

ZONING TEXT AMENDMENT: RV TEMPORARY USE PERMIT AND  
NONCONFORMING STRUCTURES CHANGES (P24-099-ZTA)

CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

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## PROJECT SUMMARY

- Project Name & Case #:
  - RV Temporary Use Permit and Nonconforming Structures Changes
  - P24-099-ZTA
- Applicant:
  - City of Hendersonville
- Zoning Ordinance Articles Amended:
  - Sec. 6-2-2 Nonconforming structures.
  - Section 34-4. Parking and Storage of Recreational Vehicles
  - Section 8-3. Temporary use permits for manufactured/mobile homes.
  - Section 12-2. Definitions of commonly used terms and words.
- Planning Board - Legislative Committee Meeting
  - December 17<sup>th</sup>, 2024



### *Summary of Amendment Petition:*

City staff is proposing revisions to the City's zoning ordinance to support post-disaster recovery. The key changes focus on permitting the temporary use of recreational vehicles (RVs) for shelter and allowing nonconforming residential structures to be rebuilt, regardless of the extent of the damage.

Staff believes these changes will not only assist individuals still recovering from the aftermath of Hurricane Helene but will also provide support in the future if and when new storms impact the City.

## AMENDMENT ANALYSIS - AMENDMENT OVERVIEW

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The aftermath of Hurricane Helene highlighted the need for the City of Hendersonville to promote resilience in post-disaster recovery. Access to safe housing in the immediate aftermath of a storm is critical. City staff identified two key strategies to help individuals and families secure safe, healthy shelter as quickly as possible: 1) allowing temporary use of recreational vehicles (RVs), and 2) permitting repairs to nonconforming residential structures throughout the City and its extraterritorial jurisdiction (ETJ).

To facilitate these solutions, staff has proposed several revisions to the zoning ordinance.

First, staff proposes establishing a temporary use permit for RVs, allowing them to be used as temporary shelter during construction (when an active building permit is in place) or during a declared state of emergency. If there is a declared state of emergency, the permit issued would be valid for 180 days with the possibility of an extension, but does not require an active building permit.

Additionally, staff has proposed a revision to the City's nonconforming structures ordinance to distinguish between residential and commercial nonconforming structures when they are destroyed by a natural disaster or Act of God. The goal is to expedite the recovery process for individuals affected by such events, enabling them to regain safe shelter as quickly as possible.

Under the proposed revision, nonconforming residential structures could be reconstructed regardless of the extent of the damage. Previously, if the renovation costs exceeded 50% of the structure's value, the building would need to comply with current zoning requirements. It is important to note that this ordinance will not affect the floodplain administrator's authority to require homes in the 100-year floodplain to comply with the City's Flood Damage Protection Ordinance.

The following language is recommended for addition / ~~deletion~~.

#### **Sec. 34-4. Parking and storage of recreation vehicles.**

- (a) Parking of the recreation vehicles shall be prohibited, except in driveways, within the required front yard area, and subject to the requirements of this chapter. The side yard areas may be used for parking of such vehicles in accordance with the provisions of this chapter.
- (b) Recreation vehicles may be used and maintained as a temporary shelter or office located on a construction site during the actual period of construction on such site; provided, however, that the vehicles shall be removed therefrom within 72 hours next following completion of the construction processes.
- (c) One unoccupied recreation vehicle may be parked or otherwise located in any accessory private garage building, or in a rear or side yard of an occupied dwelling; provided, however, that no living or sleeping quarters shall be maintained, or any business located in, or carried on, or otherwise fostered in the ~~trailer~~ recreational vehicle while it is so parked, located or stored.
- (d) A recreation vehicle with self-contained facilities may be temporarily parked or located, occupied or unoccupied, within the boundaries of districts zoned and designated under the zoning ordinance of the city as residential areas, neighborhood trading areas, or industrial districts, or MIC for a period not exceeding 72 hours; provided, however, that a permit is obtained from and issued by the code enforcement officer prior to the parking or location of the recreation vehicle; provided, further, that if the code enforcement officer shall fail to issue such permit after prompt and appropriate application therefor, the applicant shall have the right to appeal the decision of the code enforcement officer to the ~~entire city council~~ zoning board of adjustment.
- (e) Recreation vehicles may be used and maintained as a temporary shelter or office for the sale of agricultural products such as crops, fruits, vegetables, ornamental and flowering plants or trees and all other forms of agricultural products, provided that there are no living or sleeping quarters maintained in such recreation vehicle during such temporary use. A temporary use permit shall be obtained from the code enforcement officer for such use for a specified period of time not exceeding 90 days. One such permit may be issued within a 12-month period.

(f) The use and occupancy limitations contained in this Section 34-4 shall not apply to the use or occupancy of a recreational vehicle where such use or occupancy is permitted by the City of Hendersonville Zoning Ordinance.

(Code 1971, § 17-4)

#### **Sec. 8-3. Temporary use permits for manufactured/mobile homes and recreational vehicles**

##### **a) 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 approved 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 board of adjustment.

##### **b) Recreational Vehicle**

(1) Recreation vehicles may be used and maintained as a temporary shelter or office located on a construction site during the actual period of construction on such site; provided, however, that the vehicles shall be removed therefrom within 72 hours next following completion of the construction processes.

(2) During a mayoral declared state of emergency for the City of Hendersonville, the zoning administrator may issue a temporary use permit for a particular tract of land to allow the placement of a recreational vehicle in any zoning district for up to 180 days. Extensions for hardship may be granted by the zoning board of adjustment. The recreational vehicle must be maintained

in such a way as to not create a nuisance. The temporary use permit shall specify the placement of the recreational vehicle on the property on which it is located with regards to front, rear, or side yard, and setbacks.

