

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND CITY OF HENDERSONVILLE ZONING ORDINANCE, ARTICLE XI. 'AMENDMENTS' TO COMPLY WITH GENERAL STATUTE

WHEREAS, the Planning Board reviewed this petition for a zoning text amendment at its regular meeting on November 13, 2025; voting 7-0 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 December 4, 2025, 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, General Statute (HB 926) now states that a "development regulation or unified development ordinance may not include waiting periods prohibiting a landowner, developer, or applicant from refiling a denied or withdrawn application for a zoning map amendment, text amendment, development application, or request for development approval", and

WHEREAS, General Statute abolished "protest petitions" in 2015, and

WHEREAS, City Council has conducted a public hearing as required by the North Carolina General Statutes on December 4, 2025,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville that:

SECTION 1. The City of Hendersonville Zoning Ordinance, Article XI. 'Amendments' is hereby amended as follows:

ZONING ORDINANCE

ARTICLE XI. AMENDMENTS

Sec. 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.~~

Sec. 11-5. Action by the city council

~~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 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 percent or more of the area included in the proposed change or five percent 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.~~

11-5-43 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 G.S. 160D-403 and G.S. 160D-1110 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to G.S. 160D-403(c) and G.S. 160D-1111, and unrevoked pursuant to G.S. 160D-403(f) and G.S. 160D-1115.

SECTION 2. If any provision of this ordinance or its application is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are severable.

SECTION 3. It is the intention of the City Council and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Hendersonville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 4. This Ordinance shall be effective upon its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of December, 2025.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney