection systems, ditches, tree wells, or other public spaces.

c) There shall be no limit to the number of mobile food vendors per parcel so long as all other separation and site requirements as set forth below are met.

d) Mobile food vendors shall follow the dimensional requirements of the zoning district classification in which they are located. If there are no dimensional requirements in zoning district classification, at a minimum, food vendors shall be situated at least ten feet from all property lines and any road right-of-way. Mobile food vendors shall not encroach onto any street, sidewalk, or travel way, and shall not obstruct any loading zone or handicapped parking space. Additionally, mobile food vendors must be:

1) Located on property in a manner that does not eliminate required parking for a development or impede the flow of traffic in any way.

2) Situated at least 25 feet from any permanent structure. The Development Assistance Director or designee may, upon recommendation of the fire marshal, approve the placement of mobile food vendors within 25 feet or less of a permanent structure. Such approval shall be based upon building type, building materials, existing fire breaks, and other pertinent information.

3) Not located within 250 feet from any restaurant, and not within 100 feet from any residential structure or residential zoning district lot line.

4) Set back a minimum of 10 feet in all directions from fire hydrants.

5) Situated at least 20 feet from one another.

e) Mobile food vendors on vacant sites shall adhere to Article XV Buffering, Screening, & Landscaping general requirements, including any overlay district landscaping requirements.

f) Hours of operation for mobile food vendors shall be limited to 7:00 a.m. to 10:00 p.m. Mobile food vendor operators or their designee must be present at all times during operation, except in the event of an emergency.

g) Vendors must vacate the site each day unless the vendor owns the site.

h) Each food truck shall supply at least one waste receptacle which must be removed and emptied at the end of each day, City trash receptacles shall not be used for food truck waste.

i) Mobile food vendors shall be limited to the following signage: one wall sign affixed to the vehicle or trailer per side of vehicle or trailer. Said sign shall be no larger than 32 square feet and one small A-frame sign not to exceed four feet in height and eight square feet of surface area may be placed within five feet of the vehicle or trailer to display daily specials, menus, or other similar information. Other signs and devices including plaques, banners, pennants, streamers, and posters are not permitted.

16-4-18 Nursing Homes.

a) Such facilities may only be situated on a site which contains no less than three acres.

b) A minimum of 65% of the project tract shall be designated as open space.

c) Maximum density for nursing homes shall be 26 people per acre. In determining the number of people per acre, it is assumed that each room where ambulatory assistance or skilled nursing care is given contains one person per bed in the room. City Council shall have the right to determine a lower density applying as criteria the following: site constraints including but not limited to slopes over 20%, poor soils, presence of floodplain, or other factors such as the traffic-bearing capability of existing roads that would pose a threat to public health, safety or welfare, or violate any of the review standards contained in this Article.

d) No application for a conditional zoning district for a nursing home facility shall be considered unless a certificate of need has been issued. The certificate of need shall accompany the application.

16-4-19 Pet-Sitting.

a) No person other than members of the family residing on the premises shall be engaged in pet-sitting.

b) There shall be no change in the outside appearance of the building or premises, or other visible evidence of pet-sitting other than one sign, not exceeding 4 ft2 in area, non-illuminated.

c) At no time are animals permitted to be outdoors unsupervised.

d) No more than six animals total may be boarded for a fee at one time.

e) All animals must be over the age of six months.

f) No outdoor storage of materials or equipment or outdoor facilities, accessory structures, outdoor kennels, or similar devises are permitted in connection with pet-sitting.

g) Animals boarded are restricted to domestic dogs and/or cats.

h) Facilities shall be kept clean, sanitary, and free from accumulations of animal waste.

i) Pet-sitting facilities are subject to all applicable City ordinances including, but not limited to, the Noise Control Ordinance.

j) Facilities shall be operated in compliance with regulation adopted pursuant to the Animal Welfare Act, N.C.G.S. §19A-20, et seq., as it may be amended from time to time.

k) No pet-sitting facility shall be operated without all necessary licensure, certification or other form of permission from the state and any other governmental agency with jurisdiction over its operation. Loss of such permission shall be grounds for revocation of any conditional use or zoning compliance permit authorizing pet-sitting.

16-4-20 Private Clubs.

a) No private club shall be located within a 600-foot radius of another private club.

b) The parking lot for such facility shall be adequately lighted to provide security for its patrons and to otherwise comply with Section 6-13, above.

16-4-21 Progressive Care Facilities.

a) Such facilities may only be situated on a site which contains no less than three acres.

b) A minimum of 65% of the project tract shall be designated as open space.

c) The facility shall provide housing for retirees or the elderly.

d) The facility shall be owned and operated as one facility and shall have two or more of the following uses, which may or may not be contained under one roof:

1) Independent dwelling units constructed as detached or attached units;

2) Apartments, where care and assistance in bathing, dressing, house cleaning and other activities may or may not be provided. Complete or partial kitchen facilities shall be provided, in addition to common dining facilities for residents;

3) Rooms where ambulatory assistance is given in addition to all meals and a more intensive level of care by semi-skilled nursing staff;

4) Rooms where skilled nursing care and life support systems are available.

e) Maximum density for progressive care facilities shall be 23 people per acre. In determining the number of people per acre, the formula given above for nursing and rest homes and the formula given above for congregate care facilities shall be combined based on the actual plans for the facility to be constructed. City Council shall have the right to determine a lower density applying as criteria the following: site constraints including but not limited to slopes over 20%, poor soils, presence of floodplain, or other

factors such as the traffic-bearing capability of existing roads that would pose a threat to public health, safety or welfare, or violate any of the review standards contained in this Article.

16-4-22 Public Utility Facilities.

a) Lots must conform to minimum setback and yard requirements of the district in which they are located. Unstaffed utility structures with internal floor space of less than 600 ft2 are exempted from the minimum lot size requirement.

b) Electric and gas substations and sewage treatment plants will be separated by a ten-foot B type buffer meeting the specifications of Article XV from the street and any abutting residential use or any property located in a residential zoning district.

c) Control houses, pump and lift stations, and other similar uses shall be screened from the street and any abutting residential use or any property located in a residential zoning district.

d) A fence not easily climbable or comparable safety devices must be installed and maintained in order to deter access to the facility.

e) The design of buildings, structures and facilities on a site should conform as closely as possible to the character of the area or neighborhood.

f) The facility's lighting shall be shielded to prevent light and glare spill-over on to any adjacent residential properties, if such exist.

g) The Board of Adjustment may give relief from these requirements so long as public safety and neighborhood compatibility are protected, if strict adherence would constitute a hardship or is unnecessary.

Section 16-4-23 Residential Care Facilities.

a) The facility shall be situated in an existing residential structure. This structure may be expanded or altered so long as the facility remains residential in scale and appearance.

b) One off-street parking space shall be provided for each six beds in the facility. Such off-street parking shall be screened so that it is not readily visible from the street or from adjoining residential uses.

c) The facility may have one sign not exceeding four ft2 in area. Such sign shall not be illuminated.

d) The facility shall not exceed two stories in height.

e) The facility shall propose, install and maintain landscaping which will assist in giving it a residential appearance.

f) The facility shall propose, develop and maintain common open space for the use of its residents, which shall amount to not less than 15% of the site.

g) Lighting for the facility shall be designed and installed so that it is directed away from the roadway and any adjacent properties.

h) Density for residential care facilities shall not exceed 26 persons per acre.

i) No traffic shall be generated by such facility in greater volumes than would normally be expected in a residential neighborhood.

16-4-24 Residential Dwellings, Multi-Family

a) The property must be within the Seventh Avenue Depot National Register Historic District.

b) Multi-family dwellings may only be permitted on the second floor.

c) There shall be no maximum density other than the minimum dwelling size is 400 square feet.

d) Multi-family dwellings must be occupied by three or more families living independently of each other.

