

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND  
ARTICLE V. – ZONING DISTRICT CLASSIFICATIONS, SECTION 5-27 CHMU  
COMMERCIAL HIGHWAY MIXED USE ZONING DISTRICT TO PROVIDE STANDARDS  
FOR TRANSPORTATION AND CIRCULATION**

**WHEREAS**, the Planning Board reviewed this petition for a zoning text amendment at its regular meeting on August 10, 2023; voting 0-0 to recommend City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance, and

**WHEREAS**, City Council took up this application at its regular meeting on September 7, 2023, and

**WHEREAS**, City Council has found that this zoning text amendment is consistent with the City's comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

**WHEREAS**, City Council has conducted a public hearing as required by the North Carolina General Statutes on September 7, 2023,

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville to amend Article V. – 'Zoning District Classifications', Section 5-27 'CHMU Commercial Highway Mixed Use Zoning District' to provide standards for transportation and circulation.

**Sec. 5-27. CHMU Commercial Highway Mixed Use Zoning District Classification.**

**5-27-4 Design standards.**

**NOTE:** "Building design element" sub-sections below are not required for one- and two-family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).

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.** ~~NOTE: Section 5-27-4.1.4 is not required for one and two-family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).~~

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 ten percent 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 1,000 square feet of common space. Trees shall have a minimum caliper of three to three and one-half 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.** ~~NOTE: Section 5-27-4.1.5 is not required for one and two-family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).~~

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.** ~~NOTE: Section 5-27-4.1.6 is not required for one and two family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).~~

Front, rear and side façades of buildings shall contain at least two building materials which shall contrast in color and texture. At least 15 percent 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.** ~~NOTE: Section 5-27-4.1.7 is not required for one and two family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).~~

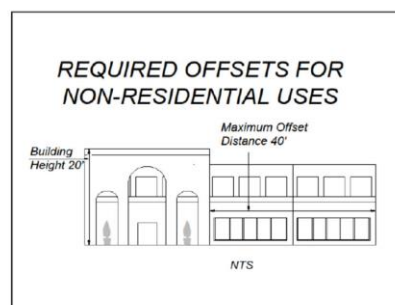
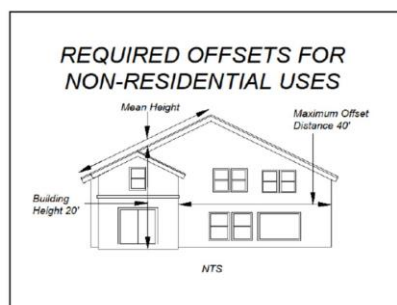
Windows shall either be (1) recessed a minimum of three inches from the façade or (2) trimmed. If trim is used, it shall be a minimum of four inches (nominal) in width and shall project beyond the façade.

**5-27-4.1.8 Building scale.** ~~NOTE: Section 5-27-4.1.8 is not required for one and two family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).~~

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:

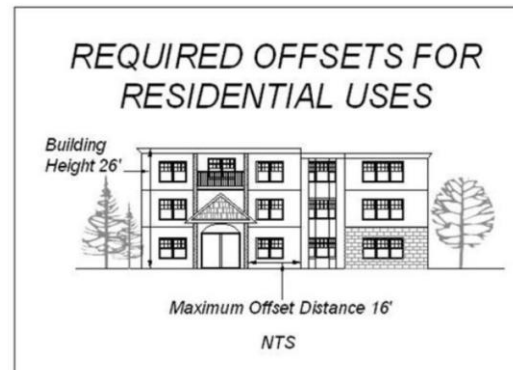
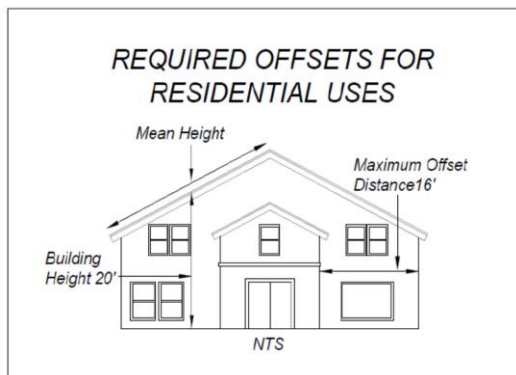
- 1) The distance between required offsets is related to the height of the building wall on a two-to-one basis. A building façade which is less than or equal to the height of the building shall not require an offset.



- 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 5-27-5 and](#) section 18-6-4.6, below.

**5-27-4.1.10 Building materials.** ~~NOTE: Section 5-27-4.1.10 is not required for one- and two-family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).~~

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 percent 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; [vinyl siding](#) and any other materials not customarily used in conventional construction.

**5-27-4.2 General standards for residential developments.** ~~NOTE: Section 5-27-4.2 is not required for one- and two-family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).~~

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 percent of the total building façade.
- c) Accessory buildings with a floor area greater than 150 square feet 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 and 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:	2½ 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 square feet
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 square feet

**5-27-4.7 Specific standards for commercial and 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

## **5-27-5 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.

**5-27-5.1 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 each side-of all public roadways and of all private roadways which the development directly abuts 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.

