



CITY OF HENDERSONVILLE CITY COUNCIL REGULAR MEETING

Operations Center - Assembly Room | 305 Williams St. | Hendersonville NC 28792
Thursday, January 05, 2023 – 5:45 PM

AGENDA

1. **CALL TO ORDER**
2. **PUBLIC COMMENT** - *Up to 15 minutes is reserved for comments from the public not listed on the agenda.*
3. **INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG**
4. **CONSIDERATION OF AGENDA**
5. **CONSENT AGENDA** - *Items are considered routine, noncontroversial in nature and are considered approved by a single motion and vote.*
 - A. Adoption of City Council Minutes – *Jill Murray, City Clerk*
 - B. Utility Extension Agreement for the Half Moon Heights Subdivision – *Brendan Shanahan, Project Division Manager*
 - C. Utility Extension Agreement for the Orchards at Howard Gap – *Brendan Shanahan, Project Division Manager*
 - D. Utility Extension Agreement for the Dodd Meadows Subdivision – *Brendan Shanahan, Project Division Manager*
 - E. Utility Extension Agreement for the Haywood Park Subdivision – *Brendan Shanahan, Project Division Manager*
 - F. Capital & Grant Project Ordinances – *Jennifer Floyd, Budget & Mgmt. Analyst*
 - G. Tentative Contract Award for Construction of the WWTF Ultraviolet Disinfection Improvements Project – *Adam Steurer, Utilities Engineer*
 - H. Rescission of the COVID-19 Test Positive Policy – *Jennifer Harrell, HR Director*
 - I. Conveyance of Right of Way for N. Main/US 25 Intersection Improvements – *John Connet, City Manager*
 - J. January Budget Amendments – *Adam Murr, Budget Manager*
 - K. Untitled Hallmark Christmas Movie Special Event Application - *Jamie Carpenter, Downtown Manager*

- L. Resolution for the City of Hendersonville to Pursue a NCDOT Division of Integrated Mobility Paved Trails and Sidewalk Feasibility Studies Grant – *Brent Detwiler, City Engineer*

6. PRESENTATIONS

- A. MLK Day of Service Proclamation
- B. Proclamation-National Blood Donation Month
- C. Caregivers of Mother Earth Update – *Elle Travis, Caregivers of Mother Earth*
- D. Employee Recognition
- E. EAN Leadership Academy Participants-Jennifer Harrell, Human Resources Director

7. PUBLIC HEARINGS

- A. Zoning Text Amendment: Lightning Ordinance (P22-100-ZTA) – *Matthew Manley, AICP – Planning Manager*

8. UNFINISHED BUSINESS

- A. Consideration of Ordinance Amending Chapter 20, Article II, Noise of the Hendersonville City Code – *Lew Holloway, Blair Myhand, Angela Beeker, John Connet*

9. NEW BUSINESS

- A. Parking Fee Amendment – *Brian Pahle, Assistant City Manager*
- B. Resolution Requestion Local Modification to §160A-301(a) – *John Connet, City Manager*
- C. Establish 2023 NCLM Legislative Priorities and Appoint Mayor Volk as NCLM Voting Delegate – *John Connet, City Manager*
- D. Special Event Fee Amendment – *Jamie Carpenter, Downtown Manager*
- E. Discussion Regarding Placement of Kiwanis' Club Splashpad at Patton Park – *John Connet, City Manager*
- F. Rescheduling of February 2, 2023, and April 6, 2023, City Council meetings – *John Connet, City Manager*

10. BOARDS/COMMISSIONS/COMMITTEE APPOINTMENTS

- A. Board and Committee Appointments for December, 2022
- B. Parks & Recreation Master Plan Committee – *John Connet, City Manager*

11. CITY COUNCIL COMMENTS

12. CITY MANAGER REPORT - John F. Connet, City Manager

13. CLOSED SESSION

A. Closed Session – *John Connet, City Manager*

The City of Hendersonville is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or an accommodation for this meeting please contact the City Clerk no later than 24 hours prior to the meeting at 697-3005.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Jill Murray, *CMC, NCCMC,* **MEETING DATE:** January 5, 2023
City Clerk

AGENDA SECTION: CONSENT **DEPARTMENT:** Administration

TITLE OF ITEM: Adoption of City Council Minutes – *Jill Murray, City Clerk*

SUGGESTED MOTION(S):

I move that City Council adopt the minutes of the November 3, 2022 Regular Meeting and the December 1, 2022 Regular Meeting.

SUMMARY:

The City Clerk has prepared minutes of the following meeting(s) for Council consideration:

- i. November 3, 2022 Regular Meeting Minutes [DRAFT]
- ii. December 1, 2022, Regular Meeting Minutes [DRAFT]

BUDGET IMPACT: \$0

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:

- i. November 3, 2022 Regular Meeting Minutes [DRAFT]
- ii. December 1, 2022 Regular Meeting Minutes [DRAFT]



MINUTES

November 3, 2022

REGULAR MEETING OF THE CITY COUNCIL

CITY OPERATIONS CENTER | 305 WILLIAMS ST. | 5:45 p.m.

Present: Mayor Barbara G. Volk, Mayor Pro Tem Lyndsey Simpson and Council Members: Dr. Jennifer Hensley, Debbie O'Neal-Roundtree, and Jerry A. Smith Jr., J.D.

Staff Present: City Manager John F. Connet, Assistant City Manager Brian Pahle, City Clerk Jill Murray, City Attorney Angela Beeker, Communications Manager Allison Justus, Budget Manager Adam Murr, and others

1. **CALL TO ORDER**

Mayor Volk called the meeting to order at 5:45 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

2. **INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG**

The City Council observed a moment of silence for prayer or reflection followed by the Pledge of Allegiance to the Flag.

3. **PUBLIC COMMENT** *Up to 15 minutes is reserved for comments from the public not listed on the agenda.*

John Liberatos addressed City Council requesting consideration of installation of a permanent radar sign.

Adam Johnson addressed City Council requesting consideration of support for climate action plans within the City's upcoming comprehensive plan.

Katril Davis addressed City Council requesting consideration of adoption of a climate action plan.

Sofia Fernandez addressed City Council requesting consideration of adoption of a climate action plan.

Steffie Rouche addressed City Council requesting consideration of adoption of a climate action plan and stated the plan would pay for itself through energy efficiencies.

Barbara Hughes addressed City Council requesting reconsideration of additional social districts in downtown stating she feels there is too much alcohol downtown now. Ms. Hughes further expressed concerns of DWI fatalities.

Crystal Cauley addressed City Council regarding the Sullivan Park Refresh Project stating the newly refurbished park has encouraged community volunteerism and appreciation. Ms. Cauley expressed thanks to City staff and Council for their support.

Lynne Williams addressed City Council via Zoom electronic software regarding Boyd Park and response times of the Fire Department. Council Member Dr. Jennifer Hensley clarified that there are no increased response times for calls for service.

4. **CONSIDERATION OF AGENDA**

Council Member Jerry A. Smith Jr., J.D. moved that City Council approve the agenda as presented. A unanimous vote of the Council followed. Motion carried.

Council Member Lyndsey Simpson requested to amend the agenda by removing Items 8A, Establishment of Social Districts in Downtown Hendersonville, and 8B, Continuation of American Rescue Plan Discussions from discussion at this time.

Council Member Jerry A. Smith Jr., J.D. moved that City Council approve the agenda as amended. A unanimous vote of the Council followed. Motion carried.

5. **CONSENT AGENDA**

A. Adoption of City Council Minutes – Angela L. Reece, City Clerk

B. Budget Amendments – Adam Murr, Budget Manager

C. Utility Extension Agreement for the Blue Ridge Commerce Center Development –
Brendan Shanahan, Civil Engineer IV

Resolution #R-22-133

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION
AGREEMENT WITH ASHEVILLE INDUSTRIAL OWNER, LLC. FOR THE BLUE RIDGE
COMMERCE CENTER**

WHEREAS, the City of Hendersonville owns, operates and maintains a water and sewer system to serve customers throughout Henderson County; and

WHEREAS, residential, commercial, and industrial developments often require public water service and sanitary sewer service as a part of their development projects; and

WHEREAS, the Developer extends public water lines and sanitary sewer lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

WHEREAS, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water and sewer line extension process; and

WHEREAS, Asheville Industrial Owner, LLC., the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide water and sewer service to the Blue Ridge Commerce Center.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The Utility Extension Agreement with Asheville Industrial Owner, LLC., the “Developer” and “Owner” to provide water and sewer service to the Blue Ridge Commerce Center is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina, this 3rd day of November 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

D. Utility Extension Agreement for the Creekside Community Development – *Brendan Shanahan, Civil Engineer IV*

Resolution #R-22-134

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION
AGREEMENT WITH THE WEST FAMILY LIMITED PARTNERSHIP AND AMBACH
COMMUNITIES, LLC., FOR THE CREEKSIDE COMMUNITY DEVELOPMENT**

WHEREAS, the City of Hendersonville owns, operates and maintains a water system to serve customers throughout Henderson County; and

WHEREAS, residential, commercial, and industrial developments often require public water service as a part of their development projects; and

WHEREAS, the Developer extends public water lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

WHEREAS, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water line extension process; and

WHEREAS, Ambach Communities, LLC., the “Developer” and The West Family Limited Partnership, the “Owner”, will enter into a Utility Extension Agreement with the City to provide water service to the Creekside Community Development.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The Utility Extension Agreement with Ambach Communities, LLC., the “Developer” and The West Family Limited Partnership, the “Owner” to provide water service to the Creekside Community Development is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina, this 3rd day of November 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

E. Utility Extension Agreement for the Mills River Townhomes Development – *Brendan Shanahan, Civil Engineer IV*

Resolution #R-22-135

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION
AGREEMENT WITH LONGBRANCH DEVELOPMENT, LLC., THE FRANKLIN
FAMILY TRUST DATED THE 19th OF MAY 1994 AND CALVARY FELLOWSHIP OF
WESTERN NORTH CAROLINA, INC., FOR THE MILLS RIVER TOWNHOMES
DEVELOPMENT**

WHEREAS, the City of Hendersonville owns, operates and maintains a water system to serve customers throughout Henderson County; and

WHEREAS, residential, commercial, and industrial developments often require public water service as a part of their development projects; and

WHEREAS, the Developer extends public water lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

WHEREAS, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water line extension process; and

WHEREAS, Longbranch Development, LLC., the “Developer” and The Franklin Family Trust Dated the 19th of May 1994 and Cavalry Fellowship of Western North Carolina, the “Owners”, will enter into a Utility Extension Agreement with the City to provide water service to the Mills River Townhomes Development.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The Utility Extension Agreement with Longbranch Development, LLC., the “Developer” and The Franklin Family Trust Dated the 19th of May 1994 and Cavalry Fellowship of Western North Carolina, the “Owners”, to provide water service to the Mills River Townhomes is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina, this 3rd day of November 2022.

/s/Barbara G. Volk, Mayor
Attest: /s/Angela L. Reece, City Clerk
Approved as to form: /s/Angela S. Beeker, City Attorney

F. French Broad River Intake Project Engineering Amendment 7 – Brent Detwiler, City Engineer

Resolution #R-22-136

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AMENDMENT TO AN
AGREEMENT WITH BLACK & VEATCH AS PART OF THE FRENCH BROAD RIVER
INTAKE PROJECT**

WHEREAS, the French Broad River Intake Project (Project No. 16007) is under construction; and

WHEREAS, an engineering agreement with Black & Veatch was previously executed to complete the construction administration work associated with the project; and

WHEREAS, the construction of the project has been extended as a value engineering measure; and

WHEREAS, the construction timeline extension has resulted in the need to amend the agreement with Black & Veatch to cover the extended construction administration, construction observation, and postconstruction services.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The City Manager is authorized to enter into an Amendment to an Agreement with Black & Veatch for the French Broad River Intake Project, as presented.

Adopted by the City Council of the City of Hendersonville, North Carolina, this 3rd day of November 2022.

/s/Barbara G. Volk, Mayor
Attest: /s/Angela L. Reece, City Clerk
Approved as to form: /s/Angela S. Beeker, City Attorney

G. Purchase of +/- 0.92 Acre Lot on Williams Street – John Connet, City Manager

Resolution #R-22-137

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE
PURCHASE OF +/- 0.92 TRACT ON WILLIAMS STREET**

WHEREAS, the City is desirous of purchasing property, being a lot or parcel of land in the City of Hendersonville consisting of _/ 0.92 acres, being identified as Tract II-B on that plat recorded in Plat Book 2015 at Page 9941 of the Henderson County Registry, having Tax Parcel ID# 9568-98-6135, and any appurtenances thereto (collectively the “Property”), and more specifically described in Exhibit “A”, which is attached hereto and incorporated herein by reference; and

WHEREAS, an appraisal has been performed for the Property, indicating that it has a fair market value of \$240,000; and

WHEREAS, the City has offered to pay the fair market value as indicated, and the Property Owner is in agreement;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The Contract for Purchase and Sale of Real Property between the City of Hendersonville and Nelson & Company Investments, LLC, for the Property, having as the sale price the sum of \$240,000.00, is hereby approved as presented.

2. The City Manager is authorized to enter execute the contract, with such changes as he deems appropriate, in consultation with the City Attorney, provided such changes do not place any financial obligation on the City beyond that contemplated by the terms of the Contract as presented.
3. The Mayor, City Manager and City Attorney are authorized to execute such other contracts, and deeds and any and all other documents, and to take any and all actions, reasonably necessary to carry out the terms of the approved Contract, including but not limited to making conveyances and reasonable expenditures for costs and expenses for the purposes stated herein.

Adopted by the City Council of the City of Hendersonville, North Carolina, this 3rd day of November 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

H. Ordinance to Allow Electronic Meetings for Subcommittees – *Angela Beeker, City Attorney*

Ordinance #O-22-59

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES FOR THE CITY OF HENDERSONVILLE, ARTICLE V, BOARDS, COMMISSIONS AND COMMITTEES, TO PROVIDE FOR ELECTRONIC MEETINGS FOR SUBCOMMITTEES

WHEREAS, City Council has been asked to permit subcommittees of City boards, commissions and committees to meet electronically; and

WHEREAS, City Council finds that with the advent of streaming and video-conferencing technology, access to electronic meetings is more readily available to the general public than in times past; and

WHEREAS, permitting electronic meetings of subcommittees will foster participation by volunteers by making subcommittees more convenient; and

WHEREAS, permitting subcommittees to meet electronically is in the best interest of the City at this time.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Chapter 2, Administration, Article V, Boards, Commissions and Committees, of the Code of Ordinances for the City of Hendersonville shall be amended to add new Sections 2-226 through 2-230 follows:

CHAPTER 2 - ADMINISTRATION

ARTICLE V. BOARDS, COMMISSIONS AND COMMITTEES

Sec. 2-226 General Provisions

The provisions of this article shall apply to all boards, commission and committees created by City Council, provided, however, that where a board, commission or committee is created pursuant to specific enabling legislation of the North Carolina General Assembly, the specific enabling legislation shall preempt any provisions of this article, applicable to such board, commission or committee, where the terms of this article and such enabling legislation are in conflict. Where specific enabling legislation or other applicable law for a board, commission or committee grants discretion to the City Council to adopt different, additional, or more or less restrictive provisions to govern a board, committee or commission, the provisions adopted by City Council shall be deemed to control.

Sec. 2-227 Definitions.

(a) The following words shall have the meanings stated when used in this article.

(1) Board, commission or committee shall mean any appointed group of people, consisting of 2 or more members, appointed by City Council for a local government purpose, including but not limited to advisory, quasi-judicial, or administrative.

(2) Enabling legislation shall mean general, local, or special legislation adopted by the North Carolina General Assembly granting specific authority to the City Council for creating a particular board, commission or committee. As an example, N.C.G.S. § 160D-302 grants authority to the City Council to create a zoning board of adjustment.

- (3) Electronic meeting shall mean a meeting where a quorum of the board, commission, or committee, or a subcommittee, is participating in the meeting through electronic means of communication, and not in person. Electronic means include any means of communication through the use of technology which enables two or more persons to engage in simultaneous communicate without being in the physical presence of one another, and includes, but is not limited to telephone conferences and video conferencing (e.g. Zoom meetings, or Microsoft Teams meetings). Email exchanges among a quorum of the members shall not be considered a electronic meeting under this article. As used herein, "electronic meetings" shall not be considered a "remote meeting" for purposes of N.C.G.S. 166A-19.24.
- (4) Quasi-judicial board, commission or committee shall mean a board, commission or committee carrying out a quasi-judicial function. Notwithstanding anything stated in this article to the contrary, except where specifically authorized by the Code of Ordinances for the City of Hendersonville, or the North Carolina General Statutes, a quasi-judicial board, commission or committee may not form a subcommittee to conduct or assist with conducting a quasi-judicial proceeding, or to provide a recommendation or perform any investigation, with respect a matter that may be the subject of a quasi-judicial proceeding before the quasi-judicial board, commission or committee.
- (5) Remote meeting shall mean a remote meeting defined by and held pursuant to the authority of NCGS § 166A-19.24, as amended, during declarations of emergency made under NCGS 166A-19.20. Nothing herein shall be deemed to impose greater requirements for remote meetings than the requirements of the North Carolina General Statutes, or to prohibit remote meetings permitted by NCGS § 166A-19.24.
- (6) Subcommittee shall mean a group of people, consisting of 2 or more members, appointed by a board, commission or committee, or by the chairperson of a board, commission or committee, for the purpose of acting in an advisory capacity to assist the board, commission, or committee in carrying out its authorized function or authority (ref. Sec. 2-228). Unless otherwise specifically authorized by City Council or specific enabling legislation, a board, commission or committee may not delegate its function or authority to a subcommittee. As an example, the Planning Board may not delegate its authority to approve a development plan to a subcommittee of the Planning Board. As another example, an advisory board to the City Council could not create a subcommittee to also be advisory to City Council. In both examples, the subcommittee would be permitted to make a recommendation to the board, commission or committee to assist the board, commission or committee in carrying out their advisory or administrative function.

Sec. 2-228 Authority of Boards, Commissions and Committees

Boards, commissions and committees shall have the only such authority and exercise only those functions specifically granted to them by City Council or by the North Carolina General Assembly through specific enabling legislation.

Sec. 2-229 Charters and Rules of Procedure

Except where specifically provided otherwise in the Code of Ordinances for the City of Hendersonville, City Council approval shall be required for all charters creating or organizing a board, commission or committee, and their rules of procedure or bylaws.

Sec. 2-230 Meetings

(a) Electronic Meetings.

(1) Boards, Commissions and Committees - (Reserved).

a. (Reserved)

(2) Subcommittees

a. Electronic meetings are authorized for subcommittees. All electronic meetings held by a subcommittee must comply with the provisions of this article.

(b) Rules Governing Electronic Meetings.

(1) All electronic meetings must be conducted in accordance with the North Carolina Open Meetings Law, NCGS Chapter 143, Article 33C, as amended. Where these rules and the Open Meetings Law conflict, the most restrictive shall be complied with. In construing which is the most restrictive requirement, the requirement providing the greatest notice to the public, or greatest opportunity for attendance by the public, shall be deemed to be the most restrictive.

(2) All votes must occur by roll call of the members.

(3) Any documents being considered must have been provided to each member participating in the electronic meeting.

(4) All members must be able to hear what is said by the other members and by any member of the public permitted by the members to speak at the electronic meeting.

- (5) The minutes of the electronic meeting must reflect that it was an electronic meeting, and must reflect the technological method used to conduct the electronic meeting. As an example, the minutes would reflect that the meeting was an electronic meeting held on Zoom.
- (6) The electronic meeting must be simultaneously available to the general public for streaming.
- (7) A physical location must be provided to allow members of the public to attend and listen to the meeting. The physical location must be stated in the notice of the meeting, required by the Open Meetings Law.
- (8) Members participating by electronic means and in person shall both be counted as present, and can vote.
- (9) During the meeting, a quorum of the membership shall not deliberate or communicate by text, email, group chat or by any other means in which a participant or member of the general public could not hear or listen to what is being communicated.

Adopted by the City Council of the City of Hendersonville, North Carolina, this 3rd day of November 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

I. Clear Creek Greenway Professional Engineering Services Contract Execution – Brendan Shanahan, Civil Engineer IV

Council Member Lyndsey Simpson moved that City Council approve the consent agenda to include a correction to the minutes as noted. A unanimous vote of the Council followed. Motion carried.

6. PRESENTATIONS

A. Proclamation - Homeless Youth Awareness Month - Mayor Barbara G. Volk

Proclamation

Homeless Youth Awareness Month

WHEREAS, the month of November is designated as National Homeless Youth Awareness Month as declared by the U. S. House and Senate in 2007 and serves as an outlet to increase public awareness of an ongoing issue occurring in every city across the United States; and

WHEREAS, the nation's public schools report between 1.5 and 2.3 million homeless students grades pre-k through 12th grade; and

WHEREAS, we realize that when adolescents become homeless, being separated from their caregivers and homes for various reasons, which often places them in precarious situations; that school is often the most safe and stable environment for these youth; and

WHEREAS, we recognize in Henderson County that roughly 2.5 percent of our youth are identified as homeless; and

WHEREAS, Only Home WNC, Inc. is a local non-profit whose mission is to promote the value of education, honor individuality and diversity, nurture respect for self and others, and provide hope for young people in need in the community; and

WHEREAS, an effort is being made by the board members of Only Hope WNC, Inc. by hosting its 11th Annual Sleep Out on November 4 - November 5 at the Historic Courthouse on Main Street in Downtown Hendersonville in an effort to draw attention and support for youth homelessness in Henderson County.

NOW, THEREFORE, the City Council of the City of Hendersonville does hereby proclaim the month of November 2022 as

“Homeless Youth Awareness Month”

in the City of Hendersonville and applaud the efforts of those who serve and help fight youth homelessness in Henderson County.

PROCLAIMED this 3rd day of November 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

B. Proclamation - American Indian Heritage Month - Mayor Barbara G. Volk

Proclamation

National American Indian Heritage Month

WHEREAS, the history and culture of our great nation have been significantly influenced by American Indians and indigenous peoples; and

WHEREAS, the contributions of American Indians have enhanced the freedom, prosperity, and greatness of America today; and

WHEREAS, their customs and traditions are respected and celebrated as part of a rich legacy throughout the United States; and

WHEREAS, Native American Awareness Week began in 1976 and recognition was expanded by

Congress and approved by President George Bush in August 1990, designating the month of November, as National American Indian Heritage Month; and

WHEREAS, in honor of National American Indian Heritage Month, community celebrations as well as numerous cultural, artistic, educational, and historical activities have been planned.

NOW, THEREFORE, I, Barbara Volk, Mayor of the City of Hendersonville, do hereby proclaim the Month of November 2022 as

“American Indian Heritage Month”

in the City of Hendersonville and urge all our citizens to observe this month with appropriate programs, ceremonies and activities.

PROCLAIMED this 3rd day of November 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

C. Proclamation - Retirement Appreciation for Dr. Janet Bull - Mayor Barbara G. Volk

Proclamation

In Appreciation of

Four Seasons Compassion for Life Foundation

Dr. Janet Bull, Chief Medical Officer

Upon the Occasion of Her Retirement

WHEREAS, on the first day of October 2022, after serving the past twenty-two years as a Chief Medical Officer of the Compassion for Life Foundation, DR. JANET BULL departs leaving behind her an impressive legacy of service. We, the Governing Body of Hendersonville wish to publicly extend our congratulations to Dr. Janet Bull in her retirement and to acknowledge her contributions which were built on the foundation of knowledge she contributed throughout her career; and

WHEREAS, DR. JANET BULL began her career practicing obstetrician-gynecology and through her dedication to caring for patients with serious illnesses she began volunteering with hospice and eventually switched her specialty to hospice care; and

WHEREAS, DR. JANET BULL was instrumental in bringing palliative care to our community by providing serious illness care prior to patients needing hospice care; and

WHEREAS, during her two decades of service DR. JANET BULL has provided innovative clinical trial studies that have impacted the care of many patients within our community and nationally.

NOW, THEREFORE, I, Barbara Volk, Mayor of the City of Hendersonville, and City Council Members wish to recognize the many years of service to our community by DR. JANET BULL on the occasion of her retirement and to thank her for her dedicated service to our community.

PROCLAIMED this 3rd day of November 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

D. Certificate of Commendation - Mayor Barbara G. Volk

The City of Hendersonville Mayor takes pleasure in presenting this

Certificate of Commendation

to

Franklin Black

for

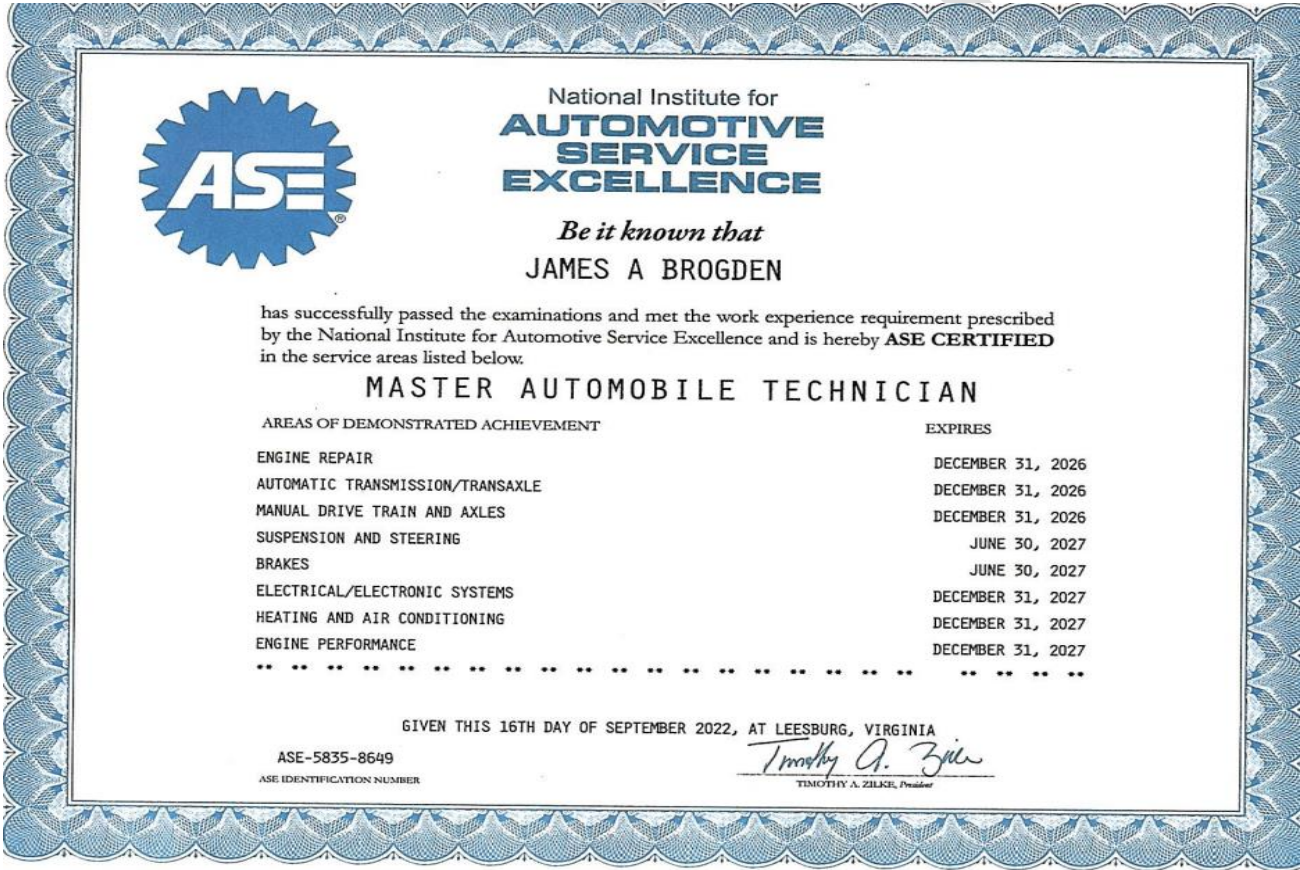
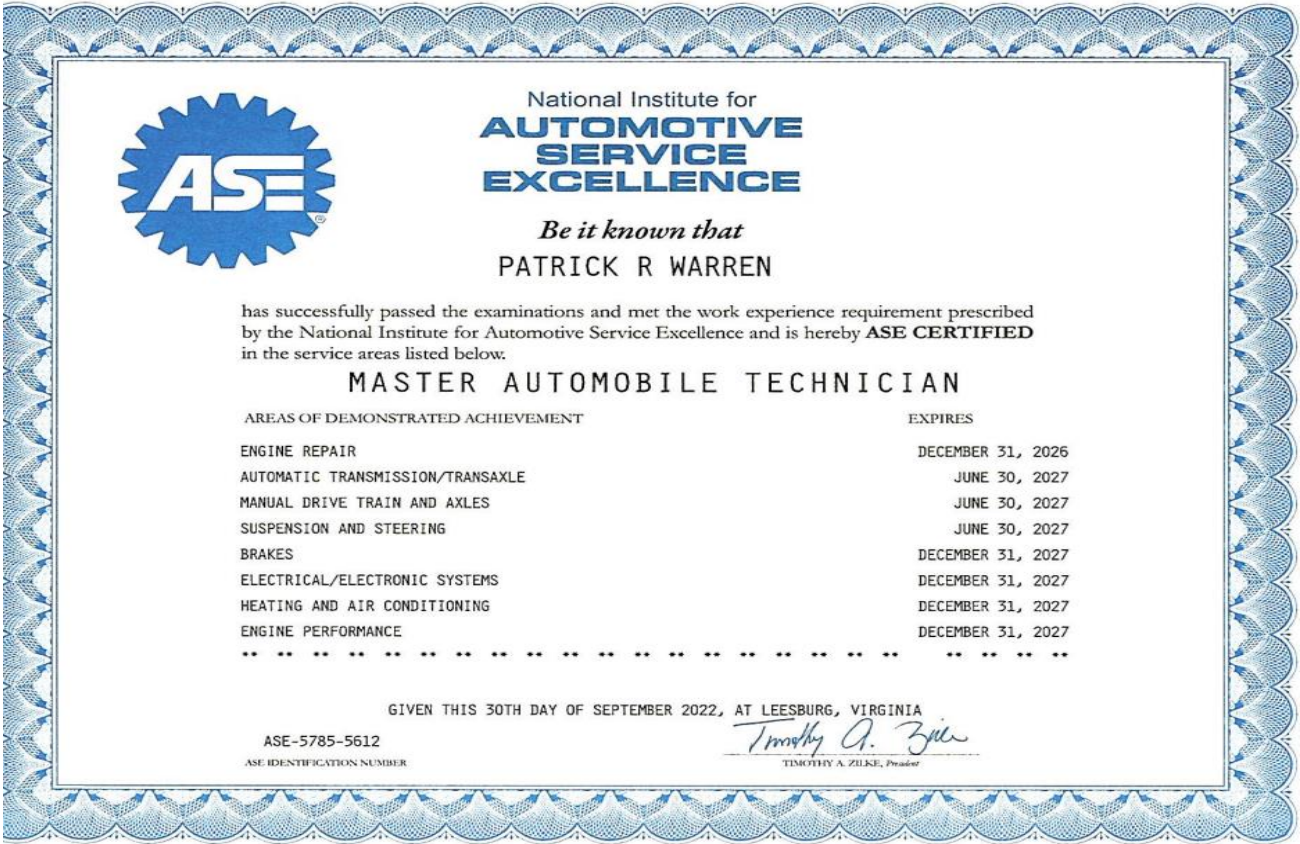
distinguishing himself through dedicated selfless service by giving of his time and talent in restoring and painting The Free Little Library #155314 box located in the City of Hendersonville's Sullivan Park. The natural talent of creatively painting the library to look like a tree house with diverse characters will encourage children and teens in this city to read more! Franklin has also helped dedicate countless hours to participate in the Sullivan Park Refresh project. His efforts and leadership are sincerely appreciated. Mr. Black's performance is in keeping with the highest standards and reflect distinct credit upon himself, and the City of Hendersonville. Thank you Franklin for being an advocate for improving literacy and positively impacting the Green Meadows Community.

Awarded this 3rd day of November, 2022.

/s/Barbara G. Volk, Mayor

E. Recognition of Andy Brogden and Patrick Warren - Tom Wooten, Public Works Director

Public Works Director Tom Wooten recognized Andy Brogden and Patrick Warren for their dedication and hard work in completing their ASE Vehicle Maintenance certifications.



F. Quarterly MVP Recipients – John Connet, City Manager

City Manager Connet explained that we have a Service Excellence Program that is part of our culture in our organization to provide excellent service and we recognize our employees quarterly who have gone above and beyond the call of duty to serve our citizens and our customers. This recognition is voted on by our entire team, so they have to impress our peers and we have several recognitions for tonight.

The first award was given to Savannah Tankersley for walking with an umbrella into the pouring rain to make sure a woman, who had her newborn grandson, didn't get cold. Also, an elderly customer who very unsteady on his feet came in to make a payment. Afterwards, Savannah walked him to the parking lot providing support until his ride pulled around. This shows exceptional customer service and thank you Savannah for all you do.

The next award went to Steven Alverson, Mike Huffman and Dustin Moffitt. A culvert recently collapsed under a City road and damaged a fence maintained by a homeowner's association. Once the culvert was repaired, Mike, Dustin and Steve took ownership of the fence damage, rebuilt it and recently painted it. All of this was outside of their normal responsibilities, and they resolved the situation and promoted excellent service.

Lastly, awards were given to Alan Bonanno, Diamond Wright, Sam Capps, and Robbie Baird. These four officers responded to a medical call and showed great care for the patient when they offered to finish the patient's delivery route. The patient was delivering orders for Walmart when he had the medical emergency, so the team took charge and delivered the groceries and sundries to the Walmart customers. They showed great attitude, ownership of the situation, teamwork and that they value everyone. They represented the City with professionalism and care.

G. Fiscal Year 2022 Audit Presentation – John Buchanan, Finance Director

John Buchanan introduced Tim Lyons from Mauldin and Jenkins to present the audit results for June 30, 2022. Mr. Lyon stated the independent audit firm concluded that they issued an unmodified, or clean, opinion on the basic financial statements for fiscal year ending June 30, 2022 in accordance with GAAS and GAS. The city did implement one new accounting standard regarding leases. The City's general fund balance minimum threshold should be 25% and the City has 30.12%.

7. PUBLIC HEARINGS

A. Zoning Text Amendment: Multi-Family in the 7th Ave MSD (P22-75-ZTA) – Matthew Manley, AICP – Planning Manager

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:40 p.m.

Carrie Moers, who owns the building at 824 Locust Street, Suite 200, expressed support for the application and looks forward to the beautification, increased foot traffic and safety that I believe will come from what he has proposed.

Dan Mock, the applicant, introduced himself and addressed some of the concerns that had been brought up.

Lynn Williams of Chadwick Avenue addressed Council remotely via Zoom electronic software and spoke against this developer and asked that we honor the process that has been laid out for 7th Avenue.

Ken Fitch spoke against this text amendment and concern about displacement of workforce housing.

Elsa Tolls submitted digital comments and said she is in support of Dan Mocks text amendment in the 7th Avenue Municipal Service District.

Michal Bare submitted digital comments and said he is in support of the project text amendment in the 7th Avenue Municipal Service District.

Rodney Pepper asked if Mr. Mock has met any of the people who live across from where you're building that live in Green Meadows and said whatever you do on one side you have to do on the other. Talk to those people and try to make both sides better.

Dorothy Williams said we need to think about the price and what putting new housing up will do to the people who live there already and all the traffic that will be there.

The public hearing was closed at 7:39 p.m.

Council Member Jerry Smith moved that City Council deny an ordinance amending the official City of Hendersonville Zoning Ordinance, Article XVI. – Supplementary Standards for Certain Uses, Section 16-4-24 Residential dwelling, multi-family, based on the following:

1. The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:

The Future Land Use Designations of ‘Downtown Core’ and ‘Downtown Support’ call for recommended land uses and design guidelines that align with the proposed zoning text amendment.

2. We do not find this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

1. The reduction of front setbacks would permit a more distinctly urban form.
2. The allowance of additional density would be incompatible with commercial uses in the 7th Ave MSD.
3. The provision to permit 50% of first floor for residential uses for buildings fronting 7th Ave would result in the loss of viable commercial property.

Council Members, Smith, Simpson and Roundtree were yays and Mayor Volk and Council Member Hensley were nays. Motion carried 3-2.

8. UNFINISHED BUSINESS

- A. ~~REMOVED: Establishment of Social Districts in Downtown Hendersonville~~ – *Council Member Simpson*
- B. ~~REMOVED Continuation of American Rescue Plan Discussions~~ – *Adam Murr, Budget Manager*

9. NEW BUSINESS

- A. ADA Obstructions in Hendersonville** – *Amy Siegler, ADA Advocate*

Dr. Amy Siegler owns Limb Tech Mobile Seating and Positioning Clinic and said her plan is to make downtown more aware about ADA accessibility. She proposed to Council to bring awareness by forming a coalition, increase access to bathrooms and indoor space, increase downtown accessibility and make it more age friendly and redefining what accessibility is. She proposed that Council back a task force because we need to bring awareness through education, social media and pamphlets. Also, when you close downtown parking, we take away accessible parking and we need to be aware of that.

- B. Electric Vehicle Infrastructure Discussion** – *Will Garvey, Environmental Sustainability Board Member*

Will Garvey said he is here to support the installation of electric vehicle charging infrastructure in Hendersonville. His recommendation would be to install Level 2 (208/240) volt service that provides 30-80 miles of range for every hour of charging. ESB is recommending that City Council adopt a resolution that will promote electric vehicle supply equipment at new development in Hendersonville and would also require EVSE at new and renovated City construction to support future City use of EV's. We believe this approach supports your continuing commitment to sustainability while providing flexibility to the development community and preparing city public works for future electrification opportunities. Over 80% of EV owners charge their vehicles at home or work and this plan will “future proof” new development in a cost-effective way. Significant funding has been allocated for the construction of high-speed EV charging infrastructure across North Carolina. For the City, EV's are a perfect choice for future fleet replacement due to mileage use and ability to charge overnight.

- C. Recommendation for 2045 Comprehensive Plan Consultant** – *Matthew Manley, AICP – Planning Manager*

Matthew Manley said the Community Development Department under the leadership of Lew Holloway released an RFP for the 2045 Comp Plan and we received 5 proposals. Staff created an internal review team and created a sheet and reviewed each of those five proposals, graded them and compiled the scores. The scores were all very close, and the internal review team convened to discuss our thought processes behind how we scored and ranked each of the teams. We interviewed three companies in one day and afterwards it was unanimous that Bolton and Menk really stood out and we are bringing that recommendation to you.

Resolution #22-139

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SELECT A CONSULTANT TEAM TO PROVIDE PROFESSIONAL COMMUNITY PLANNING

SERVICES FOR THE 2045 COMPREHENSIVE PLAN PROJECT AND DIRECT THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE SELECTED FIRM

WHEREAS, the City of Hendersonville advertised a request for proposals for community planning services to complete the 2045 Comprehensive Plan for the City of Hendersonville and;

WHEREAS, the City included certain add-alternates to the request for proposals including the following: 1) Preparation of a Downtown Masterplan; 2) Preparation of a Comprehensive Transportation Plan; and 3) Rewrite of the City's Zoning Ordinance; and

WHEREAS, the Bolton Menk/Cole Jenest Stone team was determined, following internal review, to qualify for the interview round and further was the consensus top choice among the interview team; and

WHEREAS, the Planning Board reviewed the proposal review process and affirmed the results of the process recommending that the City Council pursue a contract with the Bolton Menk team for the completion of the 2045 Comprehensive Plan; and

WHEREAS, Staff supports the recommendation, and also recommends that 1) the initial scope of work for the contract include the Preparation of a Downtown Masterplan as part of the Comprehensive Plan scope of work, and 2) the contract includes the possibility of adding the Preparation of a Comprehensive Transportation Plan and Rewrite of the City's Zoning Ordinance to future scopes of work under the contract;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The City Manager is authorized to negotiate and enter into a contract in an amount not to exceed \$200,000 for the 2045 Comprehensive Plan community planning project with Cole Jenest Stone/Bolton and Menk on behalf of the City in consultation with the City Attorney, upon such terms and conditions as he deems appropriate, including but not limited to:
 - a. Determining the initial scope of work;
 - b. Breaking the scope of work into Phases if appropriate, and
 - c. Including, within the initial scope of work or as an amendment in the future, the ad alternates.
 - d. Amending the contract in the future to amend the scope of work or activate future phases, including the Preparation of a Comprehensive Transportation Plan and the Zoning Ordinance rewrite;

Provided, however, that the following conditions shall apply:

- a. The contract and any amendment(s) entered now or in the future shall only obligate the City to budgeted and available funds as of the date of the contract or any such amendment.
2. If negotiations fail, the City Manager is directed to negotiate a contract with the next most qualified firm based on the review and interview recommendations;

Adopted by the City Council of the City of Hendersonville, North Carolina on this 3rd day of November, 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

Council Member Jennifer Hensley moved that City Council adopt a Resolution directing the City Manager to negotiate a contract with Cole Jenest & Stone/Bolton Menk Inc. to provide Professional Community Planning Services for the 2045 Comprehensive Plan Project, based on their review as most qualified firm to perform the work and authorize the City Manager to negotiate with the next most qualified firm, based on the presented rankings, if the initial negotiations fail. Motion carried.

D. Consideration of Ordinance Amending Chapter 20, Article II, Noise of the Hendersonville City Code – Rodney Gilliam, VLGMF Intern

After much discussion, Council agreed that although this ordinance is better than it previously was, there are still some changes that need to be defined before passing the ordinance.

E. Discussion Regarding the Closing of 4th Avenue on Halloween – Jennifer Hensley, Council Member

Council Member Jennifer Hensley said that for about four years she has been talking about the danger of trick-or-treating on 4th Avenue and then this year, more people contacted me after Halloween with concerns. I would like to have some discussion on changes we could make.

Consensus of Council was to direct staff to look into what we can do, not just on 4th Avenue but everywhere and maybe look at what other cities do.

10. CITY COUNCIL COMMENTS

Council Member Smith said the parking deck looks so good.

Council Member Lyndsey Simpson said she would like to continue to the discussion with Mr. Garvey regarding the EV infrastructure whether it by via resolution, but I would like to see it progress in some way. Mayor Barbara Volk said she thinks the Committee could make a recommendation to City Council.

11. CITY MANAGER REPORT – John F. Connet, City Manager

A. Cash and Investment Report – John Buchanan, Finance Director

For information.

B. Cancellation of November 23, 2022 City Council Workshop - John Connet, City Manager

Council Member Jerry Smith made a motion to amend meeting schedule to cancel November 23rd meeting. Motion carried.

12. CLOSED SESSION

A. Closed Session – John Connet, City Manager

At 9:22 p.m. Council Member Jerry A. Smith Jr., J.D. moved that City Council enter closed session pursuant to NCGS § 143-318.11 (a) (1) and (3), to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes, to consult with an attorney retained or employed by the public body in order to preserve the attorney client privilege, between the attorney and the public body, to discuss the matter of O’Neill v. City of Hendersonville 22-CVS1738. A unanimous vote of the Council followed. Motion carried.

At approximately 10:30 p.m. Council Member Debbie O’Neal-Roundtree moved that City Council return to open session. A unanimous vote of the Council followed. Motion carried.

13. ADJOURN

There being no further business, the meeting was adjourned at approximately 10:30 p.m. Upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Jill Murray, City Clerk



MINUTES

December 1, 2022

REGULAR MEETING OF THE CITY COUNCIL

CITY OPERATIONS CENTER | 305 WILLIAMS ST. | 5:45 p.m.

Present: Mayor Barbara G. Volk, Mayor Pro Tem Lyndsey Simpson, and Council Members: Dr. Jennifer Hensley, Debbie O'Neal-Roundtree, and Jerry A. Smith Jr., J.D.

Staff Present: City Manager John F. Connet, City Clerk Jill Murray, City Attorney Angela Beeker, Communications Manager Allison Justus, Budget Manager Adam Murr, and others

1. **CALL TO ORDER**

Mayor Volk called the meeting to order at 5:45 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

2. **INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG**

The City Council observed a moment of silence for prayer or reflection followed by the Pledge of Allegiance to the Flag.

3. **PUBLIC COMMENT** *Up to 15 minutes is reserved for comments from the public not listed on the agenda.*

Gloria Jennings at 664 Beach Street, addressed City Council requesting consideration of knowing more about what's going on in the City and to see more things being done and receiving updates and feels people are doing a good job.

Lynne Williams of Chadwick Avenue addressed City Council to thank Council and staff for all their service this past year and for hearing the voices of the citizens. She also provided an update on Boyd Park and urged that Council pause on decisions regarding Boyd Park's preservation until key stakeholders, like the HPC and the Parks and Greenspace Master Plan Committee, can filter valuable information and input back to Council. I am in full support of a much-needed full time sustainability position that will save countless dollars through utilization and transitioning to renewable resources with new funding through grants and other initiatives. Can there be clarification about the public's concern about the delayed response time on the south side of Main Street, if the fire department will be relocated and my one request is that Councilwoman, Hensley refrain from invalidating my perspective after I complete this comment.

4. **CONSIDERATION OF AGENDA**

Mayor Barbara G. Volk requested that the November 3, 2022 minutes be removed from the agenda as they are not complete and asked that they be considered at the January meeting.

Council Member Jennifer Hensley moved that City Council approve the agenda as amended. A unanimous vote of the Council followed. Motion carried.

5. **CONSENT AGENDA**

- A. **Adoption of City Council Minutes** – Jill Murray, City Clerk
- B. **December Budget Amendments** – Adam Murr, Budget Manager
- C. **Approval of School Resource Officer Agreement Between City of Hendersonville and Henderson County** – John Connet, City Manager
- D. **Earth Day Festival Special Event Application** – Jamie Carpenter, Downtown Manager
- E. **Henderson County Tax Adjustments** – Amanda Lofton, Deputy Tax Collector
- F. **Amendment to Management Agreement for Patton Pool** – Mark Stierwalt, Superintendent of Public Works, Buildings, Parks, and Cemetery

Resolution #22-139

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL

**TO AUTHORIZE THE CITY MANAGER TO EXECUTE AN AMENDED AGREEMENT
WITH THE YMCA OF WESTERN NORTH CAROLINA
FOR THE MANAGEMENT OF PATTON POOL**

WHEREAS, the City of Hendersonville (“City”) has previously entered into an agreement with the YMCA of Western North Carolina (“YMCA”) for the operation and management of Patton Pool for a 5-year term, effective September 8, 2020 (the “Agreement”) and;

WHEREAS, the City and the YMCA have previously amended the Agreement to address insurance and indemnification provisions; and

WHEREAS, the City and the YMCA desire to again amend the Agreement to provide for increased management fees for the YMCA in light of inflation; and

WHEREAS, a proposed amended agreement has been presented to the City Council for consideration, the “Amended Agreement”; and

WHEREAS, the Hendersonville Public Works Department is recommending that the Amended Agreement be approved;

THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA that:

1. The Amended Agreement with YMCA is approved as presented.
2. The City Manager is authorized to sign the Amended Agreement with such changes as he may deem appropriate, after consultation with the City Attorney, within his budgetary authority.
3. The City Manager, City Attorney, and City Staff are authorized to take such other actions as may be necessary to carry out the terms and provisions of the Amended Agreement as signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of December, 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

G. Ratification and Approval of HPD Off-Duty Employment Program – *John Connet, City Manager and Blair Myhand, Chief of Police*

Resolution #22-140

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER AND CHIEF OF POLICE TO ENTER INTO
AGREEMENTS TO MANAGE HPD’S OFF-DUTY EMPLOYMENT PROGRAM**

WHEREAS, the North Carolina General Statutes and City policies authorize Hendersonville Police Officers to perform off-duty security work utilizing equipment and vehicles owned by the City of Hendersonville; and

WHEREAS, the police officers are employed by private entities, not the City of Hendersonville, while performing this off-duty security work; and

WHEREAS, the City of Hendersonville wishes to notify the police officers and private entities of their independent responsibilities and risks associated with off-duty employment; and

WHEREAS, the police officer will immediately return to duty and serve in a law enforcement capacity if they witness a crime or instructed by the Chief of Police or their designee.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The City Manager is authorized to enter into the contract with Hart Halsey LLC dba Extra Duty Solutions to manage the Hendersonville Police Department's off duty employment program, as presented; however, the City Manager is authorized to approve modifications to the agreement as he deems appropriate in consultation with the City Attorney.
2. The Chief of Police is authorized to enter into the Risk Assessment and Off-Duty Agreements with Hendersonville Police Officers.
3. The Chief of Police is authorized to enter into agreements with the private entities for the provision of off-duty officers to provide law enforcement services for their premises or events.
4. The City Council ratifies HPD's General Order 211, which governs the off-duty employment program for members of Hendersonville Police Department.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of December, 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

H. Contract Award for Construction of the North Fork Reservoir Dredging Project – *Adam Steurer, Utilities Engineer*

Resolution #22-141

**RESOLUTION BY THE CITY OF HENDERSONVILLE TO AUTHORIZE THE
CITY MANAGER TO ENTER INTO A CONTRACT FOR THE
CONSTRUCTION OF THE NORTH FORK RESERVOIR DREDGING
PROJECT**

WHEREAS, the North Fork Reservoir, located in Pisgah National Forest, has served as a source of drinking water for the utility since the 1920s. Over the years sediment has accumulated within the reservoir, which has reduced storage capacity and infringed on the water intake structure. The project will remove accumulated sediment from the reservoir to allow the utility to continue to utilize this high-quality drinking water source; and

WHEREAS, on November 17, 2022, at 11:00 am sealed formal bids were received for the North Fork Reservoir Dredging project; and

WHEREAS, formal bids were reviewed by staff for completeness and accuracy. Baker Grading & Landscaping, Inc. was the lowest responsive, responsible bidder in the total bid amount of \$942,310.00.; and

WHEREAS, the Water and Sewer Department is recommending award of the North Fork Reservoir Dredging Project to Baker Grading & Landscaping, Inc.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The bid for the North Fork Reservoir is awarded to Baker Grading & Landscaping, Inc., who is determined to be the lowest responsive, responsible bidder.
2. The City Manager is authorized to award and execute a contract for the construction of the North Fork Reservoir Dredging Project to Baker Grading & Landscaping, Inc., the lowest responsive and responsible bidder in the total amount of \$942,310.00.
3. The City Manager is authorized to approve change orders which cumulatively do not exceed 10% of the approved contract amount of \$942,310.00, provided however that any necessary budget ordinance or project ordinance amendments must be brought back to the City Council for approval.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of December, 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

Council Member Debbie O’Neal-Roundtree moved that City Council approve the consent agenda as presented. A unanimous vote of the Council followed. Motion carried.

6. PRESENTATIONS

A. City of Hendersonville Academy Graduates – John Connet, City Manager

John Connet explained that the City of Hendersonville Academy is a six-week program where our teammates give up one night a week and learn things about the City. Mayor Barbara G. Volk congratulated and presented Tim Calderazzo, WTP, Chris Conard, Engineering, Steve Alverson, HR, Brent Pope, Public Works, Suzanne McCall, Water/Sewer, Nate Young, Fire, Katie Bandurraga, Water/Sewer, Brandy Heatherly, Administration, Amanda Lofton, Finance and Tracy Fletcher, Water/Sewer with a certificate for completing the course.

B. Recognition of Steve Alverson, Risk and Safety Officer for obtaining the Manager of Environmental Safety and Health Certificate – Jennifer Harrell, HR Director

Jennifer Harrell presented Steve Alverson with the certificate and congratulated him on his accomplishment.

C. Propane Gas Vehicle Conversion – Happy Fox, Blossman Gas

Happy Fox of Alliance Blossman Gas/AutoGas presented Powerpoint presentation regarding the conversion of some city vehicles (fleet vehicles) from gasoline to propane. He originally presented this to the City’s Fleet Division and Environmental Sustainability Board, and they requested that it come before Council. They offer a biofuel system giving fleet vehicles the flexibility to run on either Autogas or gasoline. Customers can choose private on-site fueling infrastructure or take advantage of existing public or private refueling networks. Also, they provide an exclusive “quick connect” nozzle that is safe and faster to fill than gasoline. Mr. Fox added the this will mean the following:

- 79% less carbon monoxide
- 54% fewer smog-producing hydrocarbons
- 42% less nitrogen oxide
- 22% less carbon dioxide

Jerry Smith confirmed that the cost of conversion for the City is \$6,300. Mr. Fox said during the test period, there is no charge to the City but after that, there would be.

John Connet said that they would like to continue and try a pilot program to see how it goes. There were no objections from Council.

D. 7th Avenue Branding Presentation – Jamie Carpenter, Downtown Manager

Jamie Carpenter said in 2021, the Downtown Workplan included a 7th Avenue branding/visioning process. In spring 2021, an RFP was released to identify a consultant who could help guide the process, including public input and participation. The City of Hendersonville awarded a contract to Arnett Muldrow & Associates from Greenville, South Carolina to create a brand package that represents both the history and vision of the 7th Avenue Municipal Service District. Over 40 stakeholders participated in roundtables and public meetings in August, 2022 and a steering committee made up of 7th Avenue business owners, property owners, and residents of the Green Meadows neighborhood participated in the steering committee. The final product was reviewed by the Steering Committee, Downtown Advisory Board and Community Character subcommittee of the Downtown Advisory Board.

Shawn Terpack of Arnett Muldrow presented a PowerPoint presentation showing the final product. He talked about the Depot being an inspiration for the project, as well as, showed the imagery of a subway sign for 7th Avenue in New York which is a mosaic. He showed colors and they want to broaden the pallet to blues, greens, gold, yellow and red. He created an update to the typeface as well and talked about the history surrounding the Depot and 7th Avenue.

Mayor and Council thanked Shawn for his presentation and are excited to see this move forward.

E. Flood Sensor System and Stormwater Update – Michael Huffman, Stormwater Division Manager

Michael Huffman gave a brief update on the new flood sensor system that was installed. A while back they identified a need for a better flood response. In July, 2021, we developed a planning group and through that group they identified a need to monitor the flooding within the City and to be able to know when certain roads and areas would start flooding. Prior to this, staff would drive around to look for flooding. In November, 2022 we installed sensors and staff is continuing to calibrate the sensors to provide the most accurate and useful alert levels during flood events. Intellisense is the company that we chose, and we are using the Aware Flood Sensor System which is a low-cost flood sensor that detects and automatically alerts users to flooding and continuously reports water levels using a self-sustaining battery and passive solar energy system.

Michael also gave an update on the Comprehensive Stormwater Master Plan and outlined the first two phases, with Phase 1 - Strategic Asset Management Plan in February, 2023 and Phase 2 – Master Plan Protocols in April, 2023. He also gave a breakdown of recent grant awards and applications as follows:

- Sullivan Park Stream Restoration – Awarded \$310,000 from NCDEQ and DWR;
- Fire Station 1 Green Infrastructure – Awarded \$70,000 from DWR for rainwater harvesting system;
- Lower Mud Creek Floodplain Restoration – Requested \$1.21M from NCLWF for flood reduction; Requested \$1.9M from DWI for stream/wetland/floodplain restoration
- Stormwater Master Planning – Requested \$400,000 from DWI to supplement the existing budget for CSWMP

7. PUBLIC HEARINGS

8. UNFINISHED BUSINESS

9. NEW BUSINESS

A. Allocation of City Funds to Support Apple Ridge Affordable Housing Project – John Connet, City Manager

John Connet explained that City Council previously approved the construction of the Apple Ridge Affordable Housing Project. Housing Assistance Corporation (HAC) had applied for Federal Affordable Housing Tax Credits to pay for the project. Unfortunately, HAC was not awarded the tax credits. However, following discussions between Henderson County Commissioner Rebecca McCall and City Council Member Jennifer Hensley, they would request that the City partner with Henderson County to fund the installation of the water and sewer infrastructure. Mr. Connet suggested that if Council wishes to allocate \$800,000 to match the County's contribution of \$800,000 to fund the water and sewer infrastructure, that money is available and would be a good project to move the needle on the affordable housing issue.

Council member Jerry Smith said that he thinks a reasonable time frame for Housing Assistance to build out the development should be part of the agreement so that the money doesn't just sit there, and nothing gets built. Five years should be plenty.

Council Member Jennifer Hensley moved that City Council direct the City Manager and City Attorney work with the Housing Assistance Corporation and Henderson County to fund the installation of water and sewer infrastructure at the Apple Ridge Affordable Housing Project in the amount of \$800,000. A unanimous vote of the Council followed. Motion carried.

B. Evaluation of Purchase of Duncraggen Park – John Connet, City Manager

The Duncraggen Homeowners Association has approached the city about purchasing their park property at the intersection of 3rd Avenue and W. Lake Drive. City staff believes that the City may benefit from owning the property. However, prior to obtaining an appraisal, we wish to receive formal direction from the City Council. We see some benefits in acquiring this space in case we have to do streambank restoration or widen that property but before we go and get an appraisal, we

wanted to make sure that City Council was in concurrence that this property may be valuable and willing to at least consider purchase of the property from the Duncraggen Homeowner's Association.

Council Member Jerry Smith moved that City Council direct the City Manager to obtain an appraisal for Duncraggen Park. A unanimous vote of the Council followed. Motion carried.

C. Parks and Greenway Masterplan Committee – John Connet, City Manager

Staff are preparing to move forward with a Parks and Greenway Masterplan. We plan to publish the RFQ this month and select a consultant in January. An integral part of the plan development is having a steering committee of area stakeholders to review plan drafts, provide feedback and help develop the final plan. Staff has provided a list of potential members and is asking City Council for guidance on the makeup of the committee.

Mark Stierwalt said he is looking to put together a holistic plan and want a document that will map out a path forward and lays the framework to set up the City for success. We're also going to be developing a master plan steering committee. Right now, our recommendation is one City Council member, along with the names listed below:

Potential Members of the Parks and Greenway Masterplan Steering Committee

One City Council member

Citizen representative from each City Council member (5)

Bruce Gilliam, Henderson County Parks and Recreation

Downtown Advisory Committee Member

Tree Board Member

Environmental Sustainability Member

MPO Representative

NCDOT Representative

Staff-

Tom Wooten – Public Works Department

Mark Stierwalt - Parks Department

Adam Murr – Budget Manager

Lew Holloway – Planning Department

Matthew Manley – Planning Department

Brendan Shanahan - Engineering Department

Council was unanimously in agreement with the master plan steering committee.

D. Update Regarding Sustainability/Parks Manager Position – John Connet, City Manager

Council Member Hensley has requested an update regarding the Sustainability/Parks Manager. John Connet explained that the proposal was that we would hire this hybrid position as it relates to sustainability initiatives as it relates to solar, alternative fuels and as we got into really developing the position and looking at the opportunities for the position and how the position would work with our Public Works department, we've gone back and forth three or four times with that and realizing that parks is a high priority and also realizing that sustainability is a high priority and when it came to the end of the day, we felt like if we tried to have this hybrid position that we would be doing both parks and sustainability a disservice and neither area would get the attention that it needs. Tom Wooten, Brian, and I have talked, and we started looking at how the makeup of how the Public Works Superintendent staff is made up of including Mark. At one point, it was Tom Wooten and

Chad Freeman, they were trying to divide and conquer and get everything done, but last year, we were able to add a second superintendent position, so now we have Brandon Mundy who supervises the solid waste division, as well as, streets and traffic divisions. Marl Stierwalt's position currently supervises, parks, cemetery, and grounds. So, when we looked at what we needed to do with this other position, it felt like what was really missing was sustainability. So, we've decided to add a third superintendent position, all equal pay grade. Brandon's position would focus on streets, solid waste and traffic, Mark's position would focus on park development, cemetery and building/facility maintenance and now a sustainability superintendent to work with the sustainability board who could look for grants and focus on environmental sustainability as it relates to the ESB and work with Mike Huffman and other folks to move the needle forward on the environmental/sustainability items, building efficiency, alternative fuels and everything that's associated with that.

City Council is happy with the decision and thanked Mr. Connet.

E. Cancellation of December 28, 2022 City Council Meeting – John Connet, City Manager

Council Member Jerry Smith moved that City Council cancel the December 28, 2022 City Council Meeting. A unanimous vote of the Council followed. Motion carried.

F. Adoption of Joint Resolution in Support of a Consolidated Water and Sewer Utility Commission – Jennifer Hensley, Council Member

A small delegation of Hendersonville and Henderson County governing officials recently visited with officials from the Winston-Salem/ Forsyth County Utilities Commission (WSFCUC). The WSFCUC manages most if not all utilities within Forsyth County. WSFCUC is governed by an eleven-member governing board appointed by the County Commissions and City Council. The Chairman is appointed by the Mayor and Chairman of the County Commission. The delegation feels that this governing model may help Hendersonville and Henderson County resolve some of our differences regarding utility extensions and land use planning. The delegation is asking the City Council and Board of Commissioners to adopt a resolution support the exploration of forming a joint water and sewer commission. This resolution is a joint resolution between Hendersonville City Council and Henderson County Commissioners that we explore the idea of forming a commission of governance of the system to hopefully put aside this long-standing debate of governance of the system.

After some discussion, Council Member Jerry Smith moved that City Council change the word "should" to "could" in the 9th "Whereas" paragraph. Council members Simpson, Roundtree and Smith were ayes. Mayor Volk and Council member Hensley were nays. Motion carried.

Council Member Lyndsey Simpson moved that City Council approve the Joint Resolution in in Support of a Consolidated Water and Sewer Utility Commission as amended. A unanimous vote of Council followed. Motion carried.

Resolution #22-142

**JOINT RESOLUTION IN SUPPORT OF A CONSOLIDATED
WATER AND SEWER UTILITY COMMISSION**

WHEREAS, Henderson County (County) and The City of Hendersonville (City) are committed to promoting the public health, safety, and welfare of all Citizens in their respective and joint jurisdictions; and

WHEREAS, the City of Hendersonville owns and operates the largest publicly owned water and sewer system in Henderson County; and

WHEREAS, the system is currently governed by the Hendersonville City Council; and

WHEREAS, Henderson County and Hendersonville both exist for the benefit of the citizens of their respective and joint jurisdictions; and

WHEREAS, Henderson County and Hendersonville both maintain land use regulation in their respective jurisdictions; and

WHEREAS, control of water and sewer dictates growth and land use decisions in a given jurisdiction; and

WHEREAS, both governing bodies believe that responsible growth of Henderson County and Hendersonville should be maintained and protected; and

WHEREAS, it is agreed that a water and sewer utility commission managed in a businesslike manner is in the best interest of both citizens and business interests; and

WHEREAS, it is agreed that the water and sewer systems in the county should be jointly managed among the County and City and maintained for the public good.

NOW, THEREFORE LET IT BE RESOVLED BY HENDERSON COUNTY BOARD OF COMMISSIONERS AND HENDERSONVILLE CITY COUNCIL, in consideration of these and other relevant matters, the Henderson County Board of Commissioners and Hendersonville City Council hereby jointly resolve to enter into negotiations to establish an urban growth strategy and a joint water and sewer utility commission.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of December, 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

ORGANIZATIONAL MEETING

Adoption of 2023 Regular Meeting Schedule – Jill Murray, City Clerk

John Connet said your regular meeting schedule for 2023 is in your agenda packet and we ask that Council approve the schedule as presented.

Council Member Lyndsey Simpson moved that City Council adopt the 2023 Regular Meeting Schedule as presented. A unanimous vote of the Council followed. Motion carried.

10. CITY MANAGER REPORT – John F. Connet, City Manager

John Connet said that Lynne Williams left but he wanted to give a response about Edwards Park. I just want to remind folks that we did look at building the fire station as associated with Edwards Park and the VFW and before we could make that happen, the property was acquired by Henderson County to construct the Veteran's Services Center/Community Center so there was not enough property left in Edwards Park to have enough property to build a fire station. Also, it is much closer to a residential area as it relates to our equipment leaving particularly late at night, so we did explore that option. That is why we delayed construction for almost a year while we looked for other alternatives other than Boyd Park.

Secondly, she has mentioned twice now about fire response, and we are having to relocate fire apparatus and we have heard concerns from fire fighters about that. As it's going to take a year or so to construct the new facility, we have found alternatives to locate our apparatus around the city. One being at the Henderson County Emergency Management building. Other apparatus will be stationed, especially at night, at station 2 with the fire fighters, but during the day we are going to utilize the police department or other city facilities to put a peak engine close to the downtown area and close to south Hendersonville to maintain response times. Its not ideal but we had a meeting about a week and a half ago and they are committed to providing great service to our citizens and we realize that it's only for a year and we're going to provide great services and the response time necessary.

Lastly, I want to congratulate our Communications teams today, particularly Allison Justus as we had an interesting social media day. I will say that our communications team came through as champions. We embraced the fun that our community was having over a map. The map is completely accurate related to the parade and our detours and Allison did a great job, so I just want to commend Allison for the job she did today. With that being said, the Christmas parade is Saturday and Council will be riding in the parade. We are entry number 4 and will be lining up in the high-school parking lot and Council members should be thereby 5:30 and I will be texting you other information as it relates to that.

11. CITY COUNCIL COMMENTS

Jerry A. Smith Jr., J.D. confirmed that the City's Christmas Luncheon is on December 14th.

12. CLOSED SESSION**13. ADJOURN**

There being no further business, the meeting was adjourned at 7:46 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Jill Murray, City Clerk

DRAFT



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Brendan Shanahan, Project Division Manager **MEETING DATE:** January 5, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Engineering

TITLE OF ITEM: Utility Extension Agreement for the Half Moon Heights Subdivision – *Brendan Shanahan, Project Division Manager*

SUGGESTED MOTION(S): I move that City Council approve the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with Half Moon Land Holdings, LLC., for the Half Moon Heights Subdivision as presented and recommended by staff.

SUMMARY:

The Half Moon Heights Subdivision located off Half Moon Trail in the City of Hendersonville proposes to extend the City's water and sewer systems to serve said expansion. The attached Utility Extension Agreement (UEA) outlines the water and sewer utility line extension process and assigns responsibilities to the Developer and City. We welcome any questions that you may have.

BUDGET IMPACT: \$0

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

PROJECT NUMBER: 21143

PETITION NUMBER: N/A

ADDITIONAL PETITION NUMBER: N/A

PETITIONER NAME: N/A

ATTACHMENTS:

Utility Extension Agreement – Half Moon Heights Subdivision

Map showing Half Moon Heights Subdivision parcel

Resolution # 23-01

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION
AGREEMENT WITH HALF MOON LAND HOLDINGS, LLC FOR THE HALF MOON
HEIGHTS SUBDIVISION**

WHEREAS, the City of Hendersonville owns, operates and maintains water and sewer systems to serve customers throughout Henderson County; and

WHEREAS, residential, commercial, and industrial developments often require public water and gravity sewer service as a part of their development projects; and

WHEREAS, the Developer extends public water and gravity sewer lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

WHEREAS, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water and sewer line extension process; and

WHEREAS, Half Moon Land Holdings, LLC., the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide water service to the Half Moon Heights Subdivision.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The Utility Extension Agreement with Half Moon Land Holdings. LLC, the “Developer” and “Owner” to provide water service to the Half Moon Heights Subdivision is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form: _____ Angela S. Beeker, City Attorney

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

Prepared by and return to: Daniel Heyman, Staff Attorney, City of Hendersonville, in the City Box

UTILITY EXTENSION AGREEMENT

THIS AGREEMENT, Made and entered into this ____ day of _____, 20____, by and between the **CITY OF HENDERSONVILLE**, a North Carolina municipal corporation, situate in Henderson County, herein referred to as the "City", and **HALF MOON LAND HOLDINGS, LLC**, a North Carolina limited liability company, herein referred to as "Developer,"

WITNESSETH:

THAT WHEREAS, Developer is the owner of, and is desirous of developing and improving, a tract of land situated in Henderson County, State of North Carolina, described as follows:

Consisting of +/- 33.41 acres, and being all of that real property described in that deed recorded in Deed Book 3950 at page 702, Henderson County registry, having a REID of 1009426, hereinafter referred to as the "Property"; and

WHEREAS, the Developer has submitted an application for the development of a project known as Half Moon Heights Subdivision (project number 21143); and

WHEREAS, in the process of such development and improvement, Developer is desirous of constructing water infrastructure and/or sanitary sewer infrastructure to and on said tract(s) of land, for which the City requires that the Developer enter into a utility extension agreement with the City, said water and/or sewer infrastructure to consist of the following:

Being and consisting of: 1) Water Service Extension consisting of +/- 3,840 lineal feet of 6" ductile iron pipe and +/- 1,711 lineal feet of 8" ductile iron pipe running northerly within the project confines along Half Moon Trail and connecting to an existing 8" ductile water main on the southern side of Half Moon Trail, then running westerly along New Moon Circle and easterly along Wolf Moon Drive and Full Moon Circle and connecting to an existing 6" water main on the northern side of Half Moon Trail; and 2) and a Sanitary Service Extension consisting of +/- 5,153 lineal feet of 8" PVC sanitary force main running within the project confines to the intersection of Half Moon Trail and Brookstone Court, and being more

particularly shown and described on those construction plans and specifications, dated October 24, 2022, prepared by Davis Civil Solutions, PA a Civil Engineering firm, said plans being incorporated herein by reference. 1) and 2) collectively are collectively hereinafter referred to as the "New Infrastructure". It is understood and agreed that the New Infrastructure may be modified or amended from and after the date of this Agreement as may be required to meet the standards of the City of Hendersonville. As used herein, "New Infrastructure" shall be deemed to include any and all of any such modifications and amendments.; and

WHEREAS, the Developer has received zoning approval from the designated governing body for such development and improvement on the Property; and

WHEREAS, the Property is located within the City's municipal boundaries; and

WHEREAS, Developer desires to have the completed New Infrastructure connected to the City's municipal water system and/or sanitary sewer system and made an integral portion thereof; and

WHEREAS, the City will permit said system(s) to be connected to the municipal system(s) under the terms and conditions heretofore established and agreed upon between the parties and specifically in conformance with the requirements of the most recent extension policy, most recent water and sewer standard construction specifications and details, and the City's Code of Ordinances currently in force.

NOW, THEREFORE, in consideration of the mutual benefits which will result to the parties in carrying out the terms of this Agreement, it is agreed as follows:

1. Developer shall, at Developer's own expense, employ a North Carolina registered and licensed professional engineer ("Engineer") to complete design and permitting of the proposed New Infrastructure in conformance with NCAC Title 15A Subchapter 18C (water) and NCAC Title 15A Subchapter 02T(sanitary sewer), the City's water and sewer standard construction specifications and details, and the City water and/or sewer Master Plan(s).
2. Developer shall require the Engineer to submit plans, reports, technical specifications, fees, permit applications, and any other items as required and approvable by the City ("Required Documents"). The Engineer shall disclose all proposed changes in the approved construction plans to the City in writing. If proposed changes are deemed by the City to be "significant" in nature, the City may require the Engineer to resubmit plans for re-permitting. The determination of whether a change is deemed to be significant shall be in the sole and absolute discretion of the City, and the Developer agrees to be bound thereby. This will require written approval by the City prior to re-submitting to the permitting agency or before proceeding with changes, even if permitting agency re-submittal is not required. City approval of a utility extension is subject to expiration should construction not be completed after a period of two years from the date of approval. Once the Required Documents have been approved by the City, they shall be deemed to be incorporated herein by reference as an amendment to this Agreement to indicate the Developers construction obligations under this Agreement.
3. The City will perform construction inspection during installation of the New Infrastructure and upon project completion submit written certification that the project was completed in accordance with the approved plans and specifications as required by NCAC Title 15A Subchapter 18C (water) and NCAC Title 15A Subchapter 02T (sanitary sewer). Water and Sewer inspection fees shall be in accordance with the adopted City Fee Schedule

as of the date of this agreement. Fees will be paid by the Developer upon certification and acceptance of the New Infrastructure, with amounts due being based on length of lines inspected, certified and accepted.

4. The Developer shall, at his or her own expense, furnish and transfer to the City all on-site and off-site easements, rights-of-way, and real property required for access to and perpetual maintenance and operation of the New Infrastructure and its appurtenances in accordance with the terms of this Agreement as provided herein below.

Developer will be required to enter into the City's standard Deed of Dedication and Conveyance With Associated Easements for conveyance of the New Infrastructure and on-site easements, as amended. Further Developer will be required to use the City's standard Utility Infrastructure Easement Agreement when securing the necessary off-site right of way for the operation and maintenance of the New Infrastructure. For the avoidance of doubt, both standard forms permit use of the easements for the future installation of water, sewer and stormwater lines, and their associated appurtenances and accessories, in addition to the New Infrastructure, by or on behalf of the City. The City shall provide a copy of these standard forms upon request by the Developer.

5. Developer shall convey to the City all of the New Infrastructure and easements, on-site and off-site, prior to selling any of the lots in the lots in the development. If the Developer sells a lot within the development to a third-party prior to the conveyance of the New Infrastructure and easements, Developer shall be responsible for all costs associated with obtaining title to the New Infrastructure and easements.
6. Developer shall, at his or her own cost and expense, furnish all materials and all equipment and perform all the work necessary to complete the construction of the New Infrastructure described in the plans and specifications as approved by the City's authorized representative and permitting agency.
7. The installation and construction of the New Infrastructure shall be performed by a reputable and responsible Contractor possessing a valid North Carolina Public Utility Contractor's License directly related to the installation of the New Infrastructure issued by the North Carolina Licensing Board for General Contractors. As used herein, a "responsible Contractor" shall mean one possessing the requisite knowledge, experience, and financial resources to complete the construction of the New Infrastructure in accordance with the plans and specifications within the time allotted.
8. The Engineer shall contact the City prior to the start of construction in order to schedule a preconstruction conference between the Developer, Contractor, Engineer, and City staff. This request should be made at least seven (7) days in advance of the anticipated starting date. Developer or Engineer shall receive a written notice to proceed (NTP) from the City before commencing with construction. If construction is anticipated to be greater than sixty (60) days, a monthly progress meeting shall be scheduled once every thirty (30) days. The date and time of the monthly progress meeting shall be established during the preconstruction conference.
9. Developer shall submit the name, address and the Public Utility Contractor's License Identification Number of the proposed Contractor to the City prior to the preconstruction meeting. The City may investigate the validity of the Contractor's license and the Contractor's status as a responsible Contractor by methods including but

not limited to contacting the owners of past projects for which the Contractor furnished work in order to obtain reference information

10. City staff will be assigned for the express purpose of periodic construction observation and inspection. The City's construction inspector(s) shall have the authority to report all discrepancies identified in all phases of construction to the Engineer regarding conformance with the approved construction drawings and specifications. This report shall in no way relieve the Developer of his or her obligation to engage a professional engineer to perform construction inspection and coordinate construction.
11. During construction, no deviations from the approved plans and specifications shall be allowed without the prior express written approval of the City and permitting agency if deemed necessary by the City.
12. The City Engineer, or authorized representative, shall be authorized to resolve disagreements between Developer's Contractor(s), and the City's construction inspector(s) regarding conformance with approved plans and/or specifications.
13. Upon completion of construction, the Developer shall cause the Engineer to arrange for a final inspection to be performed jointly by the Engineer, the contractor, and the City's construction inspector to determine if the project is acceptable to the City. At this time, a draft as-built shall be submitted to the City. If the project is not immediately acceptable, any deficiencies shall be noted in a written report (punch list) prepared by the City. This report shall be transmitted to the responsible parties. It shall be the responsibility of the Developer to correct any such deficiencies and arrange for a re-inspection of the system.
14. As part of the final inspection process for sewer collection systems, Developer shall satisfactorily complete the following as described in the most recent water and sewer standard construction specifications and details: air test, manhole vacuum tests, and mandrel deflection test. Video of the new sanitary sewer collection system by means of closed-circuit television (CCTV) will be performed by the City. All testing shall be certified and all certifications, along with the related data and any video of the sewer system, shall be submitted to the City before final acceptance of the project is granted by the City.
15. As part of the final inspection process for water distribution systems, Developer shall satisfactorily complete the following: pressure test lines, bacteriological sampling performed by a certified laboratory. The City's certified laboratory may be utilized. All testing shall be certified and all certifications, along with related data, shall be submitted to the City before final acceptance of the project is granted by the City.
16. Once all deficiencies are corrected and the project is deemed acceptable to the City, the Developer shall cause the Engineer to submit as-builts in formats acceptable to the City. The Engineer shall also submit any easements required for the New Infrastructure and any deeds necessary to convey ownership to the City. The Developer shall be responsible for acquiring easements from any third parties owning property over which any portion of the New Infrastructure is constructed, said easements to be titled in the name of the City, using forms to be provided by the City.
17. Prior to the activation of services on the newly constructed New Infrastructure, Developer shall convey unencumbered title and ownership to the City, of the New Infrastructure and its appurtenances, and shall

assign and transfer all associated permits, licenses and permissions to the City. If a water extension was permitted for the same or similar project, the City shall receive final approval from the permitting agency. In certain circumstances as approved by the City, activation of services on portion(s) of the New Infrastructure may be permitted after partial certification(s) completion and approval(s).

18. The conveyance, assignment or transfer of (1) all permits, licenses or other permissions, and (2) all property and assets to the City, including but not limited to real or personal property, the New Infrastructure and its appurtenances, easements, rights of way or encroachments, (1) and (2) collectively hereinafter referred to as "Required Conveyances," shall be in form as approved by the City's legal counsel, and unless specifically excepted by the City Attorney, shall be in form proper for recording in the appropriate public registry. The conveyance of real property shall be in the form of a fee simple deed and without encumbrance as approved by the City's legal counsel. The Developer shall cause all affiliates or other third parties or entities having an ownership interest in the New Infrastructure or the Property to join the Required Conveyances, as reasonably determined by the City to be necessary to convey full title to the New Infrastructure and Required Conveyances to the City. With the execution hereof, Developer and City specifically agree that the New Infrastructure shall remain personal property, and shall not become a part of the real property, regardless of whether or not the New Infrastructure is permanently affixed to the real property comprising the Property.
19. The Developer shall provide a written release of the City's interest in the Required Conveyances (in form approved by the City Attorney) from any and all liens or other legal interests held by lenders, vendors or other third parties. The release(s) must be delivered in form for recording in the appropriate public registry, and must be received by the City in conjunction with the City's receipt of the Required Conveyances.
20. To the fullest extent allowed by law, and regardless of the approval(s) of any document(s) by the City's legal counsel, the Developer shall indemnify and hold the City harmless from all actions, causes and claims whatsoever against the City by any persons, firms, and corporations whatsoever relating in any manner to this Agreement (including but not limited to damages to persons or property related to construction and/or installation of the New Infrastructure) or the Required Conveyances. Without limiting the Developer's obligations under this paragraph in any manner, the Developer shall defend any and all claims, causes or actions whatsoever regarding the City's title or ownership in any of the Required Conveyances.
21. Developer shall guarantee the accepted and dedicated New Infrastructure to be free of defects in materials and workmanship and to be properly functioning in all respects for a period of one calendar year from the date of acceptance by the City. During this year of guarantee, Developer shall correct, or have corrected, any defects that may develop in material, equipment, or workmanship. Should Developer fail to correct defects within a reasonable period of time after being notified, as determined in good faith by the City Engineer or designee, the City may proceed to correct defects and Developer shall be liable for the City's expense in doing so. It shall be the Developer's responsibility to attend, or to provide an authorized representative to attend, a warranty inspection with the City prior to the expiration of said warranty period.
22. Before the issuance of final acceptance, the Developer or Engineer shall schedule a project closeout meeting with the City. The Developer or Engineer shall submit to the City, not later than the start of the project closeout meeting, all required closeout documents, including but not limited to recorded easement plats, warranty deeds, affidavits of lien waiver, as-built drawings with georeferenced infrastructure data, final walk-through

inspection punch list and evidence of completion of said punch list, utility extension agreements, fixed asset evaluation form and infrastructure testing results. The City shall be under no obligation to [and in the absence of extraordinary circumstances will not] activate any services before receipt of all required documentation. Partial receipt shall be treated as an incomplete project closeout and no services shall be activated. A project closeout form shall be completed and executed by the Developer or by an authorized representative of the Developer and the City for each project. If the project described in this utility extension agreement is divided into phases, a project closeout form shall be executed for each phase prior to issuance of final acceptance. For purposes of this paragraph, and notwithstanding any other provision of this agreement, every required document shall be considered material, and “substantial compliance” shall not apply.

23. Once all items are complete, City staff shall submit the project to City Council for formal acceptance during a regularly scheduled meeting. The City shall issue a formal "Letter of Acceptance" upon acceptance by City Council to the Developer for the project. The City shall incorporate the accepted system as an integral part of its utility system and shall furnish service therefrom in accordance with the rules, regulations, rates, and policies established for its customers.

24. There shall be no intended nor incidental third-party beneficiaries of this Agreement.

25. This Agreement may not be assigned by the Developer without the express written consent of the City. Any assignment without the express written consent of the City shall be void. Any assignment approved by the City shall be in form approved by the City’s legal counsel. Such consent by the City and approval by the City’s legal counsel shall be for the sole and exclusive benefit and reliance of the City, and shall not be relied upon by the Developer nor any third party as to the validity or legal effect of an assignment.

26. All inspections of the New Infrastructure performed by the City shall be for the sole and exclusive benefit and reliance of the City. The inspection, approval and acceptance of the New Infrastructure shall not be deemed a warranty or guarantee upon which any person or entity can rely that the construction of the extension was done in a workmanlike manner, or was completed in accordance with the construction contract documents, with standards of the profession in and around Hendersonville, North Carolina, or in accordance with the applicable federal, State, or local laws, rules or regulations.

27. This agreement is executed in the State of North Carolina, and shall be construed in accordance with the laws of the State of North Carolina. Both parties submit their persons to the jurisdiction of the Courts for North Carolina. Exclusive venue for any action brought in connection with this agreement, its interpretation and breach shall be in the courts for Henderson County, North Carolina.

28. This Agreement may be recorded in the Henderson County Register of Deeds Office at the option of the City.

[Signatures appear on the following page]

PLEASE BE ADVISED: The City shall not allow the activation of any water or sewer services until the City receives partial certification approval or final approval from the permitting agency and shall not allow the issuance of any certificates of occupancy until the City deems the project complete.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, the day and year first above written.

DEVELOPER: HALF MOON LAND HOLDINGS, LLC,
a North Carolina Limited Liability Company

THE CITY OF HENDERSONVILLE

BY: _____ (SEAL)
(signature)

BY: _____ (SEAL)
John F. Connet, City Manager

Printed name: _____

Title: _____

STATE OF _____ COUNTY OF _____

I, _____, (printed name of notary) a Notary Public of said County and State, do hereby certify that _____, personally appeared before me this day, and being duly sworn, stated that they are the _____ (title) for **HALF MOON LAND HOLDINGS, LLC**, and that they executed and acknowledged the foregoing instrument on behalf of **HALF MOON LAND HOLDINGS, LLC** pursuant the due authorization by **HALF MOON LAND HOLDINGS, LLC** and that the instrument is the act and deed of **HALF MOON LAND HOLDINGS, LLC**.

WITNESS my hand and official seal, this _____ day of _____, 20____

My commission expires

Notary Public Signature

(OFFICIAL SEAL)

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, _____, (printed name of notary) a Notary Public in and for the State and County aforesaid, do hereby certify that John F. Connet, personally appeared before me and, being duly sworn, stated that he is City Manager of the City of Hendersonville, North Carolina, and that he executed and acknowledged the foregoing instrument on behalf of the City of Hendersonville pursuant to order of the City Council of said City and that the instrument is the act and deed of the City of Hendersonville.

WITNESS my hand and official seal, this _____ day of _____, 20_____

My commission expires _____

Notary Public Signature

(OFFICIAL SEAL)

CITY OF HENDERSONVILLE
UTILITY AVAILABILITY
Half Moon Heights

Section 5, Item B.

Half Moon Heights
PIN: 9568111446
Hendersonville Fire Department

Sewer Layers

Gravity Main

- Public Gravity Main
- Abandoned

Water Layers

Fire Hydrants

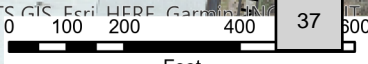
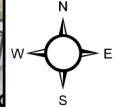
- City Fire Hydrant

Water Main

- City Water Main
- Private Fire Line
- Abandoned Water Main



December 2021



0 100 200 400 600 Feet

The City of Hendersonville makes every effort to confirm the accuracy of this information; however, it does not warrant or guarantee that any information provided is accurate or current.

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

Prepared by and return to: Daniel Heyman, Staff Attorney, City of Hendersonville, in the City Box

UTILITY EXTENSION AGREEMENT

THIS AGREEMENT, Made and entered into this _____ day of _____, 20____, by and between the **CITY OF HENDERSONVILLE**, a North Carolina municipal corporation, situated in Henderson County, herein referred to as the "City", **HOWARD GAP, LLC**, a North Carolina limited liability company, herein referred to as "Developer."

WITNESSETH:

THAT WHEREAS, Developer is the owner of, and is desirous of developing and improving, a tract of land situated in Henderson County, State of North Carolina, described as follows:

Consisting of +/- 25.02 acres, and being all of that real property described in that deed recorded in Deed Book 3913 at page 177, Henderson County registry, having a PIN of 9597174832, hereinafter referred to as the "Property"; and

WHEREAS, the Developer has submitted an application for the development of a project known as The Orchards at Howard’s Gap (City of Hendersonville project number 22115); and

WHEREAS, in the process of such development and improvement, Developer is desirous of constructing water infrastructure and/or sanitary sewer infrastructure to and on said tract(s) of land, for which the City requires that the Developer enter into a utility extension agreement with the City, said water and/or sewer infrastructure to consist of the following:

Being and consisting of: Water Service Extension consisting of +/- 2,445 LF of 6" water line (DIP/CL 350), and 685 LF of 8" water line (DIP/CL 350), connecting to the existing 8" main along Howard Gap Road, together with all hydrants, valves, meters, and other appurtenances, and being more particularly shown and described on those construction plans and specifications, sealed September 28, 2022 and bearing WGLA project number 22129, prepared by WGLA Engineering, PLLC, a Civil Engineering firm, said plans being incorporated herein by reference. The Water Service Extension described herein is hereinafter

referred to as the “New Infrastructure”. It is understood and agreed that the New Infrastructure may be modified or amended from and after the date of this Agreement as may be required to meet the standards of the City of Hendersonville. As used herein, “New Infrastructure” shall be deemed to include any and all of any such modifications and amendments; and

WHEREAS, the Developer has received or is in the process of receiving zoning approval from the designated governing body for such development and improvement on the Property; and

WHEREAS, the Property is not located within the City’s municipal boundaries but is located within the unincorporated area of Henderson County; and

WHEREAS, the City is not obligated to offer water or sanitary sewer service to property outside its corporate limits; and

WHEREAS, Developer desires to have the completed New Infrastructure connected to the City's municipal water system and/or sanitary sewer system and made an integral portion thereof; and

WHEREAS, the City will permit said system(s) to be connected to the municipal system(s) under the terms and conditions heretofore established and agreed upon between the parties and specifically in conformance with the requirements of the most recent extension policy, most recent water and sewer standard construction specifications and details, and the City's Code of Ordinances currently in force.

