ARTICLE V

Members

Section l. Composition. The Board shall be composed of five regular members and five alternates. Subject to the provisions of Section 10-1 of the City of Hendersonville Zoning Ordinance and N.C.G.S. §§ 160D-302 and 160D-307, or any successor statutes, the members shall be chosen as follows: Four regular members and Four alternates, each of whom shall be a resident of the City of Hendersonville, shall be appointed by the City Council of the City of Hendersonville. One regular member and one alternate, each of whom shall be a resident of the extraterritorial jurisdiction of the City of Hendersonville, shall be appointed by the Henderson County Commission.

Section 2. Term of Office. Members shall serve three-year terms as provided by the City of Hendersonville Zoning Ordinance.

Section 3. Vacancies. Vacancies shall be filled as soon as deemed advisable by the applicable appointing authority.

Section 4. Removal of Members. Any member of the Board may be removed by the applicable appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest.

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ARTICLE VII

Meetings

Section I. Regular and Special Meetings.

A. Regular meetings of the Board shall be held at 1:30 p.m. on the second Tuesday of each month at a time and place designated by the Board, except when otherwise decided by the Board, with due notice to the press. If a day scheduled for a regular meeting is a holiday for which the offices of the City of Hendersonville are closed, the regular meeting shall be held on the following Tuesday.

B. Special meetings of the Board may be called at any time by the Chair provided that at least forty-eight hours written notice of the time and place of a special meeting be given, to each regular and alternate member of the Board and to the secretary. In addition, members of the press shall be notified of each meeting in accordance with law. Special meetings may include Board retreats and like meetings held to conduct internal business of the Board.

Section 2. Quorum.

Four members of the Board (including alternates) eligible to vote on any issue, shall constitute a quorum for purposes of that issue. Notwithstanding the foregoing, a quorum shall not be necessary to do any of the following:

A. Set a date, Lime or place for any subsequent meeting.

B. Discuss general internal Board business, but in no case may the Board without a quorum hear or discuss the merits of any matter brought or to be brought before the Board as part of a public hearing.

C. Appoint a Chair pro tern for the meeting.

Section 3. Voting.

A. In accordance with G.S. 160D-406(i), the concurring vote of four-fifths majority of the members of the board of adjustment shall be necessary to grant a variance. Except as otherwise provided in these bylaws, including the policies and procedures attached hereto, a majority of all regular and alternate members eligible to vote shall be necessary to transact any other official business.

B. Except as otherwise provided herein: Any regular member in attendance at any meeting shall be eligible to vote on all matters brought before the Board at that meeting. Alternates members shall be eligible to vote in the absence of any regular member. By way of example, if four regular members attend the meeting then one alternate in attendance shall be eligible to vote, and if two alternates are in attendance the Chair may select one alternate to be eligible. The Chair may empower alternates to be eligible to vote at any portion of a meeting where a regular member is absent or excused, including any public hearing.

Section 4. Records.

The Board shall keep minutes and records of all proceedings, including resolutions, transactions, findings and determinations; shall record the number of votes for and against each question presented; and shall indicate whether any member is absent or abstains from voting. All such records shall be filed in the office of the Board Secretary immediately following the meeting at which they occurred.

Section 5. Absences.

Subject to the ordinances of the City of Hendersonville, any regular member of the Board who misses more than three consecutive regular meetings or more than half the meetings in any calendar year (not including meetings postponed for reasons other than lack or predicted lack of a quorum) shall by that fact no longer be a member of the Board.

Section 6. Open Meetings and Public Hearings.

Board meetings and public hearings shall be open to the public as required by N.C.G.S. Chapter 143 Article 33C.

Section 7. Order of Business.

The order of business at regular meetings shall be as follows:

Roll call; determination of quorum

Approval of Minutes of previous meeting

Hearing of cases

Other business

Adjourn

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APPENDIX I

POLICIES AND PROCEDURES

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6. Decisions

A.. In accordance with G.S. 160D-406(i), the concurring vote of four-fifths majority of the members of the Board shall be necessary to grant a variance. A majority of the members eligible to vote shall be required to decide any other matter. Votes taken more than seventy days after the close of the public hearing shall be accompanied by a declaration for the minutes, articulating clearly and specifically the reasons for the delay.

B. Written decisions containing findings of fact and conclusions of law may be approved at any time within seventy days after the initial vote. Any written decision presented to the board for final vote more than seventy days after the initial vote shall be accompanied by a written statement articulating clearly and specifically the reasons for the delay.

C. The final vote, if approving the written decision, shall be held on the following issue: "Do the findings of fact, conclusions of law and ruling contained in the written decision accurately reflect the sense of those who voted with the decision reached in the initial vote?" Subject to the Board's bylaws and procedures. this final vote may be approved by a majority of those members attending the meeting at which the final vote is held and eligible to vote.

If upon an attempted final vote no majority can be reached upon the issue. the Chair shall request of the members who voted with the decision reached in the initial vote to indicate as clearly as possible for the minutes, if in the Chair's opinion they did not do so at the time of the initial vote, the criteria of the ordinance, met or unmet, upon which they based their vote, and the facts adduced at the hearing that support their conclusions.