## **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 residential structure is damaged by fire, flood, wind, or other act of God, ~~and such damage does not exceed 50 percent 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.
- h) Where a nonconforming commercial structure is damaged by fire, flood, wind, or other act of God, and such damage does not exceed 50 percent 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.

## **12-2. Definition of commonly used terms and words**

**Recreational vehicle:** a motor vehicle or trailer that includes living quarters designed for accommodation, including but not limited to motorhomes, campervans, fifth-wheel trailers, and popup campers. Such vehicles must be:

- a) Built on a single chassis;
- b) 400 square feet or less when measured at the largest horizontal projection;
- c) Designed to be self-propelled or permanently towable by a light duty truck;
- d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use; and
- e) Fully licensed and ready for highway use.

Legislative Committee of the Planning Board – December 17<sup>th</sup>, 2024

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Planning Board Members Present: Donna Waters, Peter Hanley, Bob Johnson, and Jim Robertson

The Legislative Committee reviewed the zoning text amendment, expressing support for the portions of the ordinance related to recreational vehicles. However, there were concerns regarding the version of the ordinance addressing nonconforming structures. The original proposal aimed to eliminate the 50% threshold based on the current assessed value for all structures (both residential and commercial). This approach was not well-received by most committee members, who expressed concerns that it could undermine the purpose of nonconforming structures — to phase out those that do not comply with updated zoning requirements.

The committee also discussed in detail that the ordinance revision was partly intended to provide support for manufactured and mobile homes damaged by Hurricane Helene. However, most committee members were adamant that they did not want to allow manufactured or mobile homes to remain in nonconforming conditions.

**GENERAL ZONING TEXT AMENDMENT STANDARDS**

<p>1) COMPATIBILITY</p>	<p><b><u>EXISTING CONDITIONS</u></b>                  The revision of the zoning text amendment will make it easier for homeowners to rebuild their homes regardless of whether they are no longer deemed to conform with the current zoning standards. The revisions allowing for temporary RV use will have minimal impact on existing conditions.</p>
	<p><b><u>GEN H COMPREHENSIVE PLAN GOALS</u></b> (Chapter IV)  <b>Vibrant Neighborhoods:</b> Consistent  <b>Abundant Housing Choices:</b> Consistent  <b>Healthy and Accessible Natural Environment:</b> N/A  <b>Authentic Community Character:</b> Consistent  <b>Safe Streets and Trails:</b> N/A  <b>Reliable &amp; Accessible Utility Services:</b> Consistent  <b>Satisfying Work Opportunities:</b> N/A  <b>Welcoming &amp; Inclusive Community:</b> N/A  <b>Accessible &amp; Available Community Uses and Services:</b> N/A  <b>Resilient Community:</b> Consistent</p>
	<p><b><u>GEN H COMPREHENSIVE PLAN GUIDING PRINCIPLES</u></b> (Chapter IV)  <b>Mix of Uses:</b> N/A  <b>Compact Development:</b> N/A  <b>Sense of Place:</b> N/A  <b>Conserved &amp; Integrated Open Spaces:</b> N/A  <b>Desirable &amp; Affordable Housing:</b> N/A  <b>Connectivity:</b> N/A  <b>Efficient &amp; Accessible Infrastructure:</b> Consistent</p>
<p>2) Changed Conditions</p>	<p><b>Whether and the extent to which there are changed conditions, trends or facts that require an amendment -</b></p>
	<p>The City staff believe that it is important to ensure that people can regain access to housing as quickly as possible after a storm. In light of Hurricane Helene which has shown that the City of Hendersonville is not immune from damage and destruction from natural hazards, it is important to update our ordinance to ensure that people can recover as quickly as possible.</p>
<p>3) Public Interest</p>	<p><b>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 -</b></p>
	<p>Staff has attempted to craft this ordinance so that there will be minimal impact to neighbors.                  Staff has also placed heavy value on keeping residents in their existing homes and existing communities. These ordinance revisions attempt to help allow people to remain in their neighborhoods.</p>
<p>4) Public Facilities</p>	<p><b>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</b></p>

	This amendment will have minimal to no impact on public facilities.
<b>5) Effect on Natural Environment</b>	<b>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 -</b>
	There is minimal impacts on the natural environment.



DRAFT ADOPTED PLAN CONSISTENCY AND TEXT AMENDMENT REASONABLENESS STATEMENT

The petition is found to be [consistent] with the City of Hendersonville Gen H 2045 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:

*The petition aligns with the City's adopted plan's policy guidance to establish more resilient communities through recovery from adverse events such as extreme weather or natural hazards.*

We [find/do not find] this proposed subdivision text amendment petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

*DRAFT [Rationale for Approval]*

- *Hurricane Helene has shown that there is a pressing need for the City to create flexibility in its zoning code to support post-disaster recovery.*
- *The use of recreational vehicles will be temporarily permitted in all zoning districts to provide adequate housing for individuals following disasters.*
- *The proposed text amendment will allow for the rebuilding of nonconforming structures only after a natural disaster or other act of God, thereby aiding in quick recovery for city residents.*

*DRAFT [Rational for Denial]*

- *Nonconforming structures are intended to be phased out of the City over time; therefore, this ordinance could potentially extend the duration for which these structures remain in the City.*
- *Recreational vehicles will cause an undue burden on the neighbors and is not compatible with City zoning districts.*