16-4-25 Rest Homes.

a) Such facilities may only be situated on a site which contains no less than three acres.

b) A minimum of 65% of the project tract shall be designated as open space.

c) Maximum Density for rest homes shall be 26 people per acre in all zoning district classifications. In determining the number of people per acre, it is assumed that each room where ambulatory assistance or skilled nursing care is given contains one person per bed in the room. City Council shall have the right to determine a lower density applying as criteria the following: site constraints including but not limited to slopes over 20%, poor soils, presence of floodplain, or other factors such as the traffic-bearing capability of existing roads that would pose a threat to public health, safety or welfare, or violate any of the review standards contained in this Article.

16-4-26 Restaurants.

a) The use must be located on, and have primary access from, a major or minor thoroughfare.

b) All outside storage areas including dumpsters must be:

1) Sited to the rear of the building;

2) In compliance with the setback requirements for the zoning district classification within which it is located; and

3) Made unnoticeable from both residential adjacent properties and public rights-of-way through installation of screening meeting the specifications of Article XV.

c) The use shall be limited to no more than 40 seats.

d) Permissible hours of operation shall be limited to the hours between 7:00 a.m. and 11:00 p.m.

16-4-27 Schools, primary & secondary.

a) The following standards shall be used to govern the establishment or development of new public and private schools:

1) No structure or parking shall be placed within 50 feet of a property line.

2) Off-street parking meeting the requirements of Section 6-5 shall be provided.

3) The use will be on a lot which may be accessed by means of a collector, minor thoroughfare or major thoroughfare for elementary schools and junior high schools, and by means of a minor thoroughfare or major thoroughfare for senior high schools; provided, however, the Board of Adjustment may waive this requirement to accommodate a public need so long as traffic shall not be increased on residential streets to an unacceptable level.

b) The foregoing standards shall serve as guidelines for the expansion or redevelopment of existing schools; however, the Zoning Board of Adjustment shall waive any such guidelines when their application would constitute a hardship.

16-4-28 Shelter Facilities.

a) The parcel on which a shelter facility is situated shall not be closer than 1,500 feet to any parcel on which another shelter facility is situated.

b) The parcel on which a shelter facility is situated shall not be within 200 feet of a residential zoning district.

16-4-29 Telecommunications Towers and Antennas. Special application requirements, procedures, and permitting standards, as set forth herein, apply to telecommunication towers and antennas.

16-4-29.1 Application Requirements. Anyone desiring to construct or install a telecommunications tower shall submit an application for a permit and shall pay a fee which shall be established by resolution of City Council. The fee established for applications requiring a rezoning to a conditional zoning district shall include a reasonable amount to enable the City to employ technical assistance in determining the issue of feasibility as required by Section 16-4-29.4, below. The application shall contain the following:

a) **Site Development Plan.** A site development plan prepared by a North Carolina Registered Land Surveyor, Registered Landscape Architect or Registered Professional Engineer containing the following:

1) The tower applicant's name and property owner's name and their addresses, scale, north arrow, vicinity map, tax parcel identification number, and the tower's latitude and longitude coordinates;

2) The name, address, signature and seal of the professional preparing the site development plan;

3) The surveyed boundary lines of the parcel(s) that will contain the proposed tower and its fall area;

4) The tax parcel identification number of all property abutting the subject property and the names and addresses of the owners of such properties;

5) All identifiable structures located on the parcel, all private and public roads, highways, and underground and overhead utilities;

6) All existing towers on the property or any towers whose fall area encroaches onto the property;

7) The proposed tower's location, the proposed fall area and the location of all support structures and guy line anchors;

8) The ground elevation of the proposed tower's base, all proposed support structures, property corners, and a permanent site bench mark. All elevations shall be determined using the National Geodetic Vertical Datum of 1929.

b) **Preliminary Tower Design Plan.** A preliminary tower design plan prepared by a North Carolina Registered Professional Engineer containing the following:

1) The tower permit applicant's name and address, scale, north arrow, vicinity map and tax parcel identification number;

2) The name, address, signature and seal of the engineer preparing the preliminary tower design plan;

3) A plan showing the base of the tower and the foundations for all guy line anchors and support structures, all proposed buildings, and any other proposed improvements, including access roads and utility connections within and to the proposed site;

4) A tower elevation drawing showing the proposed lighting and all proposed antennas;

5) The proposed tower design loads.

c) **Search Area.** A propagation study or similar documentation showing the search area(s) for the proposed tower's antenna(s).

d) **Proof of Regulatory Compliance.** Written statements from the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC) showing that the proposed tower complies with all permit regulations administered by that agency or evidence that the proposed tower is exempt from those regulations.

e) **Collocation Alternatives.** Identification of all other possible alternatives considered within the service area for the proposed tower's antenna(s) and an explanation why the proposed tower is necessary and why existing towers and structures (e.g., Duke Power transmission tower) cannot accommodate the proposed antenna(s).

f) **Variances.** Identification of any variance(s) to the ordinance, the reason(s) for seeking the variance(s) and any measures that are proposed to mitigate possible adverse effects of the proposed variance(s).

g) **Feasible Alternatives.** Towers to be sited in zoning districts requiring rezoning to a conditional zoning district shall demonstrate the lack of a feasible alternative as required by Paragraph 16-4-29.4, below.

16-4-29.2 Standards for Siting Telecommunications Antennas and Wireless Facilities. The following standards shall regulate the siting of telecommunications antennas and wireless facilities:

a) No antenna shall interfere with usual and customary radio and television reception excepting broadcast facilities as provided for in the regulations of the Federal Communications Commission.

b) All antennas shall comply with FCC and FAA guidelines. The antenna owner shall provide the City each year with a copy of any FCC and FAA license issued.

c) Antennas shall be restricted to the minimum standards of lighting required by the FAA. All antennas that require flashing lights by the FAA shall utilize a dual lighting system consisting of a white strobe light for daytime lighting and a red flashing light for nighttime lighting.

d) All antennas placed on structures other than towers, except for those owned by government entities and providing emergency services communications, shall be concealed antennas. Antennas located on top of buildings or other structures shall not exceed 30% of the building height. In no event shall an antenna extend beyond the structure in any direction greater than 25 feet.

e) No antennas, except for those owned by governmental entities and providing emergency services communications, shall be constructed on the property on which a National Register or locally designated historic landmark is located.

f) No antennas shall be located on structures containing residential dwelling units. Antennas may be located in residential zoning districts by placing them on existing water tanks, towers, and similar structures.

g) No antenna shall exceed 25 feet in length.

h) Antennas erected solely for a residential, non-commercial individual use, such as residential television antennas, satellite dishes, or ham radio antennas are exempt from these requirements.

i) Applications for collocation of antennas and/or wireless facilities are entitled to streamlined processing if the addition of the additional antenna and/or wireless facility does not exceed the number of antenna and/or wireless facilities previously approved for the telecommunication tower on which the collocation is proposed and meets all the requirements and conditions of the original approval. This provision applies to telecommunication towers which are approved on or after December 1, 2007 and shall meet the following:

1) Applications shall be reviewed for conformance with applicable site plan and building permit requirements but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review.

2) A collocation application entitled to streamlined processing shall be deemed complete unless the city provides notice in writing to the applicant within 45 days of submission or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete.

3) The city shall issue a written decision approving or denying a collocation application entitled to streamlined processing within 45 days.

j) The streamlined process set forth in subsection (i) of this section shall apply to all collocations, in addition to collocations qualified for streamlined processing, that meet the following requirements:

1) The collocation does not increase the overall height and width of the telecommunication tower or wireless support structure to which the antenna and/or wireless facilities are to be attached.

2) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.

3) The antenna and/or wireless facility in the proposed collocation complies with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the telecommunication tower or other wireless support structure.

4) The additional antenna and/or wireless facilities comply with all federal, state and local safety requirements.

5) The collocation does not exceed the applicable weight limits for the wireless support structure.

16-4-29.3 Basic Standards for Siting Telecommunications Towers. The following basic standards shall regulate the siting of telecommunications towers:

a) **Fall Area.** Telecommunication towers shall be sited to contain all ice-fall and debris from tower failure. The applicant must present proof of either fee simple ownership, a recorded leasehold interest, or an easement from the record owner of all property within the engineer-certified fall radius of the proposed tower. If the applicant does not submit an engineer's certification as to the fall radius of the proposed tower, this requirement shall be a radius equal to the height of the tower. The area included within the fall radius may include NCDOT right-of-way if the applicant provides written consent to that effect from the Division Engineer.

b) **Lighting.** Telecommunication towers and antennas shall be restricted to the minimum standards of lighting required by the FAA. Strobe lights shall be red at night and may be either red or white during daylight unless otherwise required by Federal or State regulations.

c) **Signs.** A single sign, two ft2 in size, shall be displayed in a visible location near a telecommunication tower. The purpose of the sign is for use by law enforcement departments to contact the company operating the equipment in the event of an emergency. The sign shall contain a number to be assigned to the company and a telephone number for 24-hour emergency contact. No other signs shall be permitted on the facility.

d) **Collocation.** The applicant must prove that reasonable attempts to collocate antennas on an existing tower or other suitable structure have been exhausted so as to require the erection of a new tower. Such evidence shall indicate that alternative towers, buildings or other structures are not available at fair market value within the vicinity of the proposed tower which can provide coverage to the proposed service area and which are structurally capable of supporting the intended equipment or which meet the necessary height criteria, and which do not cause interference between the existing and proposed frequencies. The applicant shall provide written documentation that no existing or approved telecommunications tower with a top elevation similar to the proposed tower is able to share space for a new antenna. For purposes of this section an elevation similar to the proposed tower shall include all towers with a top elevation within 10% of the total height of the proposed tower.

The applicant shall assess whether existing towers could accommodate the antenna to be attached to the proposed tower without causing structural instability or electromagnetic interference. If the antenna to be attached to the proposed tower cannot be accommodated on an existing tower, the applicant shall assess, as to each existing tower, whether such tower could be structurally strengthened or whether the antennas, transmitters and related equipment could be protected from electromagnetic interference. The applicant shall also generally describe the means and projected cost of shared use of existing tower which is capable of being used for co-location.

A proposed telecommunications tower shall be designed and constructed to permit the capability for collocation of at least one telecommunication use if the tower is taller than 75 feet. If a new tower is

approved, the owner shall provide written authorization that the tower and its accessories will be available for sharing by other telecommunication facilities at fair market value. The owner shall record in the Office of the Register of Deeds a letter evidencing such intent prior to the issuance of a permit. The letter of intent shall bind all subsequent owners of the approved telecommunications tower.

e) **Public Use.** The applicant shall allow public entities use of a telecommunications tower at fair market value on a non-interfering basis if a request is made for such use within 30 days of the filing of the permit application. If it is determined that the proposed tower is situated in a location that will benefit the telecommunication system of either the City or Henderson County, the tower shall be engineered and constructed to accommodate the additional telecommunication equipment beneficial to the public system.

f) **Noise.** If a telecommunications tower or equipment on the site is of a type which will emit a continuous or frequent noise, the applicant must prove that sufficient actions are being taken to prevent such noise from being audible to surrounding residents and businesses.

g) **Regulatory Compliance.** The applicant shall be required to provide documentation satisfactory to the City of compliance with all applicable Federal and State regulations.

h) **Maximum Height.** No telecommunication tower shall exceed 200 feet in height; provided, however, towers may be permitted up to 220 feet in height if they accommodate an additional antenna and up to 240 feet in height if they accommodate two additional antennas. No telecommunication towers shall be located on top of buildings. Antennas located on top of buildings or other structures shall not exceed 25 feet or 30% of the structure's height, whichever is less. For purposes of this paragraph, the term "structures" shall be deemed to refer to structures other than telecommunication towers.

i) **Cessation of Use.** Whenever a tower has not been used for a continuous period of one year, the property owner shall cause such tower to be removed within 120 days of the end of such one-year period.

j) **Setbacks.** A tower shall be separated from other on-site and off-site towers and supporting structures such that one tower will not strike another tower or its support structure if it falls. In districts in which telecommunications towers are permitted uses, they shall be set back from property lines in accordance with the setback requirements for the district or 10% of the tower height, whichever is greater. Additionally, telecommunications towers must set back from any residential districts or uses a distance equivalent to the fall radius of the tower being erected or 200 feet, whichever is greater. Notwithstanding any provision of this ordinance, telecommunications towers erected on property owned by the United States of America, the State of North Carolina, or any county or municipality, which towers are used at least in part for the purpose of accommodating emergency services communications antennas, shall be set back from any residential districts or uses a distance equivalent to the fall radius of the tower being erected or 100 feet, whichever is greater.

k) **Replacement Towers.** Provided it does not exceed the height of an existing tower by more than 20%, no permit shall be required for the erection of a replacement tower which is located at the same site and within 300 feet of the tower being replaced. To qualify as a replacement tower, the replacement shall not be closer to existing residences within a radius equal to the height of the replacement tower and shall comply with the basic standards for siting telecommunications towers contained in this section with the following exception: the requirement contained in the last sentence of paragraph (j) is modified so that the replacement tower must be set back from residential uses or districts a distance not less than the engineer-certified fall radius of the replacement tower.

The tower being replaced shall be removed within 90 days of activation of the replacement tower.

l) **Fencing.** The base of the telecommunications tower along with any individual guy wires shall be enclosed by a commercial grade chain link fence (or some other fence of equal or greater quality) a minimum of eight feet in height.

m) **Signal Interference.** No telecommunications tower or antenna shall interfere with usual and customary radio and television reception excepting broadcast facilities as provided for in regulations of the Federal Communications Commission.

n) **Historic Properties.** No telecommunication towers shall be constructed in a designated historic district or on property on which a designated historic landmark is located. In addition, telecommunications towers shall not be constructed within 500 feet of a designated historic district. For purposes of this paragraph, the term "historic" shall refer to districts or landmarks which have been nominated to the National Register of Historic Places or designated pursuant to Chapter 28 of the City Code.

o) **Insurance.** Telecommunications towers shall not be constructed unless the company erecting the tower has general liability coverage of at least $1,000,000. The owner of a telecommunications tower shall provide the City with a certificate of insurance showing evidence that it has general liability coverage of at least $1,000,000, and the certificate shall contain a requirement that the insurance company notify the City 30 days prior to the cancellation, modification or failure to renew the insurance coverage required.

p) **Bufferyard.** A buffer conforming to the requirements of Article XV, if necessary.

q) **Timeline.** The City may condition a permit on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

16-4-29.4 Additional Standards for Siting Telecommunications Towers Pursuant to Conditional Zoning Districts. The following standards shall supplement the Basic Standards for Siting Telecommunications Towers contained in Subsection 16-4-29.3 when an application requires rezoning to a conditional zoning district.

a) **Setbacks.** The tower shall be set back from property lines abutting any residential district or use a distance equal to the tower height or 200 feet, whichever is greater. Notwithstanding any provision of this ordinance, telecommunications towers erected on property owned by the United States of America, the State of North Carolina, or any county or municipality, which towers are used at least in part for the purpose of accommodating emergency services communications antennas, shall be set back from any residential districts or uses a distance equivalent to the fall radius of the tower being erected or 100 feet, whichever is greater.