**5-27-5.2 Vehicular access.** It is the intent of these regulations to create interconnectivity between development parcels in order to provide alternative transportation routes to existing thoroughfares. Accordingly, when development parcels have potential to provide access between major arterial roadways and adjoining parcels, developers are encouraged to utilize public streets, rather than

private streets or driveways. The regulations contained in this section shall apply to all new development and redevelopment within the district.

**5-27-5.2.1 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:

<u>LINEAR FRONTAGE</u>	<u>NUMBER OF PERMITTED</u>
<u>Less than 350 feet</u>	<u>1</u>
<u>Greater than 350 feet</u>	<u>2</u>
<u>Greater than 1,000 feet</u>	<u>3<sup>1</sup></u>

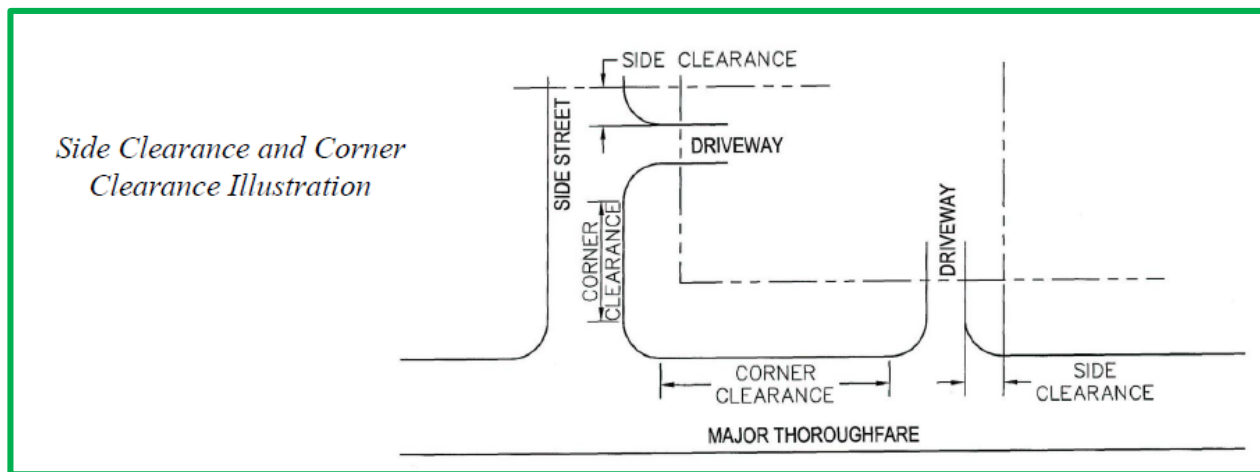
<sup>1</sup> With approval of the city after demonstration of need in the required TIAS.

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

<u>CLEARANCE TYPE</u>	<u>ALONG MAJOR THOROUGHFARE</u>	<u>ALONG SIDE STREET</u>
<u>Corner clearance<sup>2</sup></u>	<u>250 feet</u>	<u>100 feet</u>
<u>Side clearance<sup>3</sup></u>	<u>30 feet</u>	<u>10 feet</u>

<sup>2</sup> Corner clearance shall be measured from the point of tangency of the radius curvature of the intersection streets.

<sup>3</sup> Side clearance shall represent the distance from the driveway to the side property line.



- 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.

**5-27-5.2.2 Outparcels.** Access to development outparcels shall be oriented to the interior of the development site, not to the roadway.

**5-27-5.2.3 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.

**5-27-5.2.4 Connectivity.** In an effort to improve and promote overall street connectivity, public streets and private drives constructed within the CHMU zoning district shall provide connections to existing adjacent public streets and adjacent parcels. Primary access from major arterials should be provided by public streets.

When no off-site stub-outs are present, the following connections shall be provided to adjacent 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 to extend and connect with future streets or drives. In the event that adjacent land is already developed with stub-outs present, the developer shall connect to the existing stub-out(s).
- b) Residential developments containing 100 or more dwelling units shall include street connections or stub-outs at a ratio of one stub-out/connection per 100 dwelling units. In the event adjacent land is already developed with stub-outs present, 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-out to each adjoining parcel where, considering topography, land use compatibility and future development or redevelopment potential, it is deemed feasible and appropriate.

## **5-27-~~5~~6 CHMUCZD Commercial Highway Mixed Use Conditional Zoning District Classification.**

The purpose, requirements and standards 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 upon rezoning to CHMUCZD, regardless of the square footage or number of residential units for the use:

Telecommunications towers, subject to supplementary standards contained in section 16-4, below.

Permitted uses for the CHMU Commercial Highway Mixed Use Zoning District Classification as specified in section 5-27-1, above.

Special uses for the CHMU Commercial Highway Mixed Use Zoning District Classification as specified in section 5-27-1, above.

Attest:

\_\_\_\_\_  
Barbara G. Volk, Mayor, City of Hendersonville

\_\_\_\_\_  
Jill Murray, City Clerk

Approved as to form:

\_\_\_\_\_  
Angela S. Becker, City Attorney