NOW, THEREFORE, in consideration of the mutual benefits which will result to the parties in carrying out the terms of this Agreement, it is agreed as follows:

1. Developer shall, at Developer’s own expense, employ a North Carolina registered and licensed professional engineer ("Engineer") to complete design and permitting of the proposed New Infrastructure in conformance with NCAC Title 15A Subchapter 18C (water) and NCAC Title 15A Subchapter 02T (sanitary sewer), the City's water and sewer standard construction specifications and details, and the City water and/or sewer Master Plan(s).
2. Developer shall require the Engineer to submit plans, reports, technical specifications, fees, permit applications, and any other items as required and approvable by the City (“Required Documents”). The Engineer shall disclose all proposed changes in the approved construction plans to the City in writing. If proposed changes are deemed by the City to be "significant" in nature, the City may require the Engineer to resubmit plans for re-permitting. The determination of whether a change is deemed to be significant shall be in the sole and absolute discretion of the City, and the Developer agrees to be bound thereby. This will require written approval by the City prior to re-submitting to the permitting agency or before proceeding with changes, even if permitting agency re-submittal is not required. City approval of a utility extension is subject to expiration should construction not be completed after a period of two years from the date of approval. Once the Required Documents have been approved by the City, they shall be deemed to be incorporated herein by reference as an amendment to this Agreement to indicate the Developers construction obligations under this Agreement.
3. The City will perform construction inspection during installation of the New Infrastructure and upon project completion submit written certification that the project was completed in accordance with the approved plans and specifications as required by NCAC Title 15A Subchapter 18C (water) and NCAC Title 15A Subchapter 02T

(sanitary sewer). Water and Sewer inspection fees shall be in accordance with the adopted City Fee Schedule as of the date of this agreement. Fees will be paid by the Developer upon certification and acceptance of the New Infrastructure, with amounts due being based on length of lines inspected, certified and accepted.

4. The Developer shall, at his or her own expense, furnish and transfer to the City all on-site and off-site easements, rights-of-way, and real property required for access to and perpetual maintenance and operation of the New Infrastructure and its appurtenances in accordance with the terms of this Agreement as provided herein below.

Developer will be required to enter into the City's standard Deed of Dedication and Conveyance with Associated Easements for conveyance of the New Infrastructure and on-site easements, as amended. Further Developer will be required to use the City's standard Utility Infrastructure Easement Agreement when securing the necessary off-site right of way for the operation and maintenance of the New Infrastructure. For the avoidance of doubt, both standard forms permit use of the easements for the future installation of water, sewer and stormwater lines, and their associated appurtenances and accessories, in addition to the New Infrastructure, by or on behalf of the City. The City shall provide a copy of these standard forms upon request by the Developer.

5. Developer shall convey to the City all of the New Infrastructure and easements, on-site and off-site, prior to selling any of the lots in the lots in the development. If the Developer sells or otherwise conveys a lot within the development to a third-party prior to the conveyance of the New Infrastructure and easements to the City, Developer shall be responsible for all costs associated with obtaining title in the name of the City to the New Infrastructure and all easements for each lot, including but not limited to acquisition costs and recording costs.
6. Developer shall, at his or her own cost and expense, furnish all materials and all equipment and perform all the work necessary to complete the construction of the New Infrastructure described in the plans and specifications as approved by the City's authorized representative and permitting agency.
7. The installation and construction of the New Infrastructure shall be performed by a reputable and responsible Contractor possessing a valid North Carolina Public Utility Contractor's License directly related to the installation of the New Infrastructure issued by the North Carolina Licensing Board for General Contractors. As used herein, a "responsible Contractor" shall mean one possessing the requisite knowledge, experience, and financial resources to complete the construction of the New Infrastructure in accordance with the plans and specifications within the time allotted.
8. The Engineer shall contact the City prior to the start of construction in order to schedule a preconstruction conference between the Developer, Contractor, Engineer, and City staff. This request should be made at least seven (7) days in advance of the anticipated starting date. Developer or Engineer shall receive a written notice to proceed (NTP) from the City before commencing with construction. If construction is anticipated to be greater than sixty (60) days, a monthly progress meeting shall be scheduled once every thirty (30) days. The date and time of the monthly progress meeting shall be established during the preconstruction conference.

9. Developer shall submit the name, address and the Public Utility Contractor's License Identification Number of the proposed Contractor to the City prior to the preconstruction meeting. The City may investigate the validity of the Contractor's license and the Contractor's status as a responsible Contractor by methods including but not limited to contacting the owners of past projects for which the Contractor furnished work in order to obtain reference information
10. City staff will be assigned for the express purpose of periodic construction observation and inspection. The City's construction inspector(s) shall have the authority to report all discrepancies identified in all phases of construction to the Engineer regarding conformance with the approved construction drawings and specifications. This report shall in no way relieve the Developer of his or her obligation to engage a professional engineer to perform construction inspection and coordinate construction.
11. During construction, no deviations from the approved plans and specifications shall be allowed without the prior express written approval of the City and permitting agency if deemed necessary by the City.
12. The City Engineer, or authorized representative, shall be authorized to resolve disagreements between Developer's Contractor(s), and the City's construction inspector(s) regarding conformance with approved plans and/or specifications.
13. Upon completion of construction, the Developer shall cause the Engineer to arrange for a final inspection to be performed jointly by the Engineer, the contractor, and the City's construction inspector to determine if the project is acceptable to the City. At this time, a draft as-built shall be submitted to the City. If the project is not immediately acceptable, any deficiencies shall be noted in a written report (punch list) prepared by the City. This report shall be transmitted to the responsible parties. It shall be the responsibility of the Developer to correct any such deficiencies and arrange for a re-inspection of the system.
14. As part of the final inspection process for sewer collection systems, Developer shall satisfactorily complete the following as described in the most recent water and sewer standard construction specifications and details: air test, manhole vacuum tests, and mandrel deflection test. Video of the new sanitary sewer collection system by means of closed-circuit television (CCTV) will be performed by the City. All testing shall be certified and all certifications, along with the related data and any video of the sewer system, shall be submitted to the City before final acceptance of the project is granted by the City.
15. As part of the final inspection process for water distribution systems, Developer shall satisfactorily complete the following: pressure test lines, bacteriological sampling performed by a certified laboratory. The City's certified laboratory may be utilized. All testing shall be certified and all certifications, along with related data, shall be submitted to the City before final acceptance of the project is granted by the City.
16. Once all deficiencies are corrected and the project is deemed acceptable to the City, the Developer shall cause the Engineer to submit as-builts in formats acceptable to the City. The Engineer shall also submit any easements required for the New Infrastructure and any deeds necessary to convey ownership to the City. The Developer shall be responsible for acquiring easements from any third parties owning property over which any portion of the New Infrastructure is constructed, said easements to be titled in the name of the City, using forms to be provided by the City.

17. Prior to the activation of services on the newly constructed New Infrastructure, Developer shall convey unencumbered title and ownership to the City, of the New Infrastructure and its appurtenances, and shall assign and transfer all associated permits, licenses and permissions to the City. If a water extension was permitted for the same or similar project, the City shall receive final approval from the permitting agency. In certain circumstances as approved by the City, activation of services on portion(s) of the New Infrastructure may be permitted after partial certification(s) completion and approval(s).
18. The conveyance, assignment or transfer of (1) all permits, licenses or other permissions, and (2) all property and assets to the City, including but not limited to real or personal property, the New Infrastructure and its appurtenances, easements, rights of way or encroachments, (1) and (2) collectively hereinafter referred to as "Required Conveyances," shall be in form as approved by the City's legal counsel, and unless specifically excepted by the City Attorney, shall be in form proper for recording in the appropriate public registry. The conveyance of real property shall be in the form of a fee simple deed and without encumbrance as approved by the City's legal counsel. The Developer shall cause all affiliates or other third parties or entities having an ownership interest in the New Infrastructure or the Property to join the Required Conveyances, as reasonably determined by the City to be necessary to convey full title to the New Infrastructure and Required Conveyances to the City. With the execution hereof, Developer and City specifically agree that the New Infrastructure shall remain personal property, and shall not become a part of the real property, regardless of whether or not the New Infrastructure is permanently affixed to the real property comprising the Property.
19. The Developer shall provide a written release of the City's interest in the Required Conveyances (in form approved by the City Attorney) from any and all liens or other legal interests held by lenders, vendors or other third parties. The release(s) must be delivered in form for recording in the appropriate public registry, and must be received by the City in conjunction with the City's receipt of the Required Conveyances.
20. To the fullest extent allowed by law, and regardless of the approval(s) of any document(s) by the City's legal counsel, the Developer shall indemnify and hold the City harmless from all actions, causes and claims whatsoever against the City by any persons, firms, and corporations whatsoever relating in any manner to this Agreement (including but not limited to damages to persons or property related to construction and/or installation of the New Infrastructure) or the Required Conveyances. Without limiting the Developer's obligations under this paragraph in any manner, the Developer shall defend any and all claims, causes or actions whatsoever regarding the City's title or ownership in any of the Required Conveyances.
21. Developer shall guarantee the accepted and dedicated New Infrastructure to be free of defects in materials and workmanship and to be properly functioning in all respects for a period of one calendar year from the date of acceptance by the City. During this year of guarantee, Developer shall correct, or have corrected, any defects that may develop in material, equipment, or workmanship. Should Developer fail to correct defects within a reasonable period of time after being notified, as determined in good faith by the City Engineer or designee, the City may proceed to correct defects and Developer shall be liable for the City's expense in doing so. It shall be the Developer's responsibility to attend, or to provide an authorized representative to attend, a warranty inspection with the City prior to the expiration of said warranty period.

22. Before the issuance of final acceptance, the Developer or Engineer shall schedule a project closeout meeting with the City. The Developer or Engineer shall submit to the City, not later than the start of the project closeout meeting, all required closeout documents, including but not limited to recorded easement plats, warranty deeds, affidavits of lien waiver, as-built drawings with georeferenced infrastructure data, final walk-through inspection punch list and evidence of completion of said punch list, utility extension agreements, fixed asset evaluation form and infrastructure testing results. The City shall be under no obligation to [and in the absence of extraordinary circumstances will not] activate any services before receipt of all required documentation. Partial receipt shall be treated as an incomplete project closeout and no services shall be activated. A project closeout form shall be completed and executed by the Developer or by an authorized representative of the Developer and the City for each project. If the project described in this utility extension agreement is divided into phases, a project closeout form shall be executed for each phase prior to issuance of final acceptance. For purposes of this paragraph, and notwithstanding any other provision of this agreement, every required document shall be considered material, and "substantial compliance" shall not apply.
23. Once all items are complete, City staff shall submit the project to City Council for formal acceptance during a regularly scheduled meeting. The City shall issue a formal "Letter of Acceptance" upon acceptance by City Council to the Developer for the project. The City shall incorporate the accepted system as an integral part of its utility system and shall furnish service therefrom in accordance with the rules, regulations, rates, and policies established for its customers.
24. There shall be no intended nor incidental third-party beneficiaries of this Agreement.
25. This Agreement may not be assigned by the Developer without the express written consent of the City. Any assignment without the express written consent of the City shall be void. Any assignment approved by the City shall be in form approved by the City's legal counsel. Such consent by the City and approval by the City's legal counsel shall be for the sole and exclusive benefit and reliance of the City, and shall not be relied upon by the Developer nor any third party as to the validity or legal effect of an assignment.
26. All inspections of the New Infrastructure performed by the City shall be for the sole and exclusive benefit and reliance of the City. The inspection, approval and acceptance of the New Infrastructure shall not be deemed a warranty or guarantee upon which any person or entity can rely that the construction of the extension was done in a workmanlike manner, or was completed in accordance with the construction contract documents, with standards of the profession in and around Hendersonville, North Carolina, or in accordance with the applicable federal, State, or local laws, rules or regulations.
27. This agreement is executed in the State of North Carolina, and shall be construed in accordance with the laws of the State of North Carolina. Both parties submit their persons to the jurisdiction of the Courts for North Carolina. Exclusive venue for any action brought in connection with this agreement, its interpretation and breach shall be in the courts for Henderson County, North Carolina.
28. This Agreement may be recorded in the Henderson County Register of Deeds Office at the option of the City.
- PLEASE BE ADVISED: The City shall not allow the activation of any water or sewer services until the City receives partial certification approval or final approval from the permitting agency and shall not allow the issuance of any certificates of occupancy until the City deems the project complete.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, the day and year first above written.

HOWARD GAP, LLC

THE CITY OF HENDERSONVILLE

BY: _____ (SEAL)
(signature)

BY: _____ (SEAL)
John F. Connet, City Manager

Printed name: _____

Title: _____

STATE OF _____ COUNTY OF _____

I, _____, (printed name of notary) a Notary Public of said County and State, do hereby certify that _____, personally appeared before me this day, and being duly sworn, stated that they are the _____ (title) for **HOWARD GAP, LLC**, and that they executed and acknowledged the foregoing instrument on behalf of **HOWARD GAP, LLC** pursuant the due authorization by **HOWARD GAP, LLC** and that the instrument is the act and deed of **HOWARD GAP, LLC**.

WITNESS my hand and official seal, this _____ day of _____, 20____

My commission expires _____

Notary Public Signature

(OFFICIAL SEAL)

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, _____, (printed name of notary) a Notary Public in and for the State and County aforesaid, do hereby certify that John F. Connet, personally appeared before me and, being duly sworn, stated that he is City Manager of the **City of Hendersonville**, North Carolina, and that he executed and acknowledged the foregoing instrument on behalf of the **City of Hendersonville** pursuant to order of the City Council of said City and that the instrument is the act and deed of the **City of Hendersonville**.

WITNESS my hand and official seal, this _____ day of _____, 20____

My commission expires _____

Notary Public Signature

(OFFICIAL SEAL)

Resolution #23-02

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION
AGREEMENT WITH HOWARD GAP, LLC. FOR THE ORCHARDS AT HOWARD GAP**

WHEREAS, the City of Hendersonville owns, operates and maintains a water system to serve customers throughout Henderson County; and

WHEREAS, residential, commercial, and industrial developments often require public water service as a part of their development projects; and

WHEREAS, the Developer extends public water lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

WHEREAS, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water and sewer line extension process; and

WHEREAS, Howard Gap, LLC., the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide water service to the Orchards at the Howard Gap.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The Utility Extension Agreement with Howard Gap, LLC., the “Developer” and “Owner” to provide water service to the Orchards at Howard Gap is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Brendan Shanahan, Project Division Manager **MEETING DATE:** January 5, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Engineering

TITLE OF ITEM: Utility Extension Agreement for the Orchards at Howard Gap – *Brendan Shanahan, Project Division Manager*

SUGGESTED MOTION(S): I move that City Council approve the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with Howard Gap, LLC., for the Orchards at Howard Gap as presented and recommended by staff.

SUMMARY:

The Orchards at Howard Gap located off Howard Gap Road in Henderson County proposes to extend the City's water system to serve said expansion. The attached Utility Extension Agreement (UEA) outlines the water utility line extension process and assigns responsibilities to the Developer and City. We welcome any questions that you may have.

BUDGET IMPACT: \$0

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

PROJECT NUMBER: 22115

PETITION NUMBER: N/A

ADDITIONAL PETITION NUMBER: N/A

PETITIONER NAME: N/A

ATTACHMENTS:

Utility Extension Agreement – Orchards at Howard Gap

Map showing Orchards at Howard Gap parcel

CITY OF HENDERSONVILLE
UTILITY AVAILABILITY
The Orchards at Howard's Gap

Section 5, Item C.

The Orchards at Howard's Gap
PIN: 9597-17-4832
Blue Ridge Fire District
Fire Chief: W. Sheehan

Sewer Layers

Gravity Main

- Public Gravity Main
- Public Force Main
- Proposed Gravity Main
- Abandoned

Water Layers

Fire Hydrants

- City Fire Hydrant

Water Main

- City Water Main
- Private Fire Line
- Proposed Water Main
- Abandoned Water Main

Road Layers

- State Maintained Road
- Non-State Maintained Road



JULY 2022



47

The City of Hendersonville makes every effort to confirm the accuracy of this information; however, it does not warrant or guarantee that any information provided is accurate or current.

Z:\GIS\Water_Sewer_Dept\WS_GIS_Projects\Water_Sewer_Availability_Maps



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Brendan Shanahan, Project Division Manager **MEETING DATE:** January 5, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Engineering

TITLE OF ITEM: Utility Extension Agreement for the Dodd Meadows Subdivision – *Brendan Shanahan, Project Division Manager*

SUGGESTED MOTION(S): I move that City Council approve the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with Henderson County Habitat for Humanity, Inc., for the Dodd Meadows Subdivision as presented and recommended by staff.

SUMMARY:

The Dodd Meadows Subdivision located off Volunteer Way Drive in Henderson County proposes to extend the City's water and sewer system to serve said expansion. The attached Utility Extension Agreement (UEA) outlines the water and sewer utility line extension process and assigns responsibilities to the Developer and City. We welcome any questions that you may have.

BUDGET IMPACT: \$0

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

PROJECT NUMBER: 22116

PETITION NUMBER: N/A

ADDITIONAL PETITION NUMBER: N/A

PETITIONER NAME: N/A

ATTACHMENTS:

Utility Extension Agreement – Dodd Meadows Subdivision

Map showing Dodd Meadows Subdivision parcel

Resolution #23-03

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION
AGREEMENT WITH HOWARD GAP, LLC. FOR THE DODD MEADOWS SUBDIVISION**

WHEREAS, the City of Hendersonville owns, operates and maintains a water system to serve customers throughout Henderson County; and

WHEREAS, residential, commercial, and industrial developments often require public water service as a part of their development projects; and

WHEREAS, the Developer extends public water lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

WHEREAS, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water and sewer line extension process; and

WHEREAS, Henderson County Habitat for Humanity, Inc., the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide water service to the Dodd Meadows Subdivision.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The Utility Extension Agreement with Henderson County Habitat for Humanity, Inc., the “Developer” and “Owner” to provide water service to the Dodd Meadows Subdivision is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

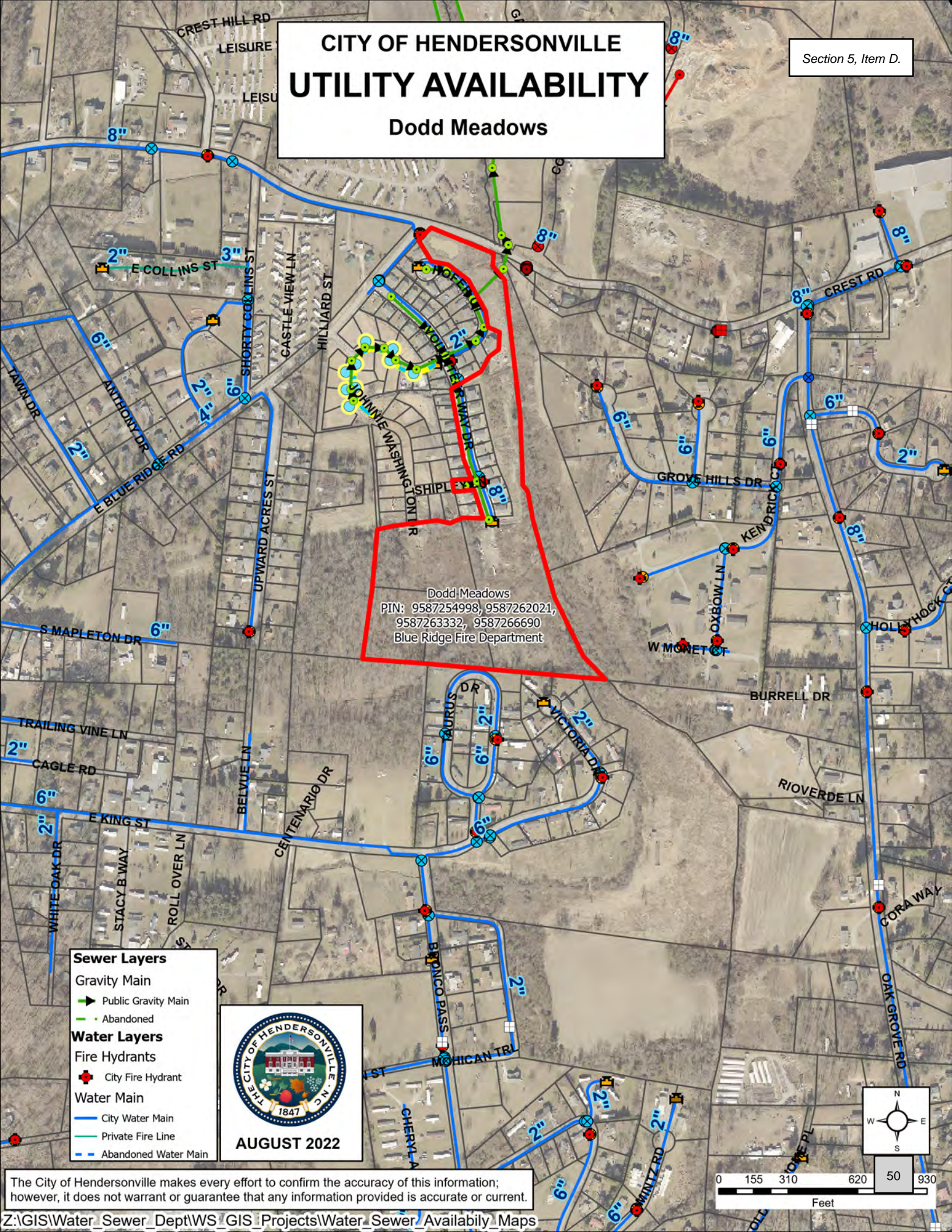
Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

CITY OF HENDERSONVILLE UTILITY AVAILABILITY

Dodd Meadows



STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

Prepared by and return to: Daniel Heyman, Staff Attorney, City of Hendersonville, in the City Box

FIRST AMENDED AND RESTATED UTILITY EXTENSION AGREEMENT

THIS AGREEMENT, Made and entered into this _____ day of _____, 20____, by and between the **CITY OF HENDERSONVILLE**, a North Carolina municipal corporation, situated in Henderson County, herein referred to as the “City”, **HENDERSON COUNTY HABITAT FOR HUMANITY, INC.**, a North Carolina non-profit corporation, herein referred to as "Developer."

WITNESSETH:

THAT WHEREAS, Developer is the owner of, and is desirous of developing and improving, a tract of land situated in Henderson County, State of North Carolina, described as follows:

Consisting of +/- 12.4 acres, and being: (1) all of that real property described in that deed recorded in Deed Book 1613 at page 104, Henderson County registry, having a PIN of 9587262021, (2) all of that real property described in that deed recorded in Deed Book 1613 at page 110, Henderson County registry, having a PIN of 9587254998, (3) a portion of that real property described in Deed Book 1613 at page 107, Henderson County registry, less an excepting all prior conveyances, having a PIN of 9587263332, and (4) a portion that real property described in Deed Book 1419 at page 348, Henderson County registry, less an excepting all prior conveyances, having a PIN of 9587266690, all of the foregoing (1) through (4) hereinafter collectively referred to as the “Property”; and

WHEREAS, the Developer has submitted an application for the development of a project known as Dodd Meadows Phase 3 & 6 (City of Hendersonville project number 22116); and

WHEREAS, the Developer and the City have previously entered into a Utility Extension Agreement dated July 2, 2015 (hereinafter the “2015 UEA”), and recorded in Book 1630 at page 199, but are now desirous of amending its terms; and

WHEREAS, in the process of such development and improvement, Developer is desirous of constructing water infrastructure and/or sanitary sewer infrastructure to and on said tract(s) of land, for which the City requires that

the Developer enter into a utility extension agreement with the City, said water and/or sewer infrastructure to consist of the following:

Being and consisting of: 1) Water Service Extension consisting of +/- 770 lineal feet of 6" water line (DIP/CL 350), +/- 803 lineal feet of 8" water line (DIP/CL 350) connecting to the existing 8" main along Volunteer Way Drive and the 8" main on Johnnie Washington Court, together with all valves, meters, and other appurtenances; and 2) and a Sanitary Service Extension consisting of +/- 793 lineal feet of 8" sewer line (PVC/SDR 35), +/- 828 LF of 12" sewer line (PVC/SDR 35) connecting to the existing main along Volunteer Way Drive , together with all valves, meters, manholes and other appurtenances. 1) and 2) being more particularly shown and described on those construction plans and specifications, sealed October 11, 2022, and bearing WGLA project number 21174, prepared by WGLA Engineering, PLLC, a Civil Engineering firm, said plans being incorporated herein by reference. 1) and 2) are collectively hereinafter referred to as the "New Infrastructure". It is understood and agreed that the New Infrastructure may be modified or amended from and after the date of this Agreement as may be required to meet the standards of the City of Hendersonville. As used herein, "New Infrastructure" shall be deemed to include any and all of any such modifications and amendments; and

WHEREAS, the Developer has received or in in the process of receiving zoning approval from the designated governing body for such development and improvement on the Property; and

WHEREAS, the Property is not located within the City's municipal boundaries but is located within the unincorporated area of Henderson County; and

WHEREAS, the City is not obligated to offer water or sanitary sewer service to property outside its corporate limits; and

WHEREAS, Developer desires to have the completed New Infrastructure connected to the City's municipal water system and/or sanitary sewer system and made an integral portion thereof; and

WHEREAS, the City will permit said system(s) to be connected to the municipal system(s) under the terms and conditions heretofore established and agreed upon between the parties and specifically in conformance with the requirements of the most recent extension policy, most recent water and sewer standard construction specifications and details, and the City's Code of Ordinances currently in force.

NOW, THEREFORE, in consideration of the mutual benefits which will result to the parties in carrying out the terms of this Agreement, it is agreed as follows:

1. Developer shall, at Developer's own expense, employ a North Carolina registered and licensed professional engineer ("Engineer") to complete design and permitting of the proposed New Infrastructure in conformance with NCAC Title 15A Subchapter 18C (water) and NCAC Title 15A Subchapter 02T (sanitary sewer), the City's water and sewer standard construction specifications and details, and the City water and/or sewer Master Plan(s).
2. Developer shall require the Engineer to submit plans, reports, technical specifications, fees, permit applications, and any other items as required and approvable by the City ("Required Documents"). The Engineer shall disclose all proposed changes in the approved construction plans to the City in writing. If proposed changes are deemed by the City to be "significant" in nature, the City may require the Engineer to resubmit plans for re-permitting. The determination of whether a change is deemed to be significant shall be

in the sole and absolute discretion of the City, and the Developer agrees to be bound thereby. This will require written approval by the City prior to re-submitting to the permitting agency or before proceeding with changes, even if permitting agency re-submittal is not required. City approval of a utility extension is subject to expiration should construction not be completed after a period of two years from the date of approval. Once the Required Documents have been approved by the City, they shall be deemed to be incorporated herein by reference as an amendment to this Agreement to indicate the Developers construction obligations under this Agreement.

3. The City will perform construction inspection during installation of the New Infrastructure and upon project completion submit written certification that the project was completed in accordance with the approved plans and specifications as required by NCAC Title 15A Subchapter 18C (water) and NCAC Title 15A Subchapter 02T (sanitary sewer). Water and Sewer inspection fees shall be in accordance with the adopted City Fee Schedule as of the date of this agreement. Fees will be paid by the Developer upon certification and acceptance of the New Infrastructure, with amounts due being based on length of lines inspected, certified and accepted.
4. The Developer shall, at his or her own expense, furnish and transfer to the City all on-site and off-site easements, rights-of-way, and real property required for access to and perpetual maintenance and operation of the New Infrastructure and its appurtenances in accordance with the terms of this Agreement as provided herein below.

Developer will be required to enter into the City's standard Deed of Dedication and Conveyance with Associated Easements for conveyance of the New Infrastructure and on-site easements, as amended. Further Developer will be required to use the City's standard Utility Infrastructure Easement Agreement when securing the necessary off-site right of way for the operation and maintenance of the New Infrastructure. For the avoidance of doubt, both standard forms permit use of the easements for the future installation of water, sewer and stormwater lines, and their associated appurtenances and accessories, in addition to the New Infrastructure, by or on behalf of the City. The City shall provide a copy of these standard forms upon request by the Developer.

5. Developer shall convey to the City all of the New Infrastructure and easements, on-site and off-site, prior to selling any of the lots in the lots in the development. If the Developer sells or otherwise conveys a lot within the development to a third-party prior to the conveyance of the New Infrastructure and easements, Developer shall be responsible for all costs associated with obtaining title to the New Infrastructure and all easements for each lot, including but not limited to acquisition costs and recording costs.
6. Developer shall, at his or her own cost and expense, furnish all materials and all equipment and perform all the work necessary to complete the construction of the New Infrastructure described in the plans and specifications as approved by the City's authorized representative and permitting agency.
7. The installation and construction of the New Infrastructure shall be performed by a reputable and responsible Contractor possessing a valid North Carolina Public Utility Contractor's License directly related to the installation of the New Infrastructure issued by the North Carolina Licensing Board for General Contractors. As used herein, a "responsible Contractor" shall mean one possessing the requisite knowledge, experience,

and financial resources to complete the construction of the New Infrastructure in accordance with the plans and specifications within the time allotted.

8. The Engineer shall contact the City prior to the start of construction in order to schedule a preconstruction conference between the Developer, Contractor, Engineer, and City staff. This request should be made at least seven (7) days in advance of the anticipated starting date. Developer or Engineer shall receive a written notice to proceed (NTP) from the City before commencing with construction. If construction is anticipated to be greater than sixty (60) days, a monthly progress meeting shall be scheduled once every thirty (30) days. The date and time of the monthly progress meeting shall be established during the preconstruction conference.
9. Developer shall submit the name, address and the Public Utility Contractor's License Identification Number of the proposed Contractor to the City prior to the preconstruction meeting. The City may investigate the validity of the Contractor's license and the Contractor's status as a responsible Contractor by methods including but not limited to contacting the owners of past projects for which the Contractor furnished work in order to obtain reference information
10. City staff will be assigned for the express purpose of periodic construction observation and inspection. The City's construction inspector(s) shall have the authority to report all discrepancies identified in all phases of construction to the Engineer regarding conformance with the approved construction drawings and specifications. This report shall in no way relieve the Developer of his or her obligation to engage a professional engineer to perform construction inspection and coordinate construction.
11. During construction, no deviations from the approved plans and specifications shall be allowed without the prior express written approval of the City and permitting agency if deemed necessary by the City.
12. The City Engineer, or authorized representative, shall be authorized to resolve disagreements between Developer's Contractor(s), and the City's construction inspector(s) regarding conformance with approved plans and/or specifications.
13. Upon completion of construction, the Developer shall cause the Engineer to arrange for a final inspection to be performed jointly by the Engineer, the contractor, and the City's construction inspector to determine if the project is acceptable to the City. At this time, a draft as-built shall be submitted to the City. If the project is not immediately acceptable, any deficiencies shall be noted in a written report (punch list) prepared by the City. This report shall be transmitted to the responsible parties. It shall be the responsibility of the Developer to correct any such deficiencies and arrange for a re-inspection of the system.
14. As part of the final inspection process for sewer collection systems, Developer shall satisfactorily complete the following as described in the most recent water and sewer standard construction specifications and details: air test, manhole vacuum tests, and mandrel deflection test. Video of the new sanitary sewer collection system by means of closed-circuit television (CCTV) will be performed by the City. All testing shall be certified and all certifications, along with the related data and any video of the sewer system, shall be submitted to the City before final acceptance of the project is granted by the City.

15. As part of the final inspection process for water distribution systems, Developer shall satisfactorily complete the following: pressure test lines, bacteriological sampling performed by a certified laboratory. The City's certified laboratory may be utilized. All testing shall be certified and all certifications, along with related data, shall be submitted to the City before final acceptance of the project is granted by the City.
16. Once all deficiencies are corrected and the project is deemed acceptable to the City, the Developer shall cause the Engineer to submit as-builts in formats acceptable to the City. The Engineer shall also submit any easements required for the New Infrastructure and any deeds necessary to convey ownership to the City. The Developer shall be responsible for acquiring easements from any third parties owning property over which any portion of the New Infrastructure is constructed, said easements to be titled in the name of the City, using forms to be provided by the City.
17. Prior to the activation of services on the newly constructed New Infrastructure, Developer shall convey unencumbered title and ownership to the City, of the New Infrastructure and its appurtenances, and shall assign and transfer all associated permits, licenses and permissions to the City. If a water extension was permitted for the same or similar project, the City shall receive final approval from the permitting agency. In certain circumstances as approved by the City, activation of services on portion(s) of the New Infrastructure may be permitted after partial certification(s) completion and approval(s).
18. The conveyance, assignment or transfer of (1) all permits, licenses or other permissions, and (2) all property and assets to the City, including but not limited to real or personal property, the New Infrastructure and its appurtenances, easements, rights of way or encroachments, (1) and (2) collectively hereinafter referred to as "Required Conveyances," shall be in form as approved by the City's legal counsel, and unless specifically excepted by the City Attorney, shall be in form proper for recording in the appropriate public registry. The conveyance of real property shall be in the form of a fee simple deed and without encumbrance as approved by the City's legal counsel. The Developer shall cause all affiliates or other third parties or entities having an ownership interest in the New Infrastructure or the Property to join the Required Conveyances, as reasonably determined by the City to be necessary to convey full title to the New Infrastructure and Required Conveyances to the City. With the execution hereof, Developer and City specifically agree that the New Infrastructure shall remain personal property, and shall not become a part of the real property, regardless of whether or not the New Infrastructure is permanently affixed to the real property comprising the Property.
19. The Developer shall provide a written release of the City's interest in the Required Conveyances (in form approved by the City Attorney) from any and all liens or other legal interests held by lenders, vendors or other third parties. The release(s) must be delivered in form for recording in the appropriate public registry, and must be received by the City in conjunction with the City's receipt of the Required Conveyances.
20. To the fullest extent allowed by law, and regardless of the approval(s) of any document(s) by the City's legal counsel, the Developer shall indemnify and hold the City harmless from all actions, causes and claims whatsoever against the City by any persons, firms, and corporations whatsoever relating in any manner to this Agreement (including but not limited to damages to persons or property related to construction and/or installation of the New Infrastructure) or the Required Conveyances. Without limiting the Developer's obligations under this paragraph in any manner, the Developer shall defend any and all claims, causes or actions whatsoever regarding the City's title or ownership in any of the Required Conveyances.

21. Developer shall guarantee the accepted and dedicated New Infrastructure to be free of defects in materials and workmanship and to be properly functioning in all respects for a period of one calendar year from the date of acceptance by the City. During this year of guarantee, Developer shall correct, or have corrected, any defects that may develop in material, equipment, or workmanship. Should Developer fail to correct defects within a reasonable period of time after being notified, as determined in good faith by the City Engineer or designee, the City may proceed to correct defects and Developer shall be liable for the City's expense in doing so. It shall be the Developer's responsibility to attend, or to provide an authorized representative to attend, a warranty inspection with the City prior to the expiration of said warranty period.
22. Before the issuance of final acceptance, the Developer or Engineer shall schedule a project closeout meeting with the City. The Developer or Engineer shall submit to the City, not later than the start of the project closeout meeting, all required closeout documents, including but not limited to recorded easement plats, warranty deeds, affidavits of lien waiver, as-built drawings with georeferenced infrastructure data, final walk-through inspection punch list and evidence of completion of said punch list, utility extension agreements, fixed asset evaluation form and infrastructure testing results. The City shall be under no obligation to [and in the absence of extraordinary circumstances will not] activate any services before receipt of all required documentation. Partial receipt shall be treated as an incomplete project closeout and no services shall be activated. A project closeout form shall be completed and executed by the Developer or by an authorized representative of the Developer and the City for each project. If the project described in this utility extension agreement is divided into phases, a project closeout form shall be executed for each phase prior to issuance of final acceptance. For purposes of this paragraph, and notwithstanding any other provision of this agreement, every required document shall be considered material, and "substantial compliance" shall not apply.
23. Once all items are complete, City staff shall submit the project to City Council for formal acceptance during a regularly scheduled meeting. The City shall issue a formal "Letter of Acceptance" upon acceptance by City Council to the Developer for the project. The City shall incorporate the accepted system as an integral part of its utility system and shall furnish service therefrom in accordance with the rules, regulations, rates, and policies established for its customers.
24. There shall be no intended nor incidental third-party beneficiaries of this Agreement.
25. This Agreement may not be assigned by the Developer without the express written consent of the City. Any assignment without the express written consent of the City shall be void. Any assignment approved by the City shall be in form approved by the City's legal counsel. Such consent by the City and approval by the City's legal counsel shall be for the sole and exclusive benefit and reliance of the City, and shall not be relied upon by the Developer nor any third party as to the validity or legal effect of an assignment.
26. All inspections of the New Infrastructure performed by the City shall be for the sole and exclusive benefit and reliance of the City. The inspection, approval and acceptance of the New Infrastructure shall not be deemed a warranty or guarantee upon which any person or entity can rely that the construction of the extension was done in a workmanlike manner, or was completed in accordance with the construction contract documents, with standards of the profession in and around Hendersonville, North Carolina, or in accordance with the applicable federal, State, or local laws, rules or regulations.

27. This agreement is executed in the State of North Carolina, and shall be construed in accordance with the laws of the State of North Carolina. Both parties submit their persons to the jurisdiction of the Courts for North Carolina. Exclusive venue for any action brought in connection with this agreement, its interpretation and breach shall be in the courts for Henderson County, North Carolina.

28. This Agreement supersedes, replaces, and repeals the 2015 UEA in its entirety.

29. This Agreement may be recorded in the Henderson County Register of Deeds Office at the option of the City.

PLEASE BE ADVISED: The City shall not allow the activation of any water or sewer services until the City receives partial certification approval or final approval from the permitting agency and shall not allow the issuance of any certificates of occupancy until the City deems the project complete.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, the day and year first above written.

**HENDERSON COUNTY HABITAT FOR
HUMANITY INC.**

THE CITY OF HENDERSONVILLE

BY: _____ (SEAL)
(signature)

BY: _____ (SEAL)
John F. Connet, City Manager

Printed name: _____

Title: _____

STATE OF _____ COUNTY OF _____

I, _____, (printed name of notary) a Notary Public of said County and State, do hereby certify that _____, personally appeared before me this day, and being duly sworn, stated that they are the _____ (title) for **HENDERSON COUNTY HABITAT FOR HUMANITY, INC.**, and that they executed and acknowledged the foregoing instrument on behalf of **HENDERSON COUNTY HABITAT FOR HUMANITY, INC.** pursuant the due authorization by **HENDERSON COUNTY HABITAT FOR HUMANITY, INC.** and that the instrument is the act and deed of **HENDERSON COUNTY HABITAT FOR HUMANITY, INC.**

WITNESS my hand and official seal, this _____ day of _____, 20____

My commission expires _____

Notary Public Signature

(OFFICIAL SEAL)

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, _____, (printed name of notary) a Notary Public in and for the State and County aforesaid, do hereby certify that John F. Connet, personally appeared before me and, being duly sworn, stated that he is City Manager of the **City of Hendersonville**, North Carolina, and that he executed and acknowledged the foregoing instrument on behalf of the **City of Hendersonville** pursuant to order of the City Council of said City and that the instrument is the act and deed of the **City of Hendersonville**.

WITNESS my hand and official seal, this _____ day of _____, 20____

My commission expires _____

Notary Public Signature

(OFFICIAL SEAL)

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

Prepared by and return to: Daniel Heyman, Staff Attorney, City of Hendersonville, in the City Box

UTILITY EXTENSION AGREEMENT

THIS AGREEMENT, Made and entered into this ____ day of _____, 20____, by and between the **CITY OF HENDERSONVILLE**, a North Carolina municipal corporation, situate in Henderson County, herein referred to as the “City”, and **HAYWOOD PARK, LLC**, a North Carolina limited liability company, herein referred to as "Developer,"

WITNESSETH:

THAT WHEREAS, Developer is the owner of, and is desirous of developing and improving, a tract of land situated in Henderson County, State of North Carolina, described as follows:

Consisting of +/- 20.49 acres, and being all of that real property described in that deed recorded in Deed Book 3904 at page 526, Henderson County registry, having a REIDs of 1008510, 1008511, 1009440, 1009441, 1009439, 1007064, and 1007063, all of the foregoing hereinafter collectively referred to as the “Property”; and

WHEREAS, the Developer has submitted an application for the development of a project known as Haywood Park (project number 22123); and

WHEREAS, in the process of such development and improvement, Developer is desirous of constructing water infrastructure and/or sanitary sewer infrastructure to and on said tract(s) of land, for which the City requires that the Developer enter into a utility extension agreement with the City, said water and/or sewer infrastructure to consist of the following:

Being and consisting of: Water Service Extension consisting of +/- 1,750 lineal feet of 6” water line (DIP/CL 350) together with all meters and related appurtenances and accessories, connecting to the existing water main in Haywood Park Drive, and being more particularly shown and described on those construction plans and specifications, dated October 4, 2022, prepared by WGLA Engineering, PLLC, a Civil Engineering firm, said plans being incorporated herein by reference. The Water Service Extension is hereinafter referred to as the “New Infrastructure”. It is understood and agreed that the New Infrastructure may be modified or amended from and after the date of this Agreement as may be required to meet the standards

of the City of Hendersonville. As used herein, “New Infrastructure” shall be deemed to include any and all of any such modifications and amendments.; and

WHEREAS, the Developer has received zoning approval from the designated governing body for such development and improvement on the Property; and

WHEREAS, the Property is located within the City’s municipal boundaries; and

WHEREAS, Developer desires to have the completed New Infrastructure connected to the City's municipal water system and/or sanitary sewer system and made an integral portion thereof; and

WHEREAS, the City will permit said system(s) to be connected to the municipal system(s) under the terms and conditions heretofore established and agreed upon between the parties and specifically in conformance with the requirements of the most recent extension policy, most recent water and sewer standard construction specifications and details, and the City's Code of Ordinances currently in force.

NOW, THEREFORE, in consideration of the mutual benefits which will result to the parties in carrying out the terms of this Agreement, it is agreed as follows:

1. Developer shall, at Developer’s own expense, employ a North Carolina registered and licensed professional engineer ("Engineer") to complete design and permitting of the proposed New Infrastructure in conformance with NCAC Title 15A Subchapter 18C (water) and NCAC Title 15A Subchapter 02T(sanitary sewer), the City's water and sewer standard construction specifications and details, and the City water and/or sewer Master Plan(s).
2. Developer shall require the Engineer to submit plans, reports, technical specifications, fees, permit applications, and any other items as required and approvable by the City (“Required Documents”). The Engineer shall disclose all proposed changes in the approved construction plans to the City in writing. If proposed changes are deemed by the City to be "significant" in nature, the City may require the Engineer to resubmit plans for re-permitting. The determination of whether a change is deemed to be significant shall be in the sole and absolute discretion of the City, and the Developer agrees to be bound thereby. This will require written approval by the City prior to re-submitting to the permitting agency or before proceeding with changes, even if permitting agency re-submittal is not required. City approval of a utility extension is subject to expiration should construction not be completed after a period of two years from the date of approval. Once the Required Documents have been approved by the City, they shall be deemed to be incorporated herein by reference as an amendment to this Agreement to indicate the Developers construction obligations under this Agreement.
3. The City will perform construction inspection during installation of the New Infrastructure and upon project completion submit written certification that the project was completed in accordance with the approved plans and specifications as required by NCAC Title 15A Subchapter 18C (water) and NCAC Title 15A Subchapter 02T (sanitary sewer). Water and Sewer inspection fees shall be in accordance with the adopted City Fee Schedule as of the date of this agreement. Fees will be paid by the Developer upon certification and acceptance of the New Infrastructure, with amounts due being based on length of lines inspected, certified and accepted.
4. The Developer shall, at his or her own expense, furnish and transfer to the City all on-site and off-site easements, rights-of-way, and real property required for access to and perpetual maintenance and operation

of the New Infrastructure and its appurtenances in accordance with the terms of this Agreement as provided herein below.

Developer will be required to enter into the City's standard Deed of Dedication and Conveyance With Associated Easements for conveyance of the New Infrastructure and on-site easements, as amended. Further Developer will be required to use the City's standard Utility Infrastructure Easement Agreement when securing the necessary off-site right of way for the operation and maintenance of the New Infrastructure. For the avoidance of doubt, both standard forms permit use of the easements for the future installation of water, sewer and stormwater lines, and their associated appurtenances and accessories, in addition to the New Infrastructure, by or on behalf of the City. The City shall provide a copy of these standard forms upon request by the Developer.

5. Developer shall convey to the City all of the New Infrastructure and easements, on-site and off-site, prior to selling any of the lots in the lots in the development. If the Developer sells a lot within the development to a third-party prior to the conveyance of the New Infrastructure and easements, Developer shall be responsible for all costs associated with obtaining title to the New Infrastructure and easements.
6. Developer shall, at his or her own cost and expense, furnish all materials and all equipment and perform all the work necessary to complete the construction of the New Infrastructure described in the plans and specifications as approved by the City's authorized representative and permitting agency.
7. The installation and construction of the New Infrastructure shall be performed by a reputable and responsible Contractor possessing a valid North Carolina Public Utility Contractor's License directly related to the installation of the New Infrastructure issued by the North Carolina Licensing Board for General Contractors. As used herein, a "responsible Contractor" shall mean one possessing the requisite knowledge, experience, and financial resources to complete the construction of the New Infrastructure in accordance with the plans and specifications within the time allotted.
8. The Engineer shall contact the City prior to the start of construction in order to schedule a preconstruction conference between the Developer, Contractor, Engineer, and City staff. This request should be made at least seven (7) days in advance of the anticipated starting date. Developer or Engineer shall receive a written notice to proceed (NTP) from the City before commencing with construction. If construction is anticipated to be greater than sixty (60) days, a monthly progress meeting shall be scheduled once every thirty (30) days. The date and time of the monthly progress meeting shall be established during the preconstruction conference.
9. Developer shall submit the name, address and the Public Utility Contractor's License Identification Number of the proposed Contractor to the City prior to the preconstruction meeting. The City may investigate the validity of the Contractor's license and the Contractor's status as a responsible Contractor by methods including but not limited to contacting the owners of past projects for which the Contractor furnished work in order to obtain reference information
10. City staff will be assigned for the express purpose of periodic construction observation and inspection. The City's construction inspector(s) shall have the authority to report all discrepancies identified in all phases of construction to the Engineer regarding conformance with the approved construction drawings and

specifications. This report shall in no way relieve the Developer of his or her obligation to engage a professional engineer to perform construction inspection and coordinate construction.

11. During construction, no deviations from the approved plans and specifications shall be allowed without the prior express written approval of the City and permitting agency if deemed necessary by the City.
12. The City Engineer, or authorized representative, shall be authorized to resolve disagreements between Developer's Contractor(s), and the City's construction inspector(s) regarding conformance with approved plans and/or specifications.
13. Upon completion of construction, the Developer shall cause the Engineer to arrange for a final inspection to be performed jointly by the Engineer, the contractor, and the City's construction inspector to determine if the project is acceptable to the City. At this time, a draft as-built shall be submitted to the City. If the project is not immediately acceptable, any deficiencies shall be noted in a written report (punch list) prepared by the City. This report shall be transmitted to the responsible parties. It shall be the responsibility of the Developer to correct any such deficiencies and arrange for a re-inspection of the system.
14. As part of the final inspection process for sewer collection systems, Developer shall satisfactorily complete the following as described in the most recent water and sewer standard construction specifications and details: air test, manhole vacuum tests, and mandrel deflection test. Video of the new sanitary sewer collection system by means of closed-circuit television (CCTV) will be performed by the City. All testing shall be certified and all certifications, along with the related data and any video of the sewer system, shall be submitted to the City before final acceptance of the project is granted by the City.
15. As part of the final inspection process for water distribution systems, Developer shall satisfactorily complete the following: pressure test lines, bacteriological sampling performed by a certified laboratory. The City's certified laboratory may be utilized. All testing shall be certified and all certifications, along with related data, shall be submitted to the City before final acceptance of the project is granted by the City.
16. Once all deficiencies are corrected and the project is deemed acceptable to the City, the Developer shall cause the Engineer to submit as-builts in formats acceptable to the City. The Engineer shall also submit any easements required for the New Infrastructure and any deeds necessary to convey ownership to the City. The Developer shall be responsible for acquiring easements from any third parties owning property over which any portion of the New Infrastructure is constructed, said easements to be titled in the name of the City, using forms to be provided by the City.
17. Prior to the activation of services on the newly constructed New Infrastructure, Developer shall convey unencumbered title and ownership to the City, of the New Infrastructure and its appurtenances, and shall assign and transfer all associated permits, licenses and permissions to the City. If a water extension was permitted for the same or similar project, the City shall receive final approval from the permitting agency. In certain circumstances as approved by the City, activation of services on portion(s) of the New Infrastructure may be permitted after partial certification(s) completion and approval(s).

18. The conveyance, assignment or transfer of (1) all permits, licenses or other permissions, and (2) all property and assets to the City, including but not limited to real or personal property, the New Infrastructure and its appurtenances, easements, rights of way or encroachments, (1) and (2) collectively hereinafter referred to as "Required Conveyances," shall be in form as approved by the City's legal counsel, and unless specifically excepted by the City Attorney, shall be in form proper for recording in the appropriate public registry. The conveyance of real property shall be in the form of a fee simple deed and without encumbrance as approved by the City's legal counsel. The Developer shall cause all affiliates or other third parties or entities having an ownership interest in the New Infrastructure or the Property to join the Required Conveyances, as reasonably determined by the City to be necessary to convey full title to the New Infrastructure and Required Conveyances to the City. With the execution hereof, Developer and City specifically agree that the New Infrastructure shall remain personal property, and shall not become a part of the real property, regardless of whether or not the New Infrastructure is permanently affixed to the real property comprising the Property.
19. The Developer shall provide a written release of the City's interest in the Required Conveyances (in form approved by the City Attorney) from any and all liens or other legal interests held by lenders, vendors or other third parties. The release(s) must be delivered in form for recording in the appropriate public registry, and must be received by the City in conjunction with the City's receipt of the Required Conveyances.
20. To the fullest extent allowed by law, and regardless of the approval(s) of any document(s) by the City's legal counsel, the Developer shall indemnify and hold the City harmless from all actions, causes and claims whatsoever against the City by any persons, firms, and corporations whatsoever relating in any manner to this Agreement (including but not limited to damages to persons or property related to construction and/or installation of the New Infrastructure) or the Required Conveyances. Without limiting the Developer's obligations under this paragraph in any manner, the Developer shall defend any and all claims, causes or actions whatsoever regarding the City's title or ownership in any of the Required Conveyances.
21. Developer shall guarantee the accepted and dedicated New Infrastructure to be free of defects in materials and workmanship and to be properly functioning in all respects for a period of one calendar year from the date of acceptance by the City. During this year of guarantee, Developer shall correct, or have corrected, any defects that may develop in material, equipment, or workmanship. Should Developer fail to correct defects within a reasonable period of time after being notified, as determined in good faith by the City Engineer or designee, the City may proceed to correct defects and Developer shall be liable for the City's expense in doing so. It shall be the Developer's responsibility to attend, or to provide an authorized representative to attend, a warranty inspection with the City prior to the expiration of said warranty period.
22. Before the issuance of final acceptance, the Developer or Engineer shall schedule a project closeout meeting with the City. The Developer or Engineer shall submit to the City, not later than the start of the project closeout meeting, all required closeout documents, including but not limited to recorded easement plats, warranty deeds, affidavits of lien waiver, as-built drawings with georeferenced infrastructure data, final walk-through inspection punch list and evidence of completion of said punch list, utility extension agreements, fixed asset evaluation form and infrastructure testing results. The City shall be under no obligation to [and in the absence of extraordinary circumstances will not] activate any services before receipt of all required documentation. Partial receipt shall be treated as an incomplete project closeout and no services shall be activated. A project closeout form shall be completed and executed by the Developer or by an authorized representative of the

Developer and the City for each project. If the project described in this utility extension agreement is divided into phases, a project closeout form shall be executed for each phase prior to issuance of final acceptance. For purposes of this paragraph, and notwithstanding any other provision of this agreement, every required document shall be considered material, and “substantial compliance” shall not apply.

23. Once all items are complete, City staff shall submit the project to City Council for formal acceptance during a regularly scheduled meeting. The City shall issue a formal "Letter of Acceptance" upon acceptance by City Council to the Developer for the project. The City shall incorporate the accepted system as an integral part of its utility system and shall furnish service therefrom in accordance with the rules, regulations, rates, and policies established for its customers.
24. There shall be no intended nor incidental third-party beneficiaries of this Agreement.
25. This Agreement may not be assigned by the Developer without the express written consent of the City. Any assignment without the express written consent of the City shall be void. Any assignment approved by the City shall be in form approved by the City’s legal counsel. Such consent by the City and approval by the City’s legal counsel shall be for the sole and exclusive benefit and reliance of the City, and shall not be relied upon by the Developer nor any third party as to the validity or legal effect of an assignment.
26. All inspections of the New Infrastructure performed by the City shall be for the sole and exclusive benefit and reliance of the City. The inspection, approval and acceptance of the New Infrastructure shall not be deemed a warranty or guarantee upon which any person or entity can rely that the construction of the extension was done in a workmanlike manner, or was completed in accordance with the construction contract documents, with standards of the profession in and around Hendersonville, North Carolina, or in accordance with the applicable federal, State, or local laws, rules or regulations.
27. This agreement is executed in the State of North Carolina, and shall be construed in accordance with the laws of the State of North Carolina. Both parties submit their persons to the jurisdiction of the Courts for North Carolina. Exclusive venue for any action brought in connection with this agreement, its interpretation and breach shall be in the courts for Henderson County, North Carolina.
28. This Agreement may be recorded in the Henderson County Register of Deeds Office at the option of the City.

[Signatures appear on the following page]

PLEASE BE ADVISED: The City shall not allow the activation of any water or sewer services until the City receives partial certification approval or final approval from the permitting agency and shall not allow the issuance of any certificates of occupancy until the City deems the project complete.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, the day and year first above written.

DEVELOPER: HAYWOOD PARK, LLC,
a North Carolina Limited Liability Company

THE CITY OF HENDERSONVILLE

BY: _____ (SEAL)
(signature)

BY: _____ (SEAL)
John F. Connet, City Manager

Printed name: _____

Title: _____

STATE OF _____ COUNTY OF _____

I, _____, (printed name of notary) a Notary Public of said County and State, do hereby certify that _____, personally appeared before me this day, and being duly sworn, stated that they are the _____ (title) for **HAYWOOD PARK, LLC**, and that they executed and acknowledged the foregoing instrument on behalf of **HAYWOOD PARK, LLC** pursuant the due authorization by **HAYWOOD PARK, LLC** and that the instrument is the act and deed of **HAYWOOD PARK, LLC**.

WITNESS my hand and official seal, this _____ day of _____, 20____

My commission expires _____

Notary Public Signature (OFFICIAL SEAL)

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, _____, (printed name of notary) a Notary Public in and for the State and County aforesaid, do hereby certify that John F. Connet, personally appeared before me and, being duly sworn, stated that he is City Manager of the City of Hendersonville, North Carolina, and that he executed and acknowledged the foregoing instrument on behalf of the City of Hendersonville pursuant to order of the City Council of said City and that the instrument is the act and deed of the City of Hendersonville.

WITNESS my hand and official seal, this _____ day of _____, 20____

My commission expires _____

Notary Public Signature (OFFICIAL SEAL)



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Brendan Shanahan, Project Division Manager **MEETING DATE:** January 5, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Engineering

TITLE OF ITEM: Utility Extension Agreement for the Haywood Park Subdivision – *Brendan Shanahan, Project Division Manager*

SUGGESTED MOTION(S): I move that City Council approve the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with Haywood Park, LLC., for the Haywood Park Subdivision as presented and recommended by staff.

SUMMARY:

The Haywood Park Subdivision located off Haywood Road in Henderson County proposes to extend the City's water system to serve said expansion. The attached Utility Extension Agreement (UEA) outlines the water utility line extension process and assigns responsibilities to the Developer and City. We welcome any questions that you may have.