b) **Screening.** The purpose of this standard is to establish control for the visual quality of telecommunications facilities from ground level. The screening requirement specified in this paragraph applies to the tower and the land and everything within the required security fencing including any other building and equipment. The screen shall be a minimum of ten feet of land supporting an appropriate vegetative screen which shall surround the security fence except for one service access. The vegetative screen shall consist of two staggered rows of evergreen shrubs on 5-foot centers, six feet tall at time of planting, unless existing vegetation or topography is determined to provide a screen which is at least as effective as the planted screen. If the applicant elects to leave additional areas outside the fence, that is, in addition to the required screen, such areas shall either be landscaped in a manner which is compatible with neighboring properties or shall be left in a natural wooded condition.

c) **Feasibility.** No rezoning to a conditional zoning district shall be approved for a telecommunications tower unless the applicant proves that there is no feasible alternative in order to meet the applicant's minimal service level as required by the Federal Communications Commission. In demonstrating "no feasible alternative" the applicant shall show that collocation of an antenna or antennas or location of a tower or towers on property which is either unzoned or on which telecommunications towers are permitted uses will not enable it to meet its minimum service levels. The fact that property which is unzoned or zoned in a classification in which telecommunications towers are permitted uses costs more than property for which a conditional zoning district is required shall be immaterial as to the issue of feasibility. So long as suitable property is available for purchase or lease, it shall constitute a feasible alternative. The City may, in its discretion, employ a communications expert to assess the applicant's proof of compliance with this standard.

d) **Concealment.** Only concealed towers as defined in this ordinance or towers which, due to existing topography, vegetation, or other site conditions, would not be readily visible from adjoining properties, shall be granted conditional zoning district approval.

e) **Noise.** The tower shall be designed in such a manner that it is not reasonably likely that wind noise associated with the tower would be audible on adjoining properties.

f) **Height.** The maximum height for a telecommunications tower requiring a conditional zoning district shall be 100 feet; provided, however, telecommunications towers erected on property owned by the United States of America, the State of North Carolina, or any county or municipality and used at least in part for the purpose of accommodating emergency services communications antennas shall be entitled to a maximum tower height in accordance with the Basic Standards for Siting Telecommunications Towers as set forth in Paragraph 16-4-29.3(h), above.

g) **Planned Development District Exception.** Telecommunications towers proposed as part of a PCDCZD Planned Commercial Development Conditional Zoning District or a PMDCZD Planned Manufacturing Development Conditional Zoning District need only comply with the Basic Standards contained in Section 16-4-29.3, above. Notwithstanding the fact that development in such districts requires a rezoning to a conditional zoning district, such towers are not required to comply with the Additional Standards contained in this section. The applicant may, however, at its option, propose a tower design which incorporates some or all of these standards.

16-4-29.5 Annual Report. The holder of a permit for a telecommunications tower shall file an annual report on forms prescribed by the Planning Department which shall demonstrate continuing compliance with the requirements of this Section.

16-4-29.6 Violations. Violations of these requirements or the terms or conditions of any permit shall constitute a violation of the Zoning Ordinance and shall subject the violator to the penalties provided in Article IX, above.

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ARTICLE XVII
NATURAL RESOURCE PROTECTION STANDARDS

Section 17-1 Purpose. Recognizing that protection of the natural resources of the City of Hendersonville represents prudent stewardship and good business, this article is created to establish standards intended to accomplish the following:

a) To preserve and enhance the quality of the water in creeks, streams, ponds and lakes that flow into and out of the City;

b) To minimize future flooding problems by guiding development away from flood prone areas;

c) To preserve the water carrying capacity of watercourses and the natural water storage capacity of the special flood hazard area;

d) To protect land and watercourses from pollutants, sedimentation and erosion;

e) To retain open spaces in order to protect their environmentally-sensitive character; and

f) To protect and conserve significant natural resources from degradation due to urbanization.

Section 17-2 Floodplain Protection Standards. The primary objective of floodplain protection standards is to preserve and maintain the natural floodplain in an undisturbed vegetated state in order to maintain flood storage capacity, control stormwater, improve water quality and conserve plant and wildlife habitat.

17-2-1 Development Prohibited in the Floodway and Special Flood Hazard Area. Development within the floodway and special flood hazard area, as defined in Section 12-2, above, shall be prohibited, except as provided in this article. For purposes of this article the term development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

17-2-2 Development Allowed in the Floodway and Special Flood Hazard Area.

a) Land in the floodway and special flood hazard area may be used for the following purposes, provided that such uses are designed and constructed to minimize clearing, grading, erosion and water quality degradation:

1) Crossings by streets, driveways, culverts and railroads;

2) Active and passive recreational activities authorized in the zoning district in which the property is situated;

3) Intakes, docks, utilities (including water and wastewater treatment, stormwater control and sedimentation and erosion control facilities), bridges, other public facilities and water-dependent structures;

4) Wetlands constructed or restored for mitigation purposes;

5) Redevelopment pursuant to Section 17-2-4, below; and

6) Land within the floodway and special flood hazard area can serve to meet minimum lot size requirements if there is sufficient buildable area remaining on the tract.

b) Land in the special flood hazard area may be used for up to 25% of the parking required for the development on the tract; provided, there is no increase in the elevation of the land resulting in a loss of flood storage. Furthermore, no more than one-third of the special flood hazard area on any development tract shall be used for parking. Parking in the special flood hazard area shall undergo development review in accordance with Article VII, above. In considering the application for development approval, the City shall consider whether the proposed parking on the site is designed and arranged to minimize adverse environmental impact from placement of parking in the special flood hazard area and whether the proposed development would result in significant degradation of water quality, loss of significant wetlands, increase in sedimentation and erosion, increase in stormwater runoff, loss of significant plant and wildlife habitat or would otherwise constitute a threat to public safety. Where feasible, the proposed parking shall be designed making maximum use of pervious materials.

c) Streets and driveways may run generally within special flood hazard area and parallel to the stream only where no other access to the property is feasible. Such streets and driveways shall be designed to minimize loss of flood storage.

d) In order to allow design flexibility to achieve high quality site design and better utilization of land adjacent to the special flood hazard area, a property owner or developer may fill and/or use for development up to 10% of the special flood hazard area contained within the boundaries of any development site upon satisfactorily demonstrating the following:

1) The proposed fill and/or development provides for a higher quality site design and better utilization of land adjacent to the special flood hazard area than would be possible without the intrusion necessary to achieve the high quality design; and

2) The proposed fill and/or development represents the minimum amount of special flood hazard area intrusion necessary to achieve the high quality design.

Public and private roads and sidewalks shall not count toward the allowable 10% of the special flood hazard area on a tract that can be filled and/or used for development in accordance with Section 17-2-2(d).

A property owner or developer may fill and/or use for development more than 10% of the special flood hazard area when such would be necessary so that the property to be developed, including both the special flood hazard area and land adjacent thereto, equals one-half acre.

e) Notwithstanding the foregoing, for parcels existing prior to the effective date of this ordinance situated entirely within the 100-year flood plain as depicted on the most recent Flood Insurance Rate Map, a property owner or developer may fill and/or use for development up to one-half acre or 10% of such property, whichever is greater. Provided, however, in order to develop such lands, the property owner or developer must comply with all applicable regulations of the Federal Emergency Management Administration including obtaining a “no-rise” certificate, if necessary.

Furthermore, in order to qualify for the exception contained in this paragraph, proposed development shall be situated and designed in such a way as to be consistent with the purposes of this article as set forth in Section 17-1, above.

f) It is intended that this ordinance be congruous with the City of Hendersonville Flood Damage Prevention Ordinance. Therefore, any uses, development or land disturbing activity allowed by Section 17-2 shall be conducted in accordance with the requirements of the Flood Damage Prevention Ordinance, including, without limitation, the requirement to obtain a "no-rise" certificate for activities within the floodway.

17-2-3 Density Credits. The amount of land in the special flood hazard area may be credited for residential density on land adjacent to the special flood hazard area at a rate of 100% of that allowed by the zoning.

17-2-4 Redevelopment in the Floodway and Special Flood Hazard Area. Historically, some areas of the City's planning jurisdiction were developed despite the fact that they lie within the 100-year floodplain. In order to address concerns about urban blight, this section allows redevelopment to occur on existing developed sites which no longer function as natural flood plain and when such redevelopment will not result in any further loss of flood-plain functionality. Where feasible, redevelopment proposals should demonstrate an improvement in the site's functionality as a flood plain. In light of this intent, redevelopment of existing developed sites shall be permitted within the floodway and special flood hazard area only when the applicant has satisfactorily demonstrated the following:

a) The proposal is to redevelop an existing developed site as of the date of this ordinance evidenced by substantial coverage of the site by buildings, fill, gravel or paved drives or parking areas or other impervious surfaces.

b) There shall be no loss of flood storage capacity on the site as a result of the redevelopment.

c) The applicant, utilizing best management practices, shall reduce the post-redevelopment rate of stormwater runoff from the pre-redevelopment rate of runoff, if feasible. In any event, the post-redevelopment rate of runoff shall not be greater than the pre-redevelopment rate.

d) The project design, including any best management practices (BMPs) will result in a project which is consistent with the purposes of the Natural Resources Protection Ordinance as stated in Section 17-1, above. In this regard, the applicant shall demonstrate the following:

1) The project shall not degrade the quality of the water in creeks, streams, ponds and lakes that flow into and out of the City.

2) The project shall not contribute to future flooding problems.

3) The project preserves the water carrying capacity of watercourses and the natural water storage of the special flood hazard area.

4) The project protects land and watercourses from pollutants, sedimentation and erosion.

5) The project retains open spaces in order to protect their environmentally-sensitive character; and

6) The project protects and conserves significant natural resources from degradation due to urbanization.

e) The applicant shall comply with all relevant provisions of the Flood Damage Prevention Ordinance including obtaining a no-rise certificate, if needed.

Section 17-3 Stream Buffer Protection Standards. The primary objective of stream buffer protection standards is to maintain land adjacent to streams in an undisturbed vegetated state in order to enhance and maintain water quality, protect stream channel wetlands, minimize stormwater runoff, reduce sedimentation and erosion, conserve plant and wildlife habitat and protect wildlife movement corridors. The standards contained in this section will further this objective (1) by regulating water temperature through shading of the stream bed, (2) by limiting sedimentation from streambank erosion and stormwater flow, and (3) by supporting aquatic life through the provision of organic debris such as leaves and twigs.

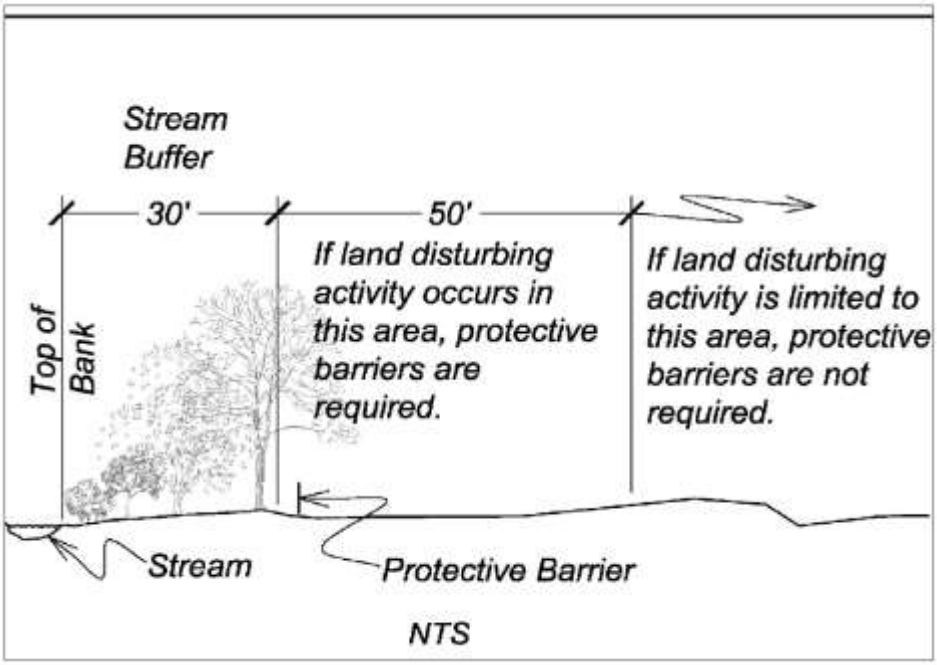
17-3-1 Applicability. Except as modified in this section, stream buffer protection standards shall apply to all watercourses depicted as a solid blue line on the most recent USGS seven-and-one-half minute quadrangle topographic maps covering the City of Hendersonville and its area of extraterritorial jurisdiction. Stream buffers shall be clearly indicated on all development plans, including concept plans, preliminary plans and final plans, and on all preliminary and final plats.

17-3-2 Stream Buffer Size. Stream buffers shall apply on each side of the stream and shall measure 30 feet horizontally from the top of the stream bank in a direction perpendicular to the stream flow.

17-3-3 Prohibition Against Development Within the Stream Buffer. To avoid a loss of effectiveness in protecting streams, the stream buffer shall remain in natural undisturbed forest vegetation and no development or land-disturbing activities shall be undertaken therein, except as provided in Section 17-3-5. Furthermore, there shall be a 20-foot transitional area immediately landward of the stream buffer which may be graded, landscaped and/or used for pedestrian or vehicular purposes so long as no impervious materials are utilized. Certain uses of land, as specified in Section 17-3-5, below, may be permitted within the stream buffer so long as they meet the requirements of that Section and are designed and constructed to minimize the amount of intrusion into the stream buffer and to minimize clearing, grading, erosion and water quality degradation. Nothing herein is intended to preclude the removal of downed vegetation from the stream bed in order to improve stream flow dynamics. If it is necessary to remove downed or dead vegetation, it should be cut and the root ball left in place to help maintain stability of the shoreline. Nothing herein is intended to [or shall] preclude any activity specifically authorized pursuant to Section 401 and/or Section 404 of the Clean Water Act.