BUDGET IMPACT: \$0

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

PROJECT NUMBER: 22123

PETITION NUMBER: N/A

ADDITIONAL PETITION NUMBER: N/A

PETITIONER NAME: N/A

ATTACHMENTS:

Utility Extension Agreement – Haywood Park Subdivision

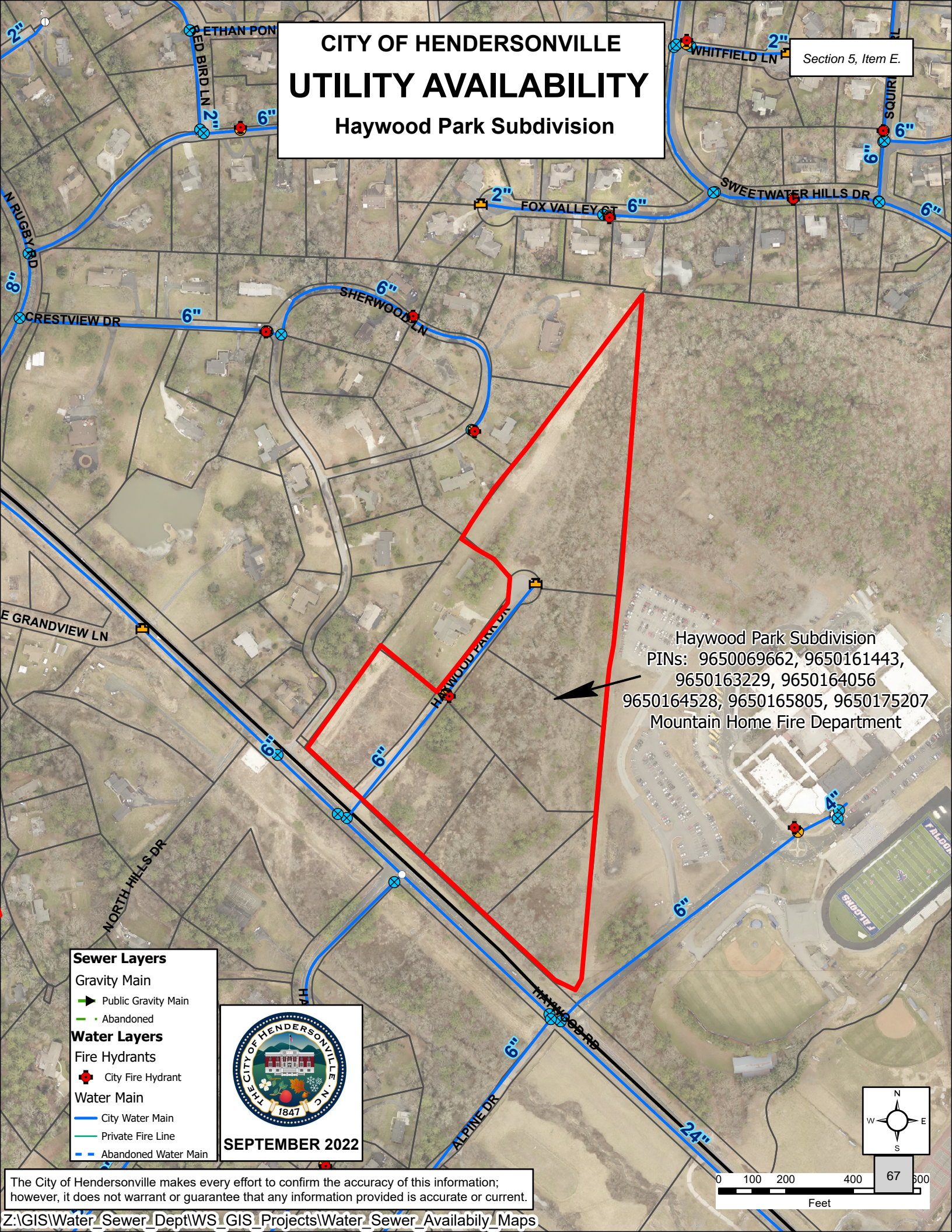
Map showing Haywood Park Subdivision parcel

CITY OF HENDERSONVILLE

UTILITY AVAILABILITY

Haywood Park Subdivision

Section 5, Item E.



Haywood Park Subdivision
PINs: 9650069662, 9650161443,
9650163229, 9650164056
9650164528, 9650165805, 9650175207
Mountain Home Fire Department

Sewer Layers
Gravity Main
Public Gravity Main
Abandoned

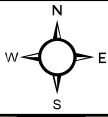
Water Layers
Fire Hydrants
City Fire Hydrant

Water Main
City Water Main
Private Fire Line
Abandoned Water Main



SEPTEMBER 2022

The City of Hendersonville makes every effort to confirm the accuracy of this information; however, it does not warrant or guarantee that any information provided is accurate or current.



0 100 200 400 67 600
Feet

Resolution #23-04

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION
AGREEMENT WITH HAYWOOD PARK, LLC. FOR THE CAMP JUDAEA CABINS**

WHEREAS, the City of Hendersonville owns, operates and maintains a water system to serve customers throughout Henderson County; and

WHEREAS, residential, commercial, and industrial developments often require public water service as a part of their development projects; and

WHEREAS, the Developer extends public water lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

WHEREAS, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water line extension process; and

WHEREAS, Haywood Park, LLC., the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide water service to the Haywood Park Subdivision.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The Utility Extension Agreement with Haywood Park, LLC., the “Developer” and “Owner” to provide water service to the Haywood Park Subdivision is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

_____ Angela S. Beeker, City Attorney

Ordinance #23-01

**CAPITAL PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
APPLE RIDGE WATER IMPROVEMENT CAPITAL PROJECT**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Apple Ridge Water Improvement Capital Project.

Section 2: The following amounts are appropriated for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	1014	550103	22101	Capital Outlay - CIP	\$800,000
Total Project Appropriation					\$800,000

Section 3: The following revenues are anticipated to be available for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	0000	470100	22101	Transfer In (from 460)	\$400,000
460	0000	470100	22101	Transfer In (from ARP #G2101)	\$400,000
Total Project Appropriation					\$800,000

Section 4: The Finance Director is hereby directed to maintain within the Water & Sewer Capital Project Fund (460) sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the Water & Sewer Fund (060) and Water & Sewer Capital Project Fund (460) as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this grant project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Ordinance #23-02

**GRANT PROJECT ORDINANCE FOR THE EXECUTION, ACQUISITION,
CONSTRUCTION, AND INSTALLATION OF THE GOVERNOR'S HIGHWAY SAFETY
PROGRAM TRAFFIC ENFORCEMENT OVERTIME**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Governor's Highway Safety Program Traffic Enforcement Overtime Grant Project

Section 2: The following amounts are appropriated for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
301	1300	501010	G2302	Overtime (HPD)	\$20,720
301	1300	502001	G2302	FICA Tax Expense	\$1,579
301	1300	502050	G2302	Retirement Expense	\$2,701
Total Project Appropriation					\$25,000

Section 3: The following revenues are anticipated to be available for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
301	0000	420050	G2302	Grant Revenue (NCDOT)	\$25,000
Total Project Appropriation					\$25,000

Section 4: The Finance Director is hereby directed to maintain within the Grant Project Fund (301) sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the General Fund (010) as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this grant project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Ordinance #23-03

**GRANT PROJECT ORDINANCE FOR THE EXECUTION, ACQUISITION,
CONSTRUCTION, AND INSTALLATION OF THE GOVERNOR’S CRIME
COMMISSION EMBEDDED CLINICIAN GRANT PROJECT**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Governor’s Crime Commission Embedded Clinician Grant Project

Section 2: The following amounts are appropriated for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
301	1300	519200	G2303	Contracted Services	\$53,625
Total Project Appropriation					\$53,625

Section 3: The following revenues are anticipated to be available for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
301	0000	420050	G2303	Grant Revenue	\$53,625
Total Project Appropriation					\$53,625

Section 4: The Finance Director is hereby directed to maintain within the Grant Project Fund (301) sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the General Fund (010) as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this grant project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Ordinance #23-04

**GRANT PROJECT ORDINANCE FOR THE EXECUTION, ACQUISITION,
CONSTRUCTION, AND INSTALLATION OF THE GOVERNOR’S CRIME
COMMISSION ACCREDITATION GRANT PROJECT**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Governor’s Crime Commission Accreditation Grant Project

Section 2: The following amounts are appropriated for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
301	1300	519200	G2304	Contracted Services	\$39,650
Total Project Appropriation					\$39,650

Section 3: The following revenues are anticipated to be available for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
301	0000	420050	G2304	Grant Revenue	\$39,650
Total Project Appropriation					\$39,650

Section 4: The Finance Director is hereby directed to maintain within the Grant Project Fund (301) sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the General Fund (010) as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this grant project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Adam Steurer **MEETING DATE:** January 5, 2023

AGENDA SECTION: Consent Agenda **DEPARTMENT:** Utilities

TITLE OF ITEM: Tentative Contract Award for Construction of the WWTF Ultraviolet Disinfection Improvements Project – *Adam Steurer, Utilities Engineer*

SUGGESTED MOTION(S):

I move City Council to adopt the Resolution By the City of Hendersonville of tentative award and authorization for the City Manager to enter into a contract for the construction of the WWTF Ultraviolet Disinfection Improvements Project

SUMMARY:

The City uses ultraviolet (UV) disinfection at its wastewater treatment facility (WWTF) to disinfect treated wastewater before discharging to the receiving Mud Creek. The existing equipment was commissioned in 2001 and is in need of replacement due to unreliable operation, significant wear, lack of redundancy, damage potentially related to lightning strikes, and the increasing cost of continued maintenance. The project generally consists of construction of a new concrete channel and installation of new, more efficient UV disinfection equipment to replace the existing equipment, provide process redundancy, and facilitate future facility expansion.

On December 8, 2022 three sealed formal bids were received with the following results:

Turner Murphy Company, Inc.: \$2,332,193
 The Harper Corporation – General Contractors: \$3,046,000
 J.S. Haren Company: \$3,692,000

Formal bids were reviewed for completeness and accuracy. Turner Murphy Company, Inc is the lowest responsive, responsible bidder.

The final award is tentative and is contingent on approval from the North Carolina Department of Environmental Quality, which is administering the grant funding for the project.

BUDGET IMPACT: \$2,332,193.00

Is this expenditure approved in the current fiscal year budget? Construction of the project is funded in a CPO through an American Rescue Plan (ARP) grant allocation.

If no, describe how it will be funded.

ATTACHMENTS:

1. Resolution
2. Bid Tabulation and Recommendation of Award

**RESOLUTION BY THE CITY OF HENDERSONVILLE OF TENTATIVE AWARD
AND AUTHORIZATION FOR THE CITY MANAGER TO ENTER INTO A
CONTRACT FOR THE CONSTRUCTION OF THE WWTF UV
DISINFECTION IMPROVEMENTS PROJECT**

WHEREAS, the City uses ultraviolet (UV) disinfection at its wastewater treatment facility (WWTF) to disinfect treated wastewater before discharging to the receiving Mud Creek. The existing equipment was commissioned in 2001 and is in need of replacement due to unreliable operation, significant wear, lack of redundancy, damage potentially related to lightning strikes, and the increasing cost of continued maintenance; and

WHEREAS, the project generally consists of construction of a new concrete channel and installation of new, more efficient UV disinfection equipment to replace the existing equipment, provide process redundancy, and facilitate future facility expansion; and

WHEREAS, On December 8, 2022 three sealed formal bids were received:

Turner Murphy Company, Inc.: \$2,332,193
The Harper Corporation – General Contractors: \$3,046,000
J.S. Haren Company: \$3,692,000; and

WHEREAS, formal bids were reviewed for completeness and accuracy. Turner Murphy Company, Inc is the lowest responsive, responsible bidder; and

WHEREAS, the final contract award is tentative and is contingent on approval from the North Carolina Department of Environmental Quality, which is administering the grant funding for the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The City Manager is authorized to award and execute a contract for the construction of the WWTF UV Disinfection Improvements Project upon approval from the North Carolina Department of Environmental Quality to Turner Murphy Company, Inc., the lowest responsive and responsible bidder in the total amount of \$2,332,193.00.
2. The City Manager is authorized to approve change orders which cumulatively do not exceed 5% of the approved contract amount of \$2,332,193.00, provided however that any necessary budget ordinance or project ordinance amendments must be brought back to the City Council for approval.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of January, 2023.

Barbara G. Volk, Mayor, City of Hendersonville

Attest:

Jill Murray, City Clerk

Approved as to form: _____ Angela S. Beeker, City Attorney



December 9, 2022

06496-0012

Mr. Adam Steurer, PE
Utilities Engineer
City of Hendersonville
305 Williams Street
Hendersonville, NC 28792

RE: Bid Tabulation and Recommendation of Award
City of Hendersonville WWTF Ultraviolet Disinfection Improvements
NCDEQ DWI Project No.: SRP-W-ARP-0031

Mr. Steurer:

On December 8, 2022, three (3) bids were received for the City of Hendersonville WWTF Ultraviolet Disinfection Improvements project. Turner Murphy Company, Inc., of Rock Hill, SC, submitted the apparent low bid for the project. McKim & Creed has completed a detailed analysis of each bid submitted and found all bids to be correct, as submitted. A Bid Tabulation of each bid received is attached.

We therefore recommend that the City of Hendersonville award the construction contract for the WWTF Ultraviolet Disinfection Improvements project to Turner Murphy Company, Inc., for the total bid amount of \$2,332,193.00.

We appreciate this opportunity to serve the City of Hendersonville and look forward to the successful completion of this project. Please contact our office (704-841-2588) with any questions or concerns.

Respectfully submitted,
McKIM & CREED, Inc.

Zachary Trammel, PE
Project Manager

8020 Tower Point Drive

Charlotte, NC 28227

704.841.2588

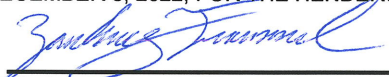
Fax 704.841.2567

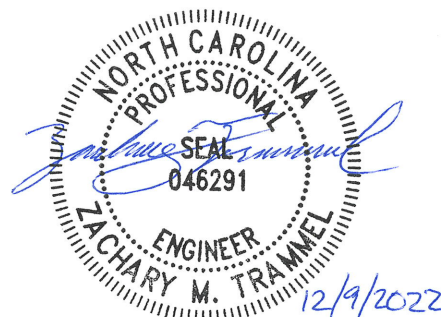
www.mckimcreed.com

Attachments

City of Hendersonville WWTF Ultraviolet Disinfection Improvements BID TABULATION City Project No. 16023 NCDEQ DWI Project No. SRP-W-ARP-0031 Bid Opening: December 8th, 2022 at 2:00 PM EST		Turner Murphy Company, Inc.	The Harper Corporation - General Contractors	J. S. Haren Company
		Rock Hill, SC	Greenville, SC	Athens, TN
		NC License # 9072	NC License # 3146	NC License # 29925
	Description			
1	NC Contractor's License	Y	Y	Y
2	Bid Security Submitted?	Y	Y	Y
3	Addendum No. 1 Acknowledged?	Y	Y	Y
4	Addendum No. 2 Acknowledged?	Y	Y	Y
5	Basis of Bid			
	A. Lump Sum Bid Price:			
	1. Mobilization/Demobilization	\$85,000.00	\$150,000.00	\$175,000.00
	2. Sitework/General	\$575,000.00	\$188,000.00	\$325,000.00
	3. Piping Modifications & Cast-in-Place Concrete Retaining Wall	\$475,000.00	\$706,000.00	\$810,000.00
	4. UV Disinfection Channel No. 2 Construction and UV Disinfection System Installation	\$772,193.00	\$1,467,000.00	\$1,642,000.00
	5. Electrical	\$350,000.00	\$460,000.00	\$665,000.00
	6. SCADA Integrator Allowance	\$75,000.00	\$75,000.00	\$75,000.00
	TOTAL CONTRACT AMOUNT	\$2,332,193.00	\$3,046,000.00	\$3,692,000.00
6	Bid Form Executed?	Y	Y	Y
7	Agreement Form?	Y	Y	Y
8	Certificate of Insurance?	Y	Y	Y
9	List of Subcontractors?	Y	Y	Y
10	NC Division of Water Infrastructure MBE/WBE (DBE) Compliance Supplement Table A, Prime Contractor and List of Selected Subcontractors Included?	Y	Y	Y
11	NC DWI MBE/WBE Good Faith Efforts Form completed w/ >50 points?	Y	Y	Y
12	MBE/WBE (10% GOAL)	0%	0%	0%

I HEREBY CERTIFY THAT THE ABOVE TABULATION IS A CORRECT TABULATION OF THE BIDS RECEIVED ON
DECEMBER 8, 2022, FOR THE HENDERSONVILLE WWTF ULTRAVIOLET DISINFECTION IMPROVEMENTS


Zachary Trammel, PE





CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Jennifer Harrell

MEETING DATE: January 5, 2023

AGENDA SECTION: CONSENT

DEPARTMENT: Human Resources

TITLE OF ITEM: Rescission of the COVID-19 Test Positive Policy – *Jennifer Harrell, HR Director*

SUGGESTED MOTION(S):

I move City Council rescind the COVID-19 Test Positive Policy

SUMMARY:

Staff recommends the COVID-19 Test Positive Policy be rescinded.


The COVID-19 Test Positive Policy is no longer up to date per the CDC guidelines. The CDC guidelines change periodically and staff would like to follow those recommendations at any given point in time and this has been practiced for several months.

BUDGET IMPACT: \$0.00

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS: COVID-19 Test Positive Policy

	CITY OF HENDERSONVILLE		
		Date Rescinded	01/05/2023
Policy Name:	COVID-19 Positive Test	Approved	12/30/2021

In the event an employee tests positive for Covid-19 or has been exposed to someone with COVID -19, the following protocol shall be followed.


The City of Hendersonville has a general duty to provide a safe workplace. The CDC advises that if an employee is confirmed to have COVID-19, employers should inform fellow employees of their possible exposure to COVID-19 in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA). Under the ADA, employers are required to maintain the confidentiality of any medical information they receive, including the name of the affected employee.

All employees should follow the recommendations of their personal healthcare provider to determine the best course of action related to the follow situations.

- ❖ If you test positive for COVID-19
 - Regardless of vaccination status:
 - Stay home for five days following the positive test.
 - If you have no symptoms or symptoms are resolving after five days, you may return to work.
 - Continue to wear a mask around others for five additional days.
 - If you have a fever, continue to stay home until your fever resolves.
- ❖ If you have been exposed to someone with COVID-19 and you have
 - Had the booster, OR
 - Completed the primary series of Pfizer or Moderna vaccine within the last six months OR
 - Completed the primary series of J & J vaccine within the last two months:
 - You may continue to work wearing a mask around others for ten days.
 - Obtain a test on day 5, or as soon thereafter as possible.
 - If symptoms develop, get a test, and stay home until a negative test confirms symptoms are not attributable to COVID-19.
- ❖ If you have been exposed to someone with COVID-19 and you have:
 - Completed the primary series of Pfizer or Moderna vaccine over 6 months ago and have not had the booster, OR
 - Completed the primary series of J & J vaccine over 2 months ago and have not had the booster OR
 - Are unvaccinated
 - Stay at home five days and wear a mask around others for an additional 5 days.
 - Test on day 5, or as soon thereafter as possible.
 - If you develop symptoms, get a test, and stay home until a negative test confirms symptoms are not attributable to COVID-19.

What counts as exposure?

- You were within 6 feet of someone who has COVID-19 for a total of 15 minutes or more

	CITY OF HENDERSONVILLE		
		Date Rescinded	01/05/2023
Policy Name:	COVID-19 Positive Test	Approved	12/30/2021

- You provided care at home to someone who is sick with COVID-19
- You had direct physical contact with the person (hugged or kissed them)
- You shared eating or drinking utensils
- They sneezed, coughed, or somehow got respiratory droplets on you

At any given point, the City will follow current Centers for Disease Control and Prevention guidelines where there is a conflict with this policy.

An employee who tests positive for COVID-19 may use up to 80 hours of City Administrative Sick Leave if needed or up to 80 hours of emergency paid sick leave under the City COVID-19 Relief Policy while they are in effect. After which he/she will need to use their accrued leave.

If you are under quarantine and choose not to be tested for COVID-19 on day 4 ~~or~~ 5 after exposure to someone with COVID-19 day or as soon thereafter as possible, you will not be eligible for any COVID-19 leave.

Approved by:

City Manager, John F. Connet

Date

This policy may be modified by the City Manager to keep it compliant with the Centers for Disease Control and Prevention (CDC) guidelines. Any changes to the policy that exceed CDC guidelines will be brought to City Council for approval. Changes made by the City Manager will be distributed to the City Council.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Connet **MEETING DATE:** 1/5/2022

AGENDA SECTION: CONSENT AGENDA **DEPARTMENT:** Administration

TITLE OF ITEM: Conveyance of Right of Way for N. Main/US 25 Intersection Improvements –
John Connet, City Manager

SUGGESTED MOTION(S):

I move that the City Council adopt the resolution conveying a portion of Edwards Park to NCDOT for the N. Main Street/ US 25 Intersection improvements.

SUMMARY:

NCDOT needs approximately .007 acres of right way and .0049 acres of temporary construction easement for the N. Main/US 25 Intersection improvements. Staff has reviewed the request and recommends the conveyance of this property to NCDOT.

BUDGET IMPACT: \$ NA

Is this expenditure approved in the current fiscal year budget? EnterTextHere

If no, describe how it will be funded. EnterTextHere

ATTACHMENTS:

Proposed Resolution

Map of Project

Deed of Right of Way

Resolution #23-06

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL APPROVING
THE CONVEYANCE OF CITY PROPERTY TO NCDOT FOR THE WIDENING OF
NORTH MAIN STREET IN HENDERSONVILLE, NC**

WHEREAS the City of Hendersonville owns the property identified by Tax Parcel ID 9569705860 and known as Edwards Park; and

WHEREAS, the North Carolina Department of Transportation (NCDOT) has a project identified as TIP Project: SM-6114C and known as North Main Street / US Hwy. 25 Intersection Improvements; and

WHEREAS, NCDOT needs to acquire approximately .007 acres of new right of way from the City of Hendersonville for the road and sidewalk improvements; and

WHEREAS, NCDOT needs to obtain approximately .049 acres from the City of Hendersonville for a temporary construction easement; and

WHEREAS the Hendersonville City Council recognizes that improvements to the North Main Street/ Hwy 25 intersection are desperately needed and in the best interest of the City of Hendersonville.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. That the City of Hendersonville will convey at no cost approximately .007 acres for use as public right way and .049 acres as temporary construction easement for this project.
2. The City Manager and City Attorney are authorized to negotiate and execute the necessary deeds and agreements.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

NOTE:
THE CONTRACTOR SHALL ADJUST MANHOLES, WATER METERS
AND VALVE BOXES AS NEEDED WITHIN THE LIMITS OF CONSTRUCTION.

ADJUSTMENT OF MANHOLES	1	EACH
ADJUSTMENT OF METER BOXES OR VALVE BOXES	9	EACH

NOTE:
SEE SHEET 2C-1 AND 2C-2 FOR CURB RAMP DETAILS.

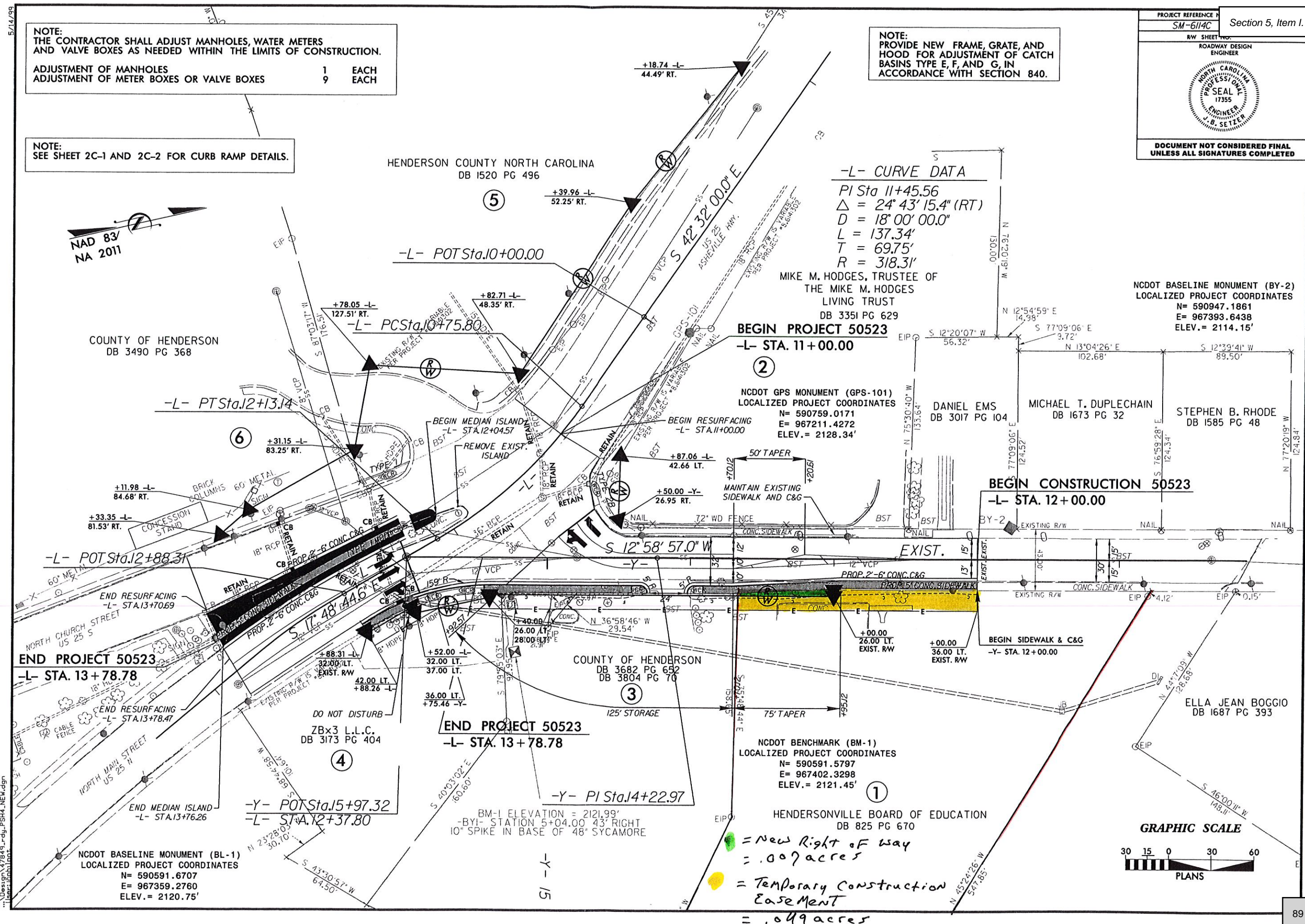
NOTE:
PROVIDE NEW FRAME, GRATE, AND
HOOD FOR ADJUSTMENT OF CATCH
BASINS TYPE E, F, AND G, IN
ACCORDANCE WITH SECTION 840.

PROJECT REFERENCE
SM-6114C Section 5, Item 1.

R/W SHEET NO.
ROADWAY DESIGN
ENGINEER

NORTH CAROLINA
PROFESSIONAL
SEAL
17355
J. B. SETZER

DOCUMENT NOT CONSIDERED FINAL
UNLESS ALL SIGNATURES COMPLETED



10/18/2022 3:20:03 PM
Design: J. B. Setzer
User: jbs1001

Revenue Stamps \$ _____

DEED FOR HIGHWAY RIGHT OF WAY

THIS INSTRUMENT DRAWN BY Kevin D Monteith CHECKED BY _____

The hereinafter described property ☐ Does ☒ Does not include the primary residence of the Grantor

RETURN TO: Frankie J Dills, Jr., Division R/W Agent, NCDOT
1594 E Main ST
Sylva NC 28779

NORTH CAROLINA	TIP/PARCEL NUMBER:	SM-6114C 001
COUNTY OF <u>HENDERSON</u>	WBS ELEMENT:	50523.00
TAX PARCEL <u>9569705860</u>	ROUTE:	US 25 BUS AT SR1503 N MAIN ST / HENDERSON HIGH SCHOOL ENT

THIS FEE SIMPLE DEED, made and entered into this the _____ day of _____ 20 _____
by and between _____

hereinafter referred to as GRANTORS, and the Department of Transportation, an agency of the State of North Carolina, 1546 Mail Service Center, Raleigh, NC 27611, hereinafter referred to as the Department;

WITNESSETH

That the GRANTORS, for themselves, their heirs, successors, and assigns, for and in consideration of the sum of \$ _____ agreed to be paid by the DEPARTMENT to the GRANTORS, do hereby give, grant and convey unto the DEPARTMENT, its successors and assigns, in FEE SIMPLE that certain property located in _____ Hendersonville _____ Township, _____ Henderson _____ County, North Carolina, which is particularly described as follows:

Point of beginning being S 77°1'27.9" E, 16.500 feet from -Y- Sta 13+00 thence to a point on a bearing of S 12°58'32.1" W 66.735 feet thence to a point on a bearing of S 75°48'43.6" E 4.497 feet thence to a point on a bearing of N 12°58'44.2" E 66.830 feet thence to a point on a bearing of N 77°1'27.9" W 4.500 feet returning to the point and place of beginning. _____

COUNTY: HENDERSON WBS ELEMENT: 50523.00 TIP/PARCEL NO.: SM-6114C 001

IN ADDITION, and for the aforesated consideration, the GRANTORS further hereby convey to the DEPARTMENT, its successors and assigns the following described areas and interests:

Temporary Construction Easement described as follows:
Point of beginning being N 22°20'45.5" E, 101.341 feet from -Y- Sta 13+00 thence to a point on a bearing of S 12°58'32.1" W 99.989 feet thence to a point on a bearing of S 77°1'27.9" E 4.500 feet thence to a point on a bearing of S 12°58'44.2" W 66.830 feet thence to a point on a bearing of S 75°48'43.6" E 10.006 feet thence to a point on a bearing of N 12°58'32.1" E 167.022 feet thence to a point on a bearing of N 76°59'17.2" W 14.500 feet returning to the point and place of beginning.

It is understood and agreed that the Department shall have the right to construct and maintain the cut and/or fill slopes in the above described area(s) until such time that the property owners alter the adjacent lands in such a manner that the lateral support of the cut and/or fill slopes are no longer needed. Any additional construction areas lying beyond the beyond the right of way limits and beyond any permanent easement areas will terminate upon completion of the project. The underlying fee owner shall have the right to continue to use the Temporary Easement area(s) in any manner and for any purpose, including but not limited to the use of said area for access, ingress, egress, and parking, that does not, in the determination of the Department, obstruct or materially impair the actual use of the easement area(s) by the Department of Transportation, its agents, assigns, and contractors.

SPECIAL PROVISIONS. This deed is subject to the following provisions only: None

The property hereinabove described was acquired by the GRANTORS by instrument(s) recorded in the Henderson County Registry in Deed Book 825 Page 670.

The final right of way plans showing the above described right of way are to be certified and recorded in the Office of the Register of Deeds for said County pursuant to N.C.G.S. 136-19.4, reference to which plans is hereby made for purposes of further description and for greater certainty.

The Grantors acknowledge that the project plans for Project # 50523.00 have been made available to them. The Grantors further acknowledge that the consideration stated herein is full and just compensation pursuant to Article 9, Chapter 136 of the North Carolina General Statutes for the acquisition of the said interests and areas by the Department of Transportation and for any and all damages to the value of their remaining property; for any and all claims for interest and costs; for any and all damages caused by the acquisition for the construction of Department of Transportation Project # 50523.00, Henderson County, and for the past and future use of said areas by the Department of Transportation, its successors and assigns for all purposes for which the said Department is authorized by law to subject the same.

TO HAVE AND TO HOLD the aforesaid premises and all privileges and appurtenances thereunto belonging to the DEPARTMENT, its successors and assigns in FEE SIMPLE, or by easement as indicated, for the past, present and future use thereof and for all purposes which the said Department is authorized by law to subject the same.

And the GRANTORS covenant with the DEPARTMENT, that the GRANTORS are seized of the premises in fee simple, have the right to convey the same in fee simple, or by easement as indicated, that the title thereto is marketable and free and clear of all encumbrances, and that the GRANTORS will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is hereby conveyed subject to the following exceptions:
Restrictive covenants and easements of record, government regulations, and the lien of property taxes for the current year.

COUNTY: HENDERSON WBS ELEMENT: 50523.00 TIP/PARCEL NO.: SM-6114C 001

IN WITNESS WHEREOF, the GRANTORS have hereunto set their hands and seals (or if corporate, has caused the instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors) the day and year first above written.

This instrument does not transfer the herein described interests unless and until this document is accepted by an authorized agent of the Department of Transportation.

CORPORATE SEAL

BY: _____

ATTEST: _____

ACCEPTED FOR THE DEPARTMENT OF TRANSPORTATION BY: _____

	North Carolina, _____ County
	I, _____, a Notary Public for _____ County, North Carolina, certify that
	_____ personally came before me this day
	and acknowledged that he/she is the CLERK of the Hendersonville Board Of Education, and that by authority duly given, the foregoing instrument was signed in its name by _____, its CHAIRMAN of the
	HENDERSONVILLE BOARD OF EDUCATION, sealed with its corporate seal, and attested by _____ as its CLERK.
	Witness my hand and official seal this the _____ day of _____, 20 _____
	_____ Notary Public
	My commission expires: _____



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Adam Murr **MEETING DATE:** 01/05/2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Administration

TITLE OF ITEM: January Budget Amendments – *Adam Murr, Budget Manager*

SUGGESTED MOTION(S):

I move City Council adopt budget amendment(s) 01052023-01, 01052023-02, 01052023-03, 01052023-04, 01052023-05, 01052023-06, 01052023-07, and 01052023-08 as presented.

SUMMARY:

- **01052023-01** is an amendment reflecting the creation of a grant project ordinance related to the Police Department’s embedded clinician grant for \$53,625 (#G2303).
- **01052023-02** is an amendment reflecting the creation of a grant project ordinance related to the Police Department’s overtime grant to support accreditation efforts (#G2304) for \$39,650.
- **01052023-03** is an amendment increasing the Fire Station 1 capital project (#19019) to \$13,965,522 to reflect the project appropriations and debt proceeds received.
- **01052023-04** is an amendment increasing the Edwards Park capital project (#21019) to \$2,146,353 to reflect project appropriations and debt proceeds received.
- **01052023-05** is an amendment reflecting the new capital project ordinance for the Apple Ridge Water Improvement project (#22101) the project total appropriation is \$800,000, to be funded using fund 460 reserves (\$400,000) and ARP grant funds (\$400,000).
- **01052023-06** is an amendment to the ARP grant project (#G2101) – making \$2.0m available via special appropriations and ~\$2.5m available for transfers to other priority projects.
- **01052023-07** is an amendment reflecting the creation of grant project #G2302 - a \$25,000 grant from the Governor's Highway Safety Commission to promote traffic enforcement operations by providing funding for overtime costs.
- **01052023-08** is an amendment increasing the total project appropriation for the WWTP UV project (#16023) to \$3,950,000 by decreasing a misc. expenditure (#G2204) and transfer out to the WWTP Aeration Basin project (#21045).

BUDGET IMPACT: Detailed in proposed amendments, attached and above.

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:

Budget amendments 01052023-01 through 01052023-08 as detailed in the summary section above.

TO MAYOR & COUNCIL - January 05, 2023

FISCAL YEAR 2023
Form Number - 01052023-01

BUDGET AMENDMENT

FUND 301

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	INCREASE	DECREASE
301-0000-420050-G2303	Grant Revenue	53,625	-
301-1300-519200-G2303	Contracted Services	53,625	-
FUND 301	TOTAL REVENUES	53,625	-
	TOTAL EXPENDITURES	53,625	-

An amendment corresponding to a newly created grant project ordinance (GPO) #G2303. The amendment makes \$53,625 budget available following HPD's receipt of a grant from the Governor's Crime Commission to fund HPD's portion of an embedded mental health professional across 2 years.

City Manager

Date

City Clerk

Approved:

Date

1/5/2023

TO MAYOR & COUNCIL - January 05, 2023

FISCAL YEAR 2023
Form Number - 01052023-02

BUDGET AMENDMENT

FUND 301

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	INCREASE	DECREASE
301-0000-420050-G2304	Grant Revenue	39,650	-
301-1300-519200-G2304	Contracted Services	39,650	-
FUND 301	TOTAL REVENUES	39,650	-
	TOTAL EXPENDITURES	39,650	-

An amendment corresponding to a newly created grant project ordinance (GPO) #G2304. The amendment makes \$39,650 budget available following HPD's receipt of a grant from the Governor's Crime Commission to fund a contracted professional to support NCLEA accreditation.

City Manager

Date

City Clerk

Date

Approved:

1/5/2023

TO MAYOR & COUNCIL - January 05, 2023

FISCAL YEAR 2023
Form Number - 01052023-03**BUDGET AMENDMENT**

FUND 410

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
410-0000-470100-19019	Transfer In (from 010)	-	159,579	-	159,579
410-0000-470010-19019	Bond Proceeds	1,530,000	12,275,943	-	13,805,943
410-1002-550102-19019	Capital Outlay - Services and Fees	100,000	-	100,000	-
410-1002-550103-19019	Capital Outlay - CIP	1,430,000	12,535,522	-	13,965,522
FUND 410	TOTAL REVENUES	1,530,000	12,435,522	-	13,965,522
	TOTAL EXPENDITURES	1,530,000	12,535,522	100,000	13,965,522
An amendment increasing the Fire Station #1 project budget (#19019) to reflect the expenditures and debt proceeds of the project.					

City Manager_____
Date_____
City Clerk

Approved:

Date

1/5/2023

TO MAYOR & COUNCIL - January 05, 2023

FISCAL YEAR 2023
Form Number - 01052023-04**BUDGET AMENDMENT**

FUND 410

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
410-0000-460090-21019	Contribution (Henderson County)	-	100,000	-	100,000
410-0000-460090-21019	Contribution (Blue Ridge Bicycle Club)	-	2,500	-	2,500
410-0000-470010-21019	Bond Proceeds	750,000	1,293,853	-	2,043,853
410-1002-550103-21019	Capital Outlay - CIP	750,000	1,396,353	-	2,146,353
FUND 410	TOTAL REVENUES	750,000	1,396,353	-	2,146,353
	TOTAL EXPENDITURES	750,000	1,396,353	-	2,146,353
An amendment increasing the Edwards Park project (#21019) to reflect the expenditures and debt proceeds of the project.					

City Manager_____
Date_____
City Clerk

Approved:

Date

1/5/2023

TO MAYOR & COUNCIL - January 05, 2023

FISCAL YEAR 2023
Form Number - 01052023-05**BUDGET AMENDMENT**

FUND 460

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
460-0000-470100-22101	Transfer In (from 460)	-	400,000	-	400,000
460-0000-470100-22101	Transfer In (from ARP)	-	400,000	-	400,000
460-1014-550103-22101	Capital Outlay CIP	-	800,000	-	800,000
FUND 460	TOTAL REVENUES	-	800,000	-	800,000
	TOTAL EXPENDITURES	-	800,000	-	800,000
An amendment reflecting the creation of a capital project ordinance (CPO) for the Apple Ridge water extension project (#22101). The project will be funded using \$400,000 of ARP funds and \$400,000 of Fund 460 reserves. The total appropriation is \$800,000.					

City Manager_____
Date_____
City Clerk

Approved:

Date

1/5/2023

TO MAYOR & COUNCIL - January 05, 2023

FISCAL YEAR 2023
Form Number - 01052023-06**BUDGET AMENDMENT**

FUND 301

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
301-1002-554001-G2101	Council Special Appropriations	1,400,000	600,000	-	2,000,000
301-1002-598901-G2101	Transfer Out	3,111,800	-	600,000	2,511,800
301-0000-420050-G2101	Grant Revenue	4,511,800	-	-	4,511,800
FUND 301	TOTAL REVENUES	4,511,800	600,000	600,000	4,511,800
	TOTAL EXPENDITURES	4,511,800	-	-	4,511,800

City Manager_____
Date_____
City Clerk

Approved:

Date

1/5/2023

TO MAYOR & COUNCIL - January 05, 2023

FISCAL YEAR 2023
Form Number - 01052023-07**BUDGET AMENDMENT**

FUND 301

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	INCREASE	DECREASE
301-0000-420050-G2302	Grant Revenue	25,000	-
301-1300-501010-G2302	Salaries and Wages - Overtime	20,720	
301-1300-502001-G2302	FICA Tax Expense	1,579	
301-1300-502050-G2302	Retirement Expense	2,701	-
FUND 301	TOTAL REVENUES	25,000	-
	TOTAL EXPENDITURES	25,000	-

An amendment reflecting the creation of grant project #G2302 - a \$25,000 grant from the Governor's Highway Safety Commission to promote traffic enforcement operations by providing funding for overtime costs.

City Manager

Date

City Clerk

Date

Approved:

1/5/2023

TO MAYOR & COUNCIL - January 05, 2023

FISCAL YEAR 2022
Form Number - 010052023-08**BUDGET AMENDMENT**

301 | 460

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	Existing Budget	INCREASE	DECREASE	Revised Budget
301-0000-420050-G2204	Grant Revenue (NCDEQ)	5,000,000	-	-	5,000,000
301-1002-598901-G2204	Transfers Out (to WWTP UV, #16023)	2,400,000	1,150,000	-	3,550,000
301-1002-598901-G2204	Transfers Out (to Aeration Basin, #21045)	2,050,000	-	600,000	1,450,000
301-1002-532400-G2204	Misc. Expense	550,000	-	550,000	-
FUND 301	TOTAL REVENUES	5,000,000	-	-	5,000,000
	TOTAL EXPENDITURES	5,000,000	1,150,000	1,150,000	5,000,000
460-0000-470100-21045	Transfer In (from #G2204)	2,050,000	-	600,000	1,450,000
460-1014-550103-21045	Capital Outlay CIP	2,050,000	-	600,000	1,450,000
FUND 460	TOTAL REVENUES	-	-	600,000	1,450,000
	TOTAL EXPENDITURES	-	-	600,000	1,450,000
460-0000-470100-16023	Transfer In (From 2022 NCDEQ, #G2204)	2,400,000	1,150,000	-	3,550,000
460-0000-470100-00000	Transfer In (From 460 reserves)	400,000	-	-	400,000
460-1014-550103-16023	Capital Outlay CIP	2,400,000	1,150,000	-	3,550,000
460-1014-550102-16023	Capital Outlay Services and Fees	400,000	-	-	400,000
FUND 460	TOTAL REVENUES	2,800,000	1,150,000	-	3,950,000
	TOTAL EXPENDITURES	2,800,000	1,150,000	-	3,950,000

A budget amendment to increase the transfer in from the 2022 NCDEQ ARPA grant (#G2204) related to the WWTP UV project (#16023). The amendment decreases a transfer to the Aeration Basin project (#21045) by \$600,000 and decreases the Misc. Expense account in the G2204 grant project by \$550,000 to increase the WWTP UV project (#16023) total appropriation to \$3,950,000 (+ \$1,150,000).

City Manager

Date

City Clerk

Date

Approved:

1/5/2023



City of Hendersonville SPECIAL EVENT APPLICATION



An application for a permit to conduct a special event pursuant to Section 28-39, Hendersonville City Code.
Please reference the City's Special Event Policy for additional information about the application process.

Note: The person responsible for the special event, or his/her designee, must be present for the duration of the event.

Submit This Completed Application & All Supporting Material Outlined Below To:

Community Development Department City of Hendersonville, Downtown Division
125 5th Ave, Ste 200, Hendersonville, NC 28792 Phone #: (828) 233-3205

Name of Special Event: Untitled Hallmark Christmas Movie

Event Sponsor: Biltmore Christmas, LLC Phone #: 213-200-0083

Sponsor Address: 2257 Silas Deane Hwy, Rocky Hill, CT 06067

Authorized Event Coordinator: Jason Sallee

Cell Phone #: 213-200-0083 Email: jasonsallee00@gmail.com

Requested Event Date(s): January 27, 2023 Requested Event Hours: 8a to 6p

Estimated Past Attendance: N/A Predicted Attendance: 100

Past Vendor Participation: N/A Predicated Vendor Participation: N/A

"Hold Harmless Agreement"

By signing this agreement, the sponsor will hold harmless the City of Hendersonville, its officers, employees and agents, the Public Works Department and staff free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges professional and attorney's fee or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this event and/or the performance hereof and caused by the negligence of the Sponsor. The Sponsor will take full responsibility. The City of Hendersonville will not be responsible for personal items or property used as part of event.

Signature of Authorized Event Representative:  Date: 12/10/2022

APPLICANT CHECKLIST

Please reference the City of Hendersonville's Special Event Policy for additional information about the requirements listed in the checklist below.

- ☐ Event Description, Statement of Public Benefit & Public Services Required (REQUIRED) - Page #2 in application
- ☐ Event Marketing Strategy & Budget (REQUIRED) - Page #3 in application
- ☐ Event Site Plan (REQUIRED) - Page #4 in application
- ☐ Event Impact Notification (REQUIRED) - Page #5 in application
- ☐ Formal Event Notice (REQUIRED)
- ☐ Vendor Application & Electrical Needs (AS NEEDED) Page #6 in application
- ☐ Event Insurance (REQUIRED)



City of Hendersonville
SPECIAL EVENT APPLICATION
EVENT DESCRIPTION, STATEMENT OF
PUBLIC BENEFIT AND MARKETING STRATEGY



Please provide a detailed description for each section below. Please reference the City's Special Event Policy for additional information about this application requirement. Feel free to attach your response to this sheet.

Name of Special Event: Untitled Hallmark Christmas Movie

Event Description: Biltmore Christmas, LLC would like to film two scenes for a movie at the exterior of the Historic Railroad Depot located at 650 Maple St, Hendersonville. The scenes take place in 1940s era, which will require us to make sure there are no modern vehicles etc. We would like to film these streets on the sidewalk in front of the railroad depot, as well as the parking lot to the north of the depot. Our crew size is approximately 70 people, with 30 background actors. For the preservation of continuity and for the safety of our crew, we would like to request a road closure in the area where we're filming on Maple St. We would allow access to local businesses to get to their businesses.

Statement of Public Benefit:

Our film company is hiring as many crew local to North Carolina as possible. We are also hiring hotel rooms and renting equipment locally. In Hendersonville specifically, we are hiring local actors as possible, spending money locally on the day of filming for food and other services and will be hiring police officers for the day of filming. When we're finished filming, we'll clean up the site and make sure it looks the same as when we arrived or even better.

Event Marketing Strategy and Budget:

We will not be marketing to the public. We will make every effort to notify the businesses and those local to the area to let them know of our plans and ways to mitigate and disturbance our activities and the road closure may cause.



City of Hendersonville
SPECIAL EVENT APPLICATION
CITY SERVICES REQUIRED



Name of Special Event: Untitled Hallmark Christmas Movie

What City services are you requesting for this event? Check all that apply.

- ☒ Road, sidewalk or parking space closure
- ☐ City park reservation
- ☒ "No Parking" signs (can specify time frame on sign)
- ☒ Barricades and/or cones
- ☒ Trash/recycling receptacles
- ☒ Off-duty police
- ☐ Off-duty fire/EMS
- ☐ Electricity access
- ☐ Water access
- ☐ Other

Please provide further explanation (i.e. if road closure is requested, what roads and during what time frame?):

- We are requesting the closure of Maple St from 7th Ave E to approximately 50' South of the Railroad Depot building on 1/27/23 from 8a to 6p. This closure is for clearing vehicles and traffic for picture, but most importantly for the safety of our cast and crew.
- We are also requesting intermittent traffic control on 7th Ave E for 2-3 minutes at a time during filming, from approximately 9a to 6p.
- We believe this will require 4 police officers from 8a to 6p.
- We will allow pedestrians to walk through set. We would like to hold pedestrian traffic during filming (2-3 minutes at a time), but will allow pedestrians to walk through during other times.

Will this event be pet-friendly? Please note that per City Ordinance, leashed pets are allowed within city limits. If event organizers wish to disallow pets at an event, it is up to the organizers to advertise and enforce this rule.

Yes, this is event will be pet-friendly.

No, this event will not allow pets.

- No. We will not have any animals on set. Pedestrians with pets will be allowed to walk through set when we're not filming.



City of Hendersonville SPECIAL EVENT APPLICATION EVENT SITE PLAN



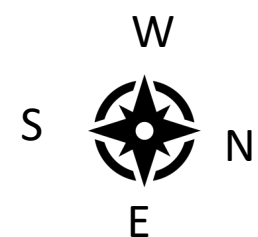
Please provide a detailed “Event Site Plan” and your notification guarantee. Please reference the City’s Special Event Policy - page 5 for additional information about this application requirement. Feel free to attach your site plan to this sheet.

Name of Special Event: Untitled Hallmark Christmas Movie

Event Site Plan: Please draw or attach a visualization of your proposed use of public space(s) including important aspects such as road closures, port-o-johns, inflatables, stages, etc.



- WORK TRUCKS PARKING -
- NO PARKING FOR PICTURE -
- SET -
- POLICE - P Intermittent Traffic Control (2-3 minutes) in area between officers





**City of Hendersonville
SPECIAL EVENT APPLICATION
EVENT IMPACT NOTIFICATION REQUIREMENT
(FOR COMMERCIAL AREAS)**



Event applicants are required to notify, by a formal notice, all residents, businesses, places of worship and schools that are affected by street and sidewalk impacts related to your event. This notice must be submitted with the event application to the Special Events Committee for review prior to notification delivery, and example format for this notification is included in the City's Special Events Policy appendices.

Once approved by the Special Events Committee the notice must then be mailed or hand delivered to impacted areas at least twenty days prior to your event. Information on the notice should include, but not be limited to; the name of the event, event date(s), time(s) of event and overall impacts (including set-up and tear down), specific location of impacts, type of activity and telephone number where the public can contact your organization about the event.

Failure to comply with the notification requirement can result in the cancellation, postponement or other significant restrictions to your event or future events. The Special Event Committee requires that the Authorized Event Organizer verify that this notification will take place, please see below.

NOTIFICATION GUARANTEE: I hereby certify that all residents, businesses, places of worship and schools affected by any street closures and sidewalk impacts related to this event and outlined in this application's "Event Site Plan" will be notified at least 20 days prior to the event with the attached notice by the Authorized Event Coordinator or designee.

Authorized Event Coordinator's Signature _____



City of Hendersonville
SPECIAL EVENT APPLICATION
VENDOR PERMITS AND ELECTRICAL NEEDS



Complete the form below based on the number of vendors and types of electrical connections required for your event. If you have questions about the electrical requirements for your event please contact the City Public Works Department at (828) 697-3000.

Name of Special Event: Untitled Hallmark Christmas Movie

Authorized Vendor Coordinator: Jason Sallee Phone #: 213-200-0083

Cell Phone #: 213-200-0083 Email: jasonsallee00@gmail.com

Please calculate your event vendor fees & electrical usage fees below.

Total # 0 of Retail Vendors X \$15 = _____

Total # 0 of Single-Day Food Vendors X \$30 = _____

Total # 0 of Multi-Day Food Vendors X \$55 X Total # _____ of days = _____

Total Vendor Fee Due: 0

Note: We will have food/drinks on site for our cast and crew. This is not food/drinks (non-alcoholic) for sale.

This is food and drink for the benefit of those working on the film.

Electrical Requirements: Location of electrical needs to be included on Event Site Plan.

((Total # of connections @ 20 Amps or less 0) x (# of days _____)) x \$25 = _____

((Total # of connections @ 21 to 50 Amps 0) x (# of days _____)) x \$50 = _____

((Total # of connections @ 50 Amps or more 0) x (# of days _____)) X \$100 = _____

Total Electrical Usage Fee: 0

Note: We will supply our own power

Total of All Event Fees: 0

All Event and Vendor Fees are to be submitted prior to the event. Checks can be made out to the "City of Hendersonville." Payment is accepted in person at

160 Sixth Avenue East
Hendersonville, NC 28792

Please remit payment along with the final invoice you receive from the Community Development Department.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Jamie Carpenter, Downtown Manager

MEETING DATE: January 5, 2023

AGENDA SECTION: CONSENT

DEPARTMENT:
Community
Development –
Downtown Division

TITLE OF ITEM: Untitled Hallmark Christmas Movie Special Event Application - *Jamie Carpenter, Downtown Manager*

SUGGESTED MOTION(S): I move to approve the special event application for the untitled Hallmark Christmas Movie on January 27, 2023

SUMMARY:

Biltmore Christmas, LLC have requested a street closure of Maple Street from 7th Avenue to the Alley on Friday, January 27, 2023. They have requested 4 off duty officers to assist with traffic flow at the alley, as well as possible temporary closures on 7th Avenue for short periods of time for sound control. This will be using the exterior of the Historic Depot as a backdrop of a scene in their movie as well as parking antique vehicles on the depot plaza area. The applicant has already been in communication with the Apple Valley Model Railroad Club.

This event was approved by the Special Events Committee on December 20, 2022.

BUDGET IMPACT: N/A

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS: None



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

SUBMITTER:	Brent Detwiler	MEETING DATE:	January 5, 2023
AGENDA SECTION:	CONSENT	DEPARTMENT:	Engineering
TITLE OF ITEM, Presenter Name, Title:	Resolution for the City of Hendersonville to Pursue a NCDOT Division of Integrated Mobility Paved Trails and Sidewalk Feasibility Studies Grant – <i>Brent Detwiler, City Engineer</i>		
<u>SUGGESTED MOTION(S):</u>	I move that City Council the <i>Resolution for the City of Hendersonville to Pursue a NCDOT Paved Trails and Sidewalk Feasibility Studies Grant</i> as presented.		

SUMMARY:
This is a resolution for the City to apply for a planning grant through the North Carolina Department of Transportation (NCDOT)’s Division of Integrated Mobility (IMD) Paved Trails and Sidewalk Feasibility Studies Grant Program. The purpose of the Paved Trails and Sidewalk Feasibility Studies Grant Program is to improve the pipeline of bicycle and pedestrian projects accessing state and federal funding, resulting in successful implementation of projects led by communities prioritizing multimodal infrastructure. City staff has developed a preliminary project, “Above the Mud,” to reconnect the 7th Avenue area through streetscaping, a new greenway connection to the Ecusta Trail, and flood mitigation. Staff have requested support from Henderson County, City of Brevard, and various organizations to be submitted with the application. The grant application is due January 9, 2023.

BUDGET IMPACT: N/A

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS: none

RESOLUTION FOR THE CITY OF HENDERSONVILLE TO PURSUE A NCDOT PAVED TRAILS AND SIDEWALK FEASIBILITY STUDIES GRANT

WHEREAS, the City Council of the City of Hendersonville considers bicycle and pedestrian transportation to be of utmost importance to the region by providing Western North Carolina with recreation and equitable transportation opportunities as well as increased economic viability and community development; and

WHEREAS, the City Council of the City of Hendersonville adopted a resolution on April 5, 2012 supporting a regional recreational greenway along the Ecusta rail corridor to link the City of Hendersonville in Henderson County to the City of Brevard in Transylvania County and the Pisgah National Forest; and

WHEREAS, the North Carolina Department of Transportation (NCDOT)’s Division of Integrated Mobility (IMD) has recently implemented a Paved Trails and Sidewalk Feasibility Studies Grant Program; and

WHEREAS, the purpose of the Paved Trails and Sidewalk Feasibility Studies Grant Program is to improve the pipeline of bicycle and pedestrian projects accessing state and federal funding, resulting in successful implementation of projects led by communities prioritizing multimodal infrastructure; and

WHEREAS, a feasibility study will produce a well-conceived project with demonstrated community support that will be competitive in the State Transportation Improvement Program (STIP) and for federal investment. Quantity-based preliminary cost estimates will be generated for route alignments to help inform further decision making, identify funding needs, and develop next steps for project implementation; and

WHEREAS, City staff has developed a preliminary project, “Above the Mud,” to reconnect the 7th Avenue area through streetscaping, a new greenway connection to the Ecusta Trail, and flood mitigation;

NOW THEREFORE, BE IT RESOLVED that the City of Hendersonville shall submit an application to NCDOT for Paved Trails and Sidewalk Feasibility Studies Grant to further study the Above the Mud project to engage the community, determine potential solutions, and develop cost estimates for project implementation.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Proclamation

Dr. Martin Luther King Jr. Day Of Service

WHEREAS, Dr. Martin Luther King Jr. devoted his life to advancing equality, social justice, and opportunity for all, while challenging all Americans to participate in reconcile and the never-ending work of building a more perfect union; and

WHEREAS, Dr. King recognized that everyone can be great because everyone can serve requiring only grace and love to do so and during his or her lifetime by encouraging all Americans to serve their neighbors and their communities; and

WHEREAS, Dr. King’s message of moving forward included dignity, discipline and non-violence is the way forward that we cannot walk alone in this walk to justice, and we cannot turn back; and

WHEREAS, the Dr. Martin Luther King Jr. Day of Service has been recognized by Congress since 1994 and throughout the United States communities have come together to do acts of service; and

THEREFORE, I, Barbara Volk, Mayor of the City of Hendersonville, North Carolina in honor and recognition of the contributions of Dr. Martin Luther King Jr. to the advancement of equality in our country, proclaim January 16, 2023 “Dr. Martin Luther King Jr. Day of Service” and urge our citizens to honor this day with giving back to their communities and remembering that MLK Day of Service empowers everyone with engaging people from all walks of life and strengthens our diverse city of Hendersonville, NC.

PROCLAIMED the 5th day of January, 2023.

Seal

Barbara G. Volk, Mayor
City of Hendersonville

Proclamation

National Blood Donor Month January, 2023

WHEREAS, since 1969, January has been recognized as National Blood Donor Month to bring awareness to the importance of routine blood donation; and

WHEREAS, National Blood Donor Month is a national effort to encourage the eligible blood donor population to donate blood every 56 days; and

WHEREAS, there is no replacement for blood, and it must be donated on one’s own accord; and

WHEREAS, The Blood Connection is the primary blood provider of blood products to local hospitals and ensures this community has a safe and adequate blood supply; and

WHEREAS, the responsibility of maintaining that safe and adequate blood supply also falls on each member of this community that is eligible to donate blood; and

WHEREAS, one blood donation can save up to three lives, costs nothing but your time, and can mean the difference between life or death for local hospital patients; and

NOW THEREFORE, be it resolved that I, Barbara Volk, Mayor of the City Hendersonville, do hereby proclaim January as National Blood Donor Month.

PROCLAIMED this 5th day of January, 2023.

Seal

Barbara G. Volk, Mayor
City of Hendersonville

Attest: _____
Jill Murray, City Clerk



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Connet

MEETING DATE: 01/05/2023

AGENDA SECTION: PRESENTATION

DEPARTMENT: Administration

TITLE OF ITEM: Caregivers of Mother Earth Update – *Elle Travis, Caregivers of Mother Earth*

SUGGESTED MOTION(S):

NA

SUMMARY:

Elle Travis will give the City Council an update regarding the Caregivers of Mother Earth Program.

BUDGET IMPACT: \$ 250.00

Is this expenditure approved in the current fiscal year budget? EnterTextHere

If no, describe how it will be funded. EnterTextHere

ATTACHMENTS: None



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Adam Murr **MEETING DATE:** 01/05/2023
AGENDA SECTION: PRESENTATIONS **DEPARTMENT:** Administration
TITLE OF ITEM: Employee Recognition – *Adam Murr, Budget Manager*

SUGGESTED MOTION(S):

N/A

SUMMARY:

Jennifer (“Jenny”) Floyd successfully completed her graduate capstone project as part of Western Carolina University’s Master of Public Affairs (MPA) program. This agenda item recognizes her for her hard work and significant academic achievement.

BUDGET IMPACT: N/A

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:

N/A

Sponsored by the Employee Assistance Network in 2022, The Leadership Academy was a voluntary program that provided webinars and online training to help improve leadership skills in small intervals throughout the year. Through the quarterly trainings, EANs Clinical Team provided relevant, practical, and easy-to-understand skill-based training that helps managers improve their communication, emotional intelligence and understanding of leadership.

The following topics were studied over the four quarters: Building Resiliency, Emotional Intelligence, Reducing Stigma in the Workplace and Enhancing Communication Skills

Each quarter participants watched three webinars and worked on supplemental self-study items such as worksheets, additional videos and articles.

Of the nineteen who signed-up, thirteen completed the course.

Admin – Allison Justus

Water & Sewer – Suzanne McCall

Fire – Cameron Womack, Cerissa Justice & Paul Kaplan

Police – Monica Howard

Finance – Brittany Watson, Jesse Ivens & Bethany Beddingfield

Public Works – Brandon Mundy

HR – Lu Ann Welter

Engineering – Deborah Sholl

Community Development – Tyler Morrow



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

PLANNING DIVISION

SUBMITTER:	Matthew Manley	MEETING DATE:	January 5, 2023
AGENDA SECTION:	Public Hearing	DEPARTMENT:	Community Development
TITLE OF ITEM:	Zoning Text Amendment: Lightning Ordinance (P22-100-ZTA) – <i>Lew Holloway, Community Development Director</i>		

SUGGESTED MOTION(ZONING TEXT AMENDMENT):

<p><u>For Recommending Approval:</u></p> <p>I move City Council <u>adopt</u> an ordinance amending the official City of Hendersonville Zoning Ordinance, Article VI. – General Provisions adding Section 6-19, revising Section 6-2. Nonconformities and Section 6-13. Nuisances and Article VII. Development Review and Article XII. Definition of Terms, based on the following:</p> <p>1. The petition is found to be <u>consistent</u> with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:</p> <p style="padding-left: 40px;">The petition aligns with the Comprehensive Plan’s goals to minimize the negative impacts of growth (Strategy LU-3.5) and to protect wildlife habitat (Strategy NR-1.2).</p> <p>2. We [find] this petition, in conjunction with the recommendations presented by staff, to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:</p> <ol style="list-style-type: none"> 1. The proposed text amendment establishes standards which allow for the sufficient and safe lighting of sites while reducing negative impacts on people, plants and animals. 2. The proposed text amendment establishes standards which address light pollution, an issue of growing international, national and regional concern. 3. The text amendment would ensure that both public lighting and private, nonresidential lighting would meet standards that minimize light pollution. 	<p><u>For Recommending Denial:</u></p> <p>I move City Council <u>deny</u> an ordinance amending the official City of Hendersonville Zoning Ordinance, Article VI. – General Provisions adding Section 6-19, revising Section 6-2. Nonconformities and Section 6-13. Nuisances and Article VII. Development Review and Article XII. Definition of Terms based on the following:</p> <p>1. The petition is found to be <u>consistent</u> with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:</p> <p style="padding-left: 40px;">The petition aligns with Goal LU-10 of the Land Use and Development Chapter which calls for maintaining a highly urban, pedestrian-focused environment through building and streetscape design.</p> <p>2. We [do not find] this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:</p> <ol style="list-style-type: none"> 1. The text amendment would place an undue burden on new commercial and multi-family residential developments. 2. The text amendment would place an undue burden on existing commercial and multi-family residential uses at the end of the amortization period. <p style="text-align: center; margin-top: 20px;">[DISCUSS & VOTE]</p>
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[DISCUSS & VOTE]

This item will also require a second motion to adopt the Code of Ordinance Amendment to Chapter 46. The suggested motion for that action is:

SUGGESTED MOTION (CODE OF ORDINANCES):

I move that City Council adopt *An Ordinance of the City of Hendersonville City Council to Amend Chapter 46 – Streets, Sidewalks, and Other Public Places* adding Article VI – *Street Lights* to the Code of Ordinances as presented for the first reading.

***SUMMARY:** The City of Hendersonville initiated efforts related to this text amendment at the behest of City Council and the Planning Board in early 2021. Initial request revolved around the concept of “Dark Sky compliance”. Initial drafts of the ordinance were based on the Model Light Ordinance (MLO) provided by the International Dark Sky Association in conjunction with the Illuminating Engineering Society (IES). A local “Lighting Ordinance Subcommittee” as well as the Business Advisory Council reviewed these initial drafts in 2021. Ultimately it was determined that a simplified Lighting Ordinance would be preferred. The current draft is based on the efforts to create a simple but effective set of standards for exterior, commercial and multi-family lighting.*

The proposed standards apply to non-residential and multi-family uses while single-family and two-family residential uses are exempt. The draft ordinance primarily addresses uplight on these properties and protects the stream buffer from light trespass. The proposal also addresses streetlighting with a provision in the City Code of Ordinances restricting lighting on local streets to ensure there is limited uplight.

Many of the basic standards of the proposed text amendment were provided by representatives of the Business Advisory Council / PEP. The proposed draft combines this input with the input from staff and elected and appointed officials. A version of the current draft was reviewed and supported by the Legislative Committee of the Planning Board in October 2022. At least one member of this committee also participated in the Lighting Ordinance Subcommittee which convened across 2021. The draft was also reviewed by the Business Advisory Council on December 5, 2022. The BAC was not in favor of the ordinance and provided specific feedback on proposed revisions outlined in the staff report. The Planning Board considered this item on December 12, 2022 and voted 4-3 in favor of the draft ordinance.

PROJECT/PETITIONER NUMBER:

P22-100-ZTA

PETITIONER NAME:	City of Hendersonville
ATTACHMENTS:	<ol style="list-style-type: none"> 1. Staff Report 2. Planning Board Summary 3. Draft Zoning Ordinance – Lighting Standards 4. Draft Code of Ordinances – Street Light Standards 5. Collaboration Exhibit of Draft Ordinance 6. Draft Lighting Ordinance w/Clarifications 7. Lighting Inventory and Estimated Replacement Cost

ZONING TEXT AMENDMENT: LIGHTING STANDARDS &
CITY CODE OF ORDINANCES AMENDMENT: STREET LIGHTING
(P22-100-ZTA)

CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

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DRAFT COMPREHENSIVE PLAN CONSISTENCY AND REZONING REASONABLENESS STATEMENT 10



PROJECT SUMMARY

- Project Name & Case #:
 - Lighting Ordinance
 - P22-100-ZTA
- Applicant:
 - City of Hendersonville
- Zoning Code Articles Amended:
 - Article VI. General Provisions
 - Addition of Sec. 6-19
 - Amendment to Sec. 6-2
 - Amendment to Sec. 6-13
 - Article VII. Development Review
 - Amendment to 7-3-4.3 Contents of Final Site Plan
 - Article XII. Definition of Terms
- City Code of Ordinances Amended:
 - Chapter 46 – Streets, Sidewalks, and Other Public
 - Article VI – Street Lights
- Planning Board - Legislative Committee Meeting
 - October 18, 2022
- Business Advisory Board
 - December 5, 2022
- Summary Basics:
 - The petition proposes to set lighting standards for Non-residential and Multi-Family uses
 - Standards do not apply to Single & Two-Family Residential uses.
 - Proposes: Zero Uplight; IES standards; CCT limit 4,000K; CRI limit 70; prohibition of unshielded floodlights and wall packs; max footcandles at property lines; protection of stream buffer

*Summary of Amendment Petition:*

The City of Hendersonville initiated efforts related to this text amendment at the behest of City Council and the Planning Board in early 2021. Initial request revolved around the concept of “Dark Sky compliance”. Initial drafts of the ordinance were based on the Model Light Ordinance (MLO) provided by the International Dark Sky Association in conjunction with the Illuminating Engineering Society (IES). A local “Lighting Ordinance Subcommittee” as well as the Business Advisory Council reviewed these initial drafts in 2021. Ultimately it was determined that a simplified Lighting Ordinance would be preferred. The current draft is based on the efforts to create a simple but effective set of standards for exterior, commercial and multi-family lighting.

Many of the basic standards of the proposed text amendment were provided by representatives of the Business Advisory Council. The proposed draft combines this input with the input from staff and elected and appointed officials. A version of the current draft was reviewed by the Legislative Committee of the Planning Board in October 2022. At least one member of this committee also participated in the Lighting Ordinance Subcommittee which convened across 2021.

The proposed standards apply to non-residential and multi-family uses while single-family and two-family residential uses are exempt. The proposal also addresses streetlighting with a provision in the City Code of Ordinances restricting lighting on local streets to ensure there is limited uplight.

AMMENDMENT ANALYSIS – AMENDMENT OVERVIEW

The effort to establish a Lighting Ordinance for the City of Hendersonville has been underway for over two years. Advocacy efforts to address local light pollution were initiated by the concept of becoming “dark sky compliant”. Over the course of many conversations with elected and appointed officials, stakeholders and local advocates, the details of how to address concerns related to light pollution were illuminated.

Over the two years that this topic has been researched and discussed, numerous rounds of meetings have been held and many of hours of staff time have been devoted to it. Initial efforts to draft the ordinance were done by staff in conjunction with an appointed Lighting Ordinance / Dark Sky Committee. This committee was comprised by members of the Planning Board, the Historic Preservation Commission, Dark Sky advocates and local lighting experts. The initial “Model Light Ordinance” based draft was supported by this committee. The Business Advisory Committee also reviewed the MLO-based draft and expressed concerns with some of the proposed standards. After multiple meetings with the BAC, Planning staff put the ordinance on hiatus while efforts were made to collaborate with local lighting experts from GE, representatives appointed by the BAC and Duke Energy. This collaboration led to the restructured ordinance that is presented in this staff report.

Current language in the Zoning Code regarding exterior lighting is found in one sentence in Section 6-13. Nuisances. This nuisance standard lacks measurable outcomes and does not set clear goals for development/redevelopment nor does it reflect the desired outcomes of the community when it comes to the cumulative effect of exterior lighting – i.e. light trespass, sky glow, impact on natural environment, and energy consumption.

The current language in the Zoning Code reads as follows:

Section 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.

The proposed draft Lighting Ordinance is based on an effort to establish standards which:

- 1) Are easily understood and achievable
- 2) Can be reviewed and enforced by City staff
- 3) Addresses both publicly-owned and privately-owned lighting facilities
- 4) Meets the “intent” stated in Section 6-19 below.

The proposed Lighting Ordinance reads as follows:

ZONING TEXT AMENDMENT – OUTDOOR LIGHTING STANDARDS**Article VI. - General Provisions****Section 6-19. Lighting.**

Intent. The purpose of these standards is as follows:

- a) Minimize adverse offsite impacts of lighting such as light trespass and obtrusive light.
- b) Curtail light pollution, reduce skyglow and improve the nighttime environment.
- c) Help protect the natural environment from the adverse effects of artificial lighting at night.
- d) Conserve energy and resources to the greatest extent possible.

6-19.1. General Standards of Applicability. The lighting standards of this section shall be applicable as follows:

- a) Non-residential uses shall be subject to these standards. For the purposes of these standards non-residential shall include, but not be limited to, commercial, institutional, educational, industrial, etc.
- b) Multi-family residential uses shall be subject to these standards. For the purposes of these standards multi-family residential shall include all residential uses with three or more attached dwelling units.
- c) Residential uses shall be exempted from these standards. For the purposes of these standards, residential uses shall include all single family & two-family residences.
- d) Street and roadway lighting shall be exempt from these standards. Street and roadway lighting are subject to the standards of the City of Hendersonville Code of Ordinances (Chapter 46, Article VI).
- e) For the purposes of these standards the term “stream buffer” shall refer to the term as defined in Section 17-3 of this ordinance.

6-19.2. Standards

All new exterior lighting installed, after the effective date of this Ordinance and within the zoning jurisdiction of the City of Hendersonville, shall comply with the following standards:

- a) Lighting levels and placement shall be designed in accordance with applicable Illuminating Engineering Society (IES) recommended practices.
- b) Lighting shall be designed to an Uplight ratio of zero (0) and designed to limit Backlight trespass.
 - a. Exceptions. Lighting for flagpoles, sports facilities, temporary construction sites, correctional facilities, lighting used solely for signage (see sign regulations), lighting as needed under emergency conditions, low voltage landscape lighting, temporary seasonal lighting, and ornamental and architectural lighting of bridges, public monuments, statuary and public buildings.
- c) The nominal CCT limit shall be ≤ 4,000K

- d) The CRI limit shall be ≥ 70 .
- e) New floodlights shall be prohibited. Replacement area lighting shall be shielded to prevent uplight and to prevent front, side, and/or back light depending on the implications on surrounding properties.
- f) All wall pack lights shall be full cutoff and shielded.
- g) The maximum light level using maintained lumens shall be no more than 0.5 foot candles for a non-residential to residential/multi-family residential use interface.
- h) The maximum light level using maintained lumens shall be no more than 0.25 foot candles for a multi-family residential-to-residential interface.
- i) The maximum light level using maintained lumens shall be no more than 0.0 foot candles for a non-residential/multifamily residential to Stream Buffer interface.
- j) No lights shall be installed within a Stream Buffer except as described below. Lighting may be permitted within a Stream Buffer only where facilities exempted under Section 17-3-5 are located and shall be oriented to minimize light intrusion within the Stream Buffer.

6-19-3. Existing Exterior Lighting.

Non-compliant lighting installed prior to the effective date of this ordinance shall be considered non-conforming and may continue to be used in accordance with the non-conforming standards found in Section 6-2-5 with the following exception:

- a) Amortization. On or before [INSERT 10 YEARS FROM EFFECTIVE DATE], all exterior lighting shall comply with this Code.

Section 6-2. - Nonconformities

6-2-5 Nonconforming Exterior Lighting.

The following applies to existing non-compliant lighting installed prior to [adoption date of ordinance].

6-2-5.1 Thresholds for compliance.

Full compliance with the lighting requirements in Section 6-19 shall be required under the following circumstances:

- a) When repairing 50% or more of total existing exterior lighting fixtures on a site within any 12-month period.
- b) When expanding, moving, or altering 50% or more of an existing parking or lighted area.
- c) When structures on a site with non-conforming lighting are renovated and the total cost of renovations exceeds 50% of the assessed value of the building according to Henderson County tax records

Section 6-13. - Nuisances

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 to mitigate off-site lighting trespass to surrounding properties.

Article VII Development Review

7-3-4.3 Contents of Final Site Plan.

r) Site Lighting Plan conforming with the standards established in Section 6-19 and Section 6-2-5. Such plan shall include proposed fixture list, location and orientation of fixtures, footcandle map, property lines and stream buffers at a minimum.

Article XII. – Definition of Terms

Uplight – For an exterior light fixture, light output emitted into the hemisphere above the horizontal plane of the light emitting light opening (i.e. above 90° from straight down) (see Figure 1)

Backlight – For an exterior light fixture, light output emitted into the lower rear quarter sphere behind the fixture and opposite the intended aiming direction of the fixture. For a light fixture with a symmetric light output pattern, the backlight is the same as the forward light. (see Figure 1)

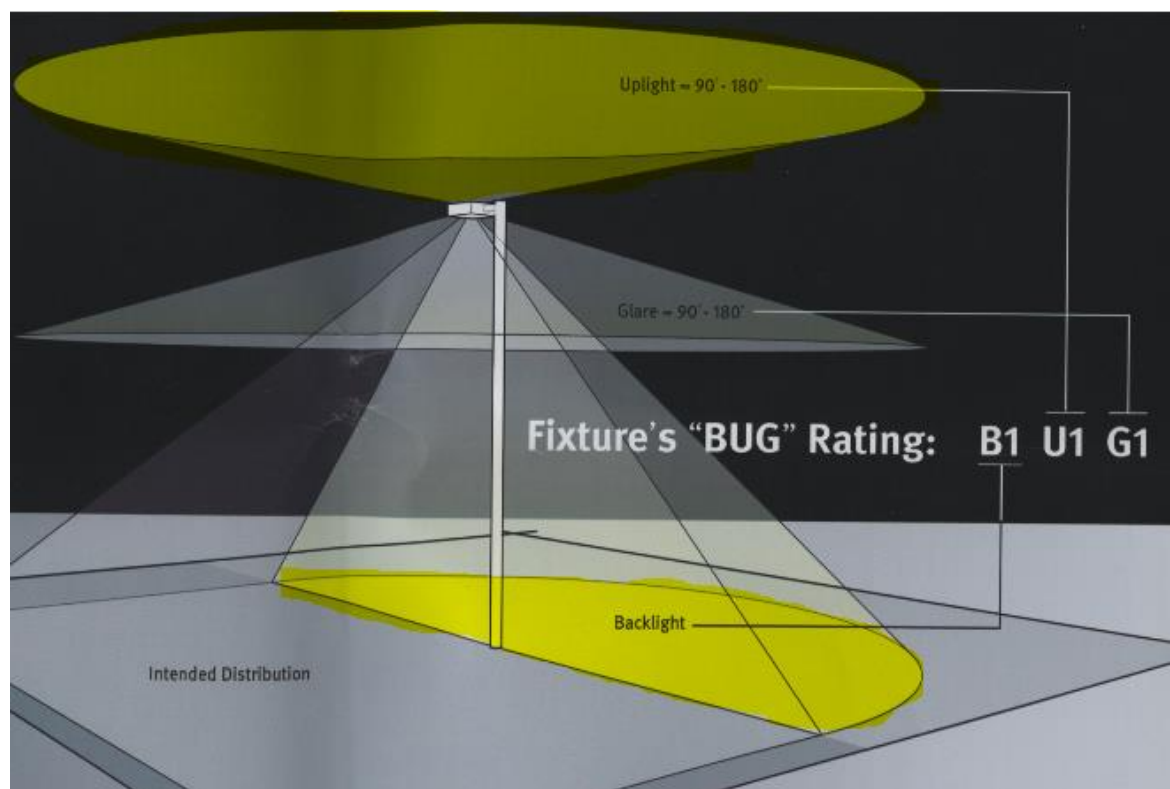


Figure 1 (provided by International Dark Sky Association & Illuminating Engineering Society)

Lumen - The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from “watt,” a measure of power consumption).

Footcandle (FC) - A unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot

Correlated Color Temperature (CCT) - A description of the color appearance of a light source in terms of warmth (lower temperatures) or coolness (higher temperatures), as measured on the Kelvin (K) scale (i.e. High Pressure Sodium 2200K, Metal Halide 3000-4200K, moonlight 4100K)

Color Rendering Index (CRI) - A method to describe the effect a light source (from 0 poor to 100 best) has on the observer's ability to differentiate the true color of objects being illuminated (High Pressure Sodium 27, Metal Halide 65-80, LED 70-90, sunlight 100)

CODE OF ORDINANCES AMENDMENT – STREET LIGHT STANDARDS

Chapter 46 – Streets, Sidewalks, and Other Public Places

Article VI – Street Lights

Sec. 46-184. – Definitions

Whenever and wherever used in this article the following words and names shall have the following meanings:

Roadway or Highway Lighting shall mean lighting provided for freeways, expressways, limited access roadways, and roads on which pedestrians, cyclists, and parked vehicles are generally not present. The primary purpose of roadway or highway lighting is to help the motorist remain on the roadway and help with the detection of obstacles within and beyond the range of the vehicle's headlights.

Street Lighting shall mean lighting provided for boulevards, major & minor thoroughfares, and local roads where pedestrians and cyclists are generally present. The primary purpose of street lighting is to help the motorist identify obstacles, provide adequate visibility of pedestrians and cyclists, and assist in visual search tasks, both on and adjacent to the roadway.

Ornamental Street Lighting shall mean a luminaire intended for illuminating streets that serves a decorative function in addition to providing optics that effectively deliver street lighting. It has a historical period appearance or decorative appearance, and has the following design characteristics:

- Designed to mount on a pole using an arm, pendant, or vertical tenon;
- Opaque or translucent top and/or sides;
- An optical aperture that is either open or enclosed with a flat, sag or drop lens;
- Mounted in a fixed position.

Sec. 46-185. – Applicability

All street lighting not governed by regulations of federal, state or other superseding jurisdiction.

Sec. 46-186. - Light Shielding and Distribution

All street lighting shall have no light emitted above 90 degrees with the following exception:

- a) Ornamental street lighting for specific districts or projects shall be permitted.

PUBLIC INPUT / RECOMMENDATION

Legislative Committee of the Planning Board – October 18, 2022

The Legislative Committee reviews all text amendments prior to consideration by the Planning Board. Given the number of iterations and the level of review this topic has received over a two-year period, members of this committee were fairly familiar with the proposed standards as well as the modifications that occurred between the initial MLO-based draft and the current draft. Members of the committee preferred this simplified version and express support for its straightforward applicability for both developers and staff.

Business Advisory Committee – December 5, 2022

The Business Advisory Committee convenes quarterly to review policy decisions and to provide perspective on potential impacts on the business community. The initial MLO-based draft of the Lighting Ord was presented to the BAC in 2021 on multiple occasions. The Business Advisory Committee employed assistance from Partnership for Economic Prosperity (PEP) to advocate for many of the changes that are part of the current draft. Based on their feedback, the Ordinance was significantly simplified.

At their special-called meeting on December 5th, The BAC reviewed the current draft of the lightning ordinance and provided further criticism and reservations about the policies therein. There was a general sense that there was no need for the Lightning Ordinance, that this would create an undue burden, specifically, on the business community, that the measures would limit lighting for businesses and create safety issues. More specifically, their concerns centered on a few primary considerations, with some secondary concerns as well. Primary concerns/recommendations included:

1) Expand the Footcandle restriction at property lines where commercial uses transition to residential uses from .5 Footcandles to 1 Footcandle.

BAC Rationale: Original proposal by PEP was for 1 FC and it was reduced to .5 FC based on recommendation from Duke Energy.

2) Eliminate the Amortization date or, at a minimum, expand it to 15 years.

BAC Rationale: The use of amortization is rarely used, why use it in this case? The enforcement after the 10-year period will be very costly for the City and for taxpayers. The enforcement of footcandles at property lines is difficult to measure. And natural attrition of outdated lights will be sufficient.

3) Clarify the implications of the word “altering” under 6-2-5.1 b) - nonconformity triggers.

BAC Rationale: Altering could mean different things to different administrators. Does it include resurfacing an existing asphalt parking lot? Does it include paving a gravel parking lot? Etc.

Other secondary concerns included, the impact the measures would have on 24 hours businesses, concerns with the limitations in the stream buffer, and general concerns with the city’s ability to enforce footcandles.

AMENDMENT ANALYSIS – COMPREHENSIVE PLAN CONSISTENCY (ARTICLE 11-4)

COMPREHENSIVE PLAN CONSISTENCY	
Land Use & Development	<i>Strategy LU-3.5 Minimize negative impacts from growth and land use changes on existing land uses...</i>
	<p><i>Strategy LU-3.6. - Update the Zoning Code to ensure conformance with the Comprehensive Plan. The Zoning Code is the City's primary regulatory tool in implementing the Comprehensive Plan. Amendments to the Zoning Code and Map will be necessary to reflect Comprehensive Plan recommendations and ensure orderly growth and development. [CONSISTENT]</i></p> <p><i>Action LU-3.6.1 Conduct a comprehensive review of the Zoning Code and Map to identify and prioritize necessary changes, including but not limited to:</i></p> <ul style="list-style-type: none"> - <i>Landscaping and urban design guidelines and standards</i>
	<i>Section 8.2 Issues and Opportunities, Urban Design - There is strong support among Hendersonville citizens for green building and site development practices that maximize energy and water efficiency and respect the natural features on a site.</i>
Population & Housing	There are no Goals, Strategies, or Actions that are directly applicable to this petition.
Natural & Environmental Resources	<p><i>Chapter 3 Natural Resources provides specific support for "additional guidelines and provisions for low-impact building and site design."</i></p> <p><i>Strategy NR-1.2: Protect land adjacent to streams in order to protect water quality, reduce erosion, and protect wildlife habitat.</i></p> <p><i>Action NR-1.2.2 Continue to enforce and improve upon the City Stream Buffer Protection Standards...additional guidelines and provisions for low-impact building and site design.</i></p> <p><i>Action NR-1.2.1 Encourage protection of streams and wetlands and land adjacent to them.</i></p>
Cultural & Historic Resources	There are no Goals, Strategies, or Actions that are directly applicable to this petition.
Community Facilities	There are no Goals, Strategies, or Actions that are directly applicable to this petition.
Water Resources	There are no Goals, Strategies, or Actions that are directly applicable to this petition.
Transportation & Circulation	There are no Goals, Strategies, or Actions that are directly applicable to this petition.

GENERAL REZONING STANDARDS

Compatibility	Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property –
	<i>The proposed text amendment allows for the sufficient and safe lighting of sites while reducing negative impacts.</i>
Changed Conditions	Whether and the extent to which there are changed conditions, trends or facts that require an amendment –
	<i>Increases in light pollution, a regional as well as international issue, has brought greater attention to site lighting. Advancements by lighting industry leaders and improvements in lighting technology have provided solutions to mitigate the impacts of site lighting. Many solutions to light pollution are being implemented by the lighting industry without regulatory requirements.</i>
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 –
	<i>The proposed text amendment allows for the sufficient and safe lighting of sites while reducing negative impacts of light pollution, i.e. sky glow, glare, light trespass, etc. A notable negative impact of light pollution on humans is sleep deprivation while flora and fauna are also disrupted by artificial light during hours of natural darkness.</i>
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
	<i>Lighting for city-owned public facilities as well as public streetlighting were evaluated as part of this process. It is estimated that approximately \$20K would be needed to bring the City's lights into conformance with the proposed amendment.</i>
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 –
	<i>Studies have indicated that a range of flora and fauna are disrupted by artificial light during normal / natural dark hours. The proposed text amendment aims to protect stream buffers. Riparian corridors are locations of high levels of species richness. Additionally, reduced light pollution reduces energy waste and allows for more sustainable site development.</i>

DRAFT COMPREHENSIVE PLAN CONSISTENCY AND REZONING REASONABLENESS STATEMENT

The petition is found to be [consistent] with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:

The petition aligns with the Comprehensive Plan's goals to minimize the negative impacts of growth (Strategy LU-3.5) and to protect wildlife habitat (Strategy NR-1.2).

We [find] this city-initiated 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]

- The proposed text amendment establishes standards which allow for the sufficient and safe lighting of sites while reducing negative impacts on people, plants and animals.*
- The proposed text amendment establishes standards which address light pollution, an issue of growing international, national and regional concern.*
- The text amendment would ensure that both public lighting and private, nonresidential lighting would meet standards that minimize light pollution.*

DRAFT [Rational for Denial]

- The text amendment would place an undue burden on new commercial and multi-family residential developments.*
- The text amendment would place an undue burden on existing commercial and multi-family residential uses at the end of the amortization period.*

PLANNING BOARD RECOMMENDATIONProject #: P22-100-ZTAMeeting Date: December 12, 2022

PETITION REQUEST: Zoning Text Amendment – Lighting Ordinance

APPLICANT/PETITIONER: City of Hendersonville

PLANNING BOARD ACTION SUMMARY:

Staff gave a presentation on the proposed draft ordinance including feedback from