17-3-4 Stream Buffer Protection Measures. To prevent adverse impacts to required stream buffer areas and to assure the stream buffer remains undisturbed and protected during and after land disturbing activities and development, adequate protections shall be in place prior to and after land disturbing activities and development commences.

a) When land disturbing activity or development is to take place within 50 feet of the outside edge of the stream buffer, temporary stream buffer protective barriers shall be in place prior to the land disturbing activity or development work commencing.



b) Prior to commencing any land disturbing activity or development on a site, the Planning Director or the Director's designee shall inspect and approve the installation of stream buffer protective barriers.

c) Stream buffer protective barriers shall consist of:

1) A fence which is at least three feet high and constructed in a post and rail configuration, using two-by-four posts and one-by-four rails;

2) A fence with two-by-four posts placed no farther than ten feet apart covered with a four-foot orange polyethylene laminar safety fencing; or

3) Certain erosion and sedimentation control devices such as silt fencing may also serve as the stream buffer protective barrier.

d) All contractors shall be made aware of the stream buffer designated for protection. Unless otherwise provided by ordinance, no disturbance shall occur within the stream buffer, including the following:

1) Clear-cutting of trees and other vegetation;

2) Selective cutting of trees and/or the clearing of other vegetation;

3) Removal or disturbance of existing vegetation;

4) Grading;

5) Filling;

6) Storage, parking or operating motorized vehicles;

7) Storage of debris or materials, including topsoil;

8) Use, storage or application of herbicides and/or pesticides;

9) Draining the stream buffer area by ditching, underdrains or other systems.

e) Stream buffer protective barriers shall be maintained throughout the developer's activities.

f) For planned developments and commercial uses, permanent boundary markers, in the form of signage approved by the Planning Department, shall be installed once the land disturbing activity or development is complete. Clearly visible stream buffer boundary markers shall be placed along the outside edge of the stream buffer and spaced at a maximum every 100 feet.

g) Prior to issuing a certificate of occupancy for Planned Developments, documentation shall be in place to inform property owners of the stream buffer presence and location along with management and maintenance requirements. Documentation shall be in a form that will run with the property such as inclusion in covenants, conditions and restriction documents or deed reference.

17-3-5 Exceptions. Subject to prior written authorization by the Planning Director, the following activities may be undertaken within the stream buffer provided they meet all the standards specified herein as well as other applicable provisions of the Zoning Ordinance:

a) Crossings by streets, driveways, culverts, railroads, recreational features, intakes, docks, utilities, bridges or other facilities shall be allowed provided that they are designed to minimize the amount of intrusion into the stream buffer. Streets and driveways may run generally within and parallel to the stream buffer only where no other access to the property is feasible and when their design minimizes the amount of intrusion into the stream buffer. Crossings with a width of 40 feet or more are permitted only when it has been demonstrated that there is no practical alternative.

b) Stream buffers may be used for passive recreational activities, such as unpaved or paved trails or greenways, provided that service facilities for such activities, including but not limited to parking, picnicking and sanitary facilities, are located outside of the stream buffer. Where practical, such activities shall be kept at least 15 feet from the stream bank.

c) Clearing and revegetating the stream buffer pursuant to a plan approved by the Planning Director when it has been demonstrated that such clearing and revegetation will improve stream buffer's pollutant removal efficiency.

d) Stormwater control structures and temporary erosion control structures shall be considered utilities for the purposes of this section and may be allowed in stream buffers, provided that:

1) The property owner or applicant demonstrates to the satisfaction of the Planning Director that such facilities cannot be practicably located outside of the stream buffer, and that any proposed stormwater control structure is sited and designed to minimize disturbance of the stream and stream buffer.

2) Alternate methods of stormwater and erosion control shall be considered prior to approval of such structures in the stream buffers.

3) A vegetated buffer of a width approved by the Planning Director shall be required around the stormwater control structures.

4) Any land disturbed for these structures shall be revegetated with appropriate native species in accordance with a revegetation plan approved by the Planning Director.

e) Sanitary sewer lines, on an alignment generally parallel to the stream, may be allowed in stream buffers, provided that:

1) The property owner or applicant demonstrates in writing to the satisfaction of the Director of Water & Sewer that the sanitary sewer lines cannot be practicably located outside of the stream buffer;

2) Design and construction specifications minimize damage to the stream and the possibility of line leakage;

3) The sewer line is located at least 15 feet from the top of the stream bank; and

4) The sanitary sewer plan and a plan for revegetating the stream buffer disturbance shall be approved by the Director of Water & Sewer.

f) Streams may be piped, thereby exempting the piped section of the stream from stream buffer requirements, provided such piping complies with the permitting/certification requirements of the Clean Water Act and any other applicable state and federal regulations. Piping undertaken for the purpose of accommodating public roads, railroads, greenways, recreational facilities and private roads and drives should be designed so that the right-of-way or roadway-and-shoulder width is no more than is necessary considering the design capacity of the facility and so that the proposed stream piping is not substantially in conflict with the other objectives of this Section. Where stream piping is approved, a vegetated buffer area or other device shall be provided at any intake or discharge structure. All buffers and physical improvements related to the stream piping shall be located entirely on the site or, pursuant to easement, on lands adjacent to the site.

g) Selective removal of invasive exotic species in accordance with a plan approved by the Planning Director.

h) View corridors are allowed so long as the soil is undisturbed and the natural forest floor, ground cover and understory vegetation are left intact. Pruning associated with the creation and maintenance of a view corridor is exempt. Thinning of the overstory and mid-canopy trees is permissible with the written authorization of the Planning Director.

Site plan approval by the Planning Director shall be required for any of the stream buffer intrusions described above. When any of the activities described above involves land clearing, the cleared area shall be revegetated pursuant to an approved plan. However, where a site plan is not required by any other provision of the Zoning Ordinance, the Director of Public Works is authorized to approve plans for stream piping and erosion control structures in stream buffers.

17-3-6 Minimum Lot Size Requirements. Land within the stream buffer can serve to meet minimum lot size and setback requirements if there is sufficient buildable area remaining on the lot.

17-3-7 Diffuse Flow Requirement. Diffuse flow of runoff shall be maintained in the stream buffer dispersing concentrated flow and reestablishing vegetation.

a) Concentrated runoff from new ditches or manmade conveyances shall be converted to diffuse flow before the runoff enters the 20-foot setback area defined in Section 17-3-3, above.

b) Periodic corrective action to restore diffuse flow shall be taken if necessary to impede the formation of erosion gullies.

17-3-8 Special Provisions Pertaining to Certain Residential Uses. For certain residential uses as prescribed herein, the stream buffer shall be reduced to fifteen feet and the transitional area described in Section 17-3-3 shall be reduced to fifteen feet. To qualify for these special provisions, a proposed development must meet the following criteria:

a) The lot on which the development is to occur must be a lot of record in the Henderson County Registry as of 6 September 2001.

b) Use of the lot must be limited to a one- or two-family residential dwelling.

c) The lot may not exceed one acre in area.

d) The amount of impervious surface allowed on the lot shall not exceed 25% of the lot or 3,000 ft2, whichever is greater.

Section 17-4 Exemption When Existing Uses Are Present and Ongoing. The regulations contained in this Article shall not apply to portions of the stream buffer, the floodway or the special flood hazard area where a use was existing and ongoing on the effective date of this ordinance.

a) Existing uses shall include, but not be limited to agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on site sanitary sewage systems. Only the portion of the stream buffer, floodway, or special flood hazard area that contains the footprint of the existing use is exempt from this Article. Activities necessary to maintain uses are allowed provided that the site remains similarly vegetated, no impervious surface is added within the stream buffer, floodway or special flood hazard area where it did not previously exist as of the effective date of this ordinance, and existing diffuse flow is maintained.

b) A use shall be considered as existing if projects or proposed development meet at least one of the following criteria:

1) Project requires a 401 Certification / 404 Permit, and these were issued prior to the effective date of this ordinance;

2) Projects which require a state permit, such as landfills, NPDES wastewater discharges, and road construction activities, which have begun construction or are under contract to begin construction, and which have received all required state permits prior to the effective date of this ordinance; or

3) Projects that have been determined to have a vested right pursuant to Sections 40-46, et seq., of the Code of Ordinances of the City of Hendersonville.

Section 17-5 Other Laws and Regulations. Compliance with this Article does not preclude the requirement to comply with all federal and state laws and regulations.

Section 17-6 Varying Requirements When There Is an Increase in Functionality. Occasionally, development sites will contain flood plain and/or stream buffers which, due to previous clearing or development, diking, erosion, or other reasons, are of limited functionality. This ordinance seeks to encourage landowners and developers to find creative means to improve these existing conditions. Accordingly, the entity with the authority to grant development authorization pursuant to Article VII, above, may vary the requirements of this Article when the applicant for development authorization demonstrates the proposed development, along with any management practices, will result in an increase of functionality of any regulated natural resources on the

development site. Any mitigation proposed to offset loss of a natural resource regulated herein must take place on the development site itself or on neighboring properties pursuant to a recorded easement authorizing such activities.

Section 17-7 Remedies for Violations of the Natural Resources Protection Ordinance. In addition to any other remedies provided in this Ordinance or elsewhere, the Zoning Administrator is authorized to require restoration of any natural resources damaged or destroyed in violation of the provisions of this section.

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ARTICLE XVIII
MIXED USE ZONING

Section 18-1 Legislative Intent. The mixed use zoning district classifications are intended to provide for the coordinated development of office, commercial, and residential uses and their necessary support functions. They are intended to encourage design which emphasizes livable, people-oriented environments within compatible and visually appealing developments. Mixed use districts are intended to provide areas where moderate scale mixed use centers can locate with an emphasis on development of a balance of residential, office and commercial uses, and public spaces.

It is further intended that mixed use districts shall encourage development within which mutually supporting residential, commercial and office uses are scaled, balanced and located to reduce general traffic congestion by providing housing close to principal destinations, and convenient pedestrian circulation systems and mass transit to further reduce the need for automobile usage. Mixed use districts are intended to encourage development that allows multiple destinations to be achieved with a single trip.

When such districts adjoin residential development or residential zoning districts, it is intended that arrangement of buildings, uses, open space, and vehicular or pedestrian access shall be such as to provide appropriate transition and reduce potentially adverse effects.

Section 18-2 Mixed Use Design Requirements. Mixed use zoning districts require special attention to design because of the intermixing of land uses in close proximity. Applications for development authorization for projects located within one of the mixed use zoning districts shall, in addition to site layout, address building and site design, as well as the functional integration of residential and commercial uses. In addition to meeting the requirements for site plan review contained in Section 7-3, above, applications for development authorization within a mixed use zoning district shall also demonstrate that the design of the project meets the goals and intent of the mixed use zoning district classifications. Applicants shall demonstrate design sufficiency in one of two ways: (1) by complying with the design standards for the mixed use zoning district classification in which the property is located; or (2) by means of alternative design which conforms to the general design considerations contained in Section 18-6, below, and which will result in a project design which is as good as, or better than, that resulting from the design standards in furthering the legislative intent stated in Section 18-1, above.

Section 18-3 Processing of Applications for Development Authorization within the Mixed Use Zoning District Classifications. Except as modified in this section, applications for development authorization for projects situated within the mixed-use zoning district classifications shall be processed in accordance with Article VII, above. Applicants may choose whether to proceed with preliminary or final site plan review regardless of the size of their projects.

18-3-1 Preliminary Plan Review. The applicant may choose whether to have preliminary review of the site plan only or of both the site plan and the design concept. Preliminary plan review shall be conducted pursuant to the provisions of Section 7-3, above, except as modified herein.

18-3-1.1 Site Plan Review Only. If the applicant chooses to undergo site plan review only, it shall submit a preliminary site plan meeting the requirements of Section 7-3-3.2. Preliminary site plan approval shall entitle the applicant to final site plan approval to develop the property in accordance with the approved preliminary site plan as provided in Section 7-3-4.2, above. Preliminary site plan approval pursuant to this section does not relieve the applicant of demonstrating design compliance at the time of final plan review.

18-3-1.2 Joint Site Plan and Design Review. If the applicant chooses to undergo joint site plan and design review, it shall submit, in addition to the preliminary site plan, a design concept meeting the requirements of Section 18-3-3, below. The preliminary site plan and the design concept shall undergo a threshold review by the Planning Director to determine whether they demonstrate compliance with the design standards for the zoning district in which the property is situated. If the Planning Director determines the plans are compliant with the applicable design standards, the Planning Director shall refer the application to the reviewing authority for preliminary review. If the Planning Director determines the plans are not compliant, the Planning Director shall refer the application to the Alternative Design Committee. The Alternative Design Committee shall review the application at one or more meetings at which the applicant is entitled to be present and shall make a recommendation to the applicable reviewing authority as to whether the preliminary site plan and the design concept demonstrate compliance with the requirements of this Article. The decision as to compliance shall be that of the reviewing authority and shall be subject to review in accordance with Article VII, above. Joint preliminary site plan and design approval shall entitle the applicant to final approval to develop the property in accordance with the approved preliminary site plan so long as final plans, including the final design concept, do not deviate substantially therefrom.

18-3-2 Final Plan Review. Final plan review is processed in one of two ways: compliant or alternative. Compliant final plan review means that the final design plans comply with either (1) approved preliminary design plans or (2) with all the design standards contained in Section 18-6, below. Alternative final plan review is necessary for all other projects.

To initiate final plan review, the applicant shall submit a final site plan meeting the requirements of Section 7-3-4.3 along with a final design plan meeting the requirements of Section 18-3-3.

18-3-2.1 Compliant Final Plan Review. The reviewing authority for compliant final plan review is the Planning Director. If the Planning Director determines the final plans demonstrate compliance with approved preliminary plans and with all other provisions of the Zoning Ordinance, including either the design standards contained in Section 18-6, below, or an approved preliminary design, the Planning Director shall direct that a zoning compliance permit be issued to the applicant.

18-3-2.2 Alternative Final Plan Review. The reviewing authority for alternative final plan review is the Planning Board. If the final design plans for a project deviate from either approved preliminary design plans or from the design standards contained in Section 18-6, below, the applicant shall undergo alternative final plan review. The final site plan and final design plan shall be reviewed by the Alternative Design Committee at one or more meetings at which the applicant is entitled to be present. The Alternative Design Committee shall make a recommendation to the Planning Board as to whether the final design plan meets the requirements of this Article. If the Planning Board determines the final plans demonstrate compliance with approved preliminary plans and with all other provisions of the Zoning Ordinance, including the design requirements contained in this Article, it shall order that a zoning compliance permit be issued to the applicant.

18-3-3 Design Submittal Requirements. In addition to plans and documentation required under Article VII of this Ordinance, applicants for development authorization for projects within one of the mixed use zoning districts shall submit, as a part of their application, design plans containing the following:

a) Title Block containing the following: sheet title, graphic and numerical scale, date, name of project, name, address and telephone number of person preparing the plans, and property address.

b) Floor plans;

c) Elevations of all façades, including existing structures to remain. Elevations shall be drawn to a reasonable scale which shall be not less than 1/8 inch = one foot;

d) Design, including materials and colors, of the following project components:

1) Stairs, ramps and railings;
2) Refuse, storage and pickup areas;
3) Utility and mechanical equipment, and their proposed screening;
4) Chimneys and exhaust fans;
5) Canopies, awnings sunshades, louvers;
6) Balconies and decks;
7) Antennas;
8) Fences and walls;
9) Type of roof, wall and trim materials to be used;
10) Existing and proposed signs;
11) Lighting standards and fixtures;
12) Roof overhangs.

e) Typical cross-sections as necessary to determine compliance with the design requirements and considerations contained in this article.

The Planning Director has the authority to waive any application requirement where the type of use or scale of proposal makes providing that information unnecessary or impractical. The Planning Director, Planning Board or City Council may require additional information where such is necessary to enable a fully informed decision on the matter.

Section 18-4 Appeals. Decisions rendered hereunder may be appealed to City Council in accordance with the provisions of Section 7-3-4.4, above.

Section 18-5 Alternative Design. It is the intention of this article to provide a means for creative design approaches to development within the mixed use corridors so long as the design of a project advances the goals of this Article.

18-5-1 Design Choices. Applicants who choose not to comply with the design standards for any mixed use zoning district classification are free to develop their projects in an alternative fashion so long as the proposed design of the project meets the general design consideration contained in Section 18-6, below, and will result in a project design which is as good as, or better than, that resulting from the design standards.

18-5-2 Alternative Design Committee. There shall be an ad hoc alternative design committee, composed of not less than three nor more than five persons.

18-5-2.1 Function of the Committee. The Committee shall serve as a resource to the Planning Director and to the Planning Board. The Committee shall meet as necessary to review alternative design proposals and to make a recommendation as to whether a proposed alternative design meets the standard stated in Section 18-5-1, above. The Committee shall also assist the Planning Director, as needed, in administering the provisions of this Article.

18-5-2.2 Membership of the Committee. The membership of the Alternative Design Committee shall be appointed by the Mayor to serve on an as-needed basis. The members shall be chosen from the membership of the Planning Board, the Historic Preservation Commission and/or the general public residing within the city limits or the extraterritorial jurisdiction, and if possible, shall contain one or more of the following professions: 1) architect, 2) landscape architect, 3) builder or developer.

Section 18-6 General Design Considerations. Mixed use zoning districts require special attention to design because of the intermixing of land uses in close proximity. Functional integration of residential and commercial uses shall be considered during project design. This section seeks to set forth the design philosophy for the mixed use zoning districts and is intended to provide guidance to design professionals. It is also intended to provide standards for reviewing projects undergoing alternative design review pursuant to Section 18-3, above.

18-6-1 General Site Arrangement. Structures shall be placed and arranged so as not to adversely affect adjacent property. Adverse effects shall include, but are not limited to, the removal of lateral support on adjacent property, the creation of hazard, nuisance, danger, or inconvenience, or unreasonable loss of privacy. Development shall be arranged so as to be visually harmonious within the development site and, where appropriate, in relation to adjacent developments. Site design elements of the development shall be integrated to the degree of their compatibility with each other and shall be separated to the degree of their incompatibility. Insofar as is practicable, developments shall be arranged so as to preserve or enhance vistas.

18-6-2 Physical Integration of Uses. All mixed use developments shall be designed and developed to provide an appropriate interrelationship between the various uses and structures within the development. Residential and commercial uses may be located within the same or adjoining structures.

18-6-3 Preservation of Natural Features and Open Space. Permitted flexibility in lot sizes, setbacks, street alignments and widths, and landscaping shall be utilized to preserve natural features and drainage patterns and to provide open space.

18-6-4 Building and Project Design Compatibility. The mixed-use districts are proposed for corridors where there is considerable existing development, much of which is not consistent with the purpose and goals of this article. To the degree existing development is consistent with these purpose and goals, new development should be designed to be compatible with such existing development. However, where there is a conflict between the design of existing development and the purpose and goals of this article, the purpose and goals of this article shall prevail. The following elements shall be addressed to ensure compatibility.

18-6-4.1 Architectural Character. The rich architectural vocabulary of the City of Hendersonville presents a wide variety of development opportunities using traditional forms while avoiding any perception of monotony. Each building proposed for the mixed use districts shall have a well-proportioned form consistent with the building use, and its construction materials and methods. Massing of the building(s) shall create a building envelope that reflects simple, clearly articulated building volumes. Such straight-forward building massing is distinguished from additive or collective forms which generally are not allowed unless clearly related to specific functions and uses of the building.

Assuming they are consistent with the purpose and goals of this article, as well as the general architectural standards stated above, new developments in or adjacent to existing developed areas shall be compatible with the established architectural character of such areas by using a design that is complementary. Compatibility may be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns, and/or the use of building materials that have color shades and textures similar to those existing in the immediate area of the proposed infill development.

18-6-4.2 Building Orientation. It is preferred that primary façades face the adjacent street or significant public space. A main entrance shall face a connecting walkway with a direct, safe, pedestrian connection to the street. Where the main entrance does not face the adjacent street, buildings shall nonetheless be designed to provide an attractive streetside façade.

18-6-4.3 Building Placement. Buildings shall be situated with regard to pedestrian and vehicular connectivity. It is preferred that they be located close to the pedestrian street with offstreet parking behind and/or beside the building. Important mountain vistas and/or views of significant historic sites shall be protected and accentuated to the extent practicable.

18-6-4.4 Privacy Considerations. Elements of the development plan shall be arranged to maximize the opportunity for privacy by the residents of the project and minimize infringement on the privacy of adjoining land uses. Additionally, the development plan shall create opportunities for interactions among neighbors.

18-6-4.5 Architectural Details. Architectural elements like openings, sill details, bulkheads, posts, and other architectural features shall be used to establish human scale at the street level. On corner lots, the applicant is encouraged to provide a building entry, additional building mass, and distinctive architectural elements at the corner of buildings. Windows, doors, columns, eaves, parapets, and other building components shall be proportional to the overall scale of the building. Windows shall be vertically aligned wherever practical. The appearance of all exposed façades (not just the streetside façade) is important and shall be addressed in development design.

18-6-4.6 Circulation and Access. Street designs shall permit the comfortable use of the street by cars, bicyclists, and pedestrians. Pavement widths, design speeds, and the number of vehicle lanes should be minimized without compromising safety. The specific design of any given street must consider the building types which front on the street and the relationship of the street to the City's street network. This Ordinance encourages the development of a network of interconnecting streets that work to disperse traffic while connecting and integrating neighborhoods with the existing urban fabric of the City. Equally as important, the Ordinance encourages the development of a network of sidewalks and bicycle lanes that provide an attractive and safe mode of travel for pedestrians and cyclists.

Minor variations and exceptions to street cross-sections may be permitted with approval of the Administrative Officer and the City Engineer. Such exceptions include variations to the pavement width, size and location of on-street parking, tree planting areas, street grade, and centerline radii in accordance with principles below. Right-of-way widths should be preserved for continuity.

Streets shall interconnect within a development and shall be designed with due regard to designated corridors shown on the City Transportation Plan. Streets shall be designed as the main public space of the City and shall be scaled to the pedestrian. Applicants are encouraged to design streets so that they interconnect with adjacent properties.

Sidewalks shall be required along streets adjacent to proposed developments. They shall form a logical, safe, and convenient system for pedestrian access to all dwelling units and commercial establishments within the development and shall be required along such streets, drives and parking areas as is necessary to accomplish this. Pedestrian / bicycle pathways may be substituted for sidewalks, if appropriate.

18-6-4.7 Building Walls. Buildings shall avoid long, monotonous, uninterrupted walls or roof planes on their visible façades. It is preferred that this design goal be achieved by means of building wall offsets, including projections, recesses, and changes in floor level, and roofline offsets. Such offsets add architectural interest and variety and can assist in creating human size proportions. Parapets shall be

designed as integral to the mass of the building. When multiple wall materials are combined on one façade, the designer is encouraged to place the heavier material(s) below.

18-6-4.8 Building Materials. Building materials shall either be similar to the materials already being used in the neighborhood or, if dissimilar materials are being proposed, other characteristics such as scale and proportions, form, architectural detailing, color and texture, shall be utilized to ensure that enough similarity exists for the building to be compatible, despite the differences in materials.
Building materials shall not create excessive glare. Highly reflective building materials, such as aluminum, unpainted metal and reflective glass, have a high potential for glare, and designs utilizing such materials shall be evaluated to determine whether or not the glare would create a significant adverse impact on the adjacent property owners, neighborhood or community in terms of vehicular safety, outdoor activities and enjoyment of views.

[This Ordinance was retyped on January 5, 2018 and incorporates all amendments made through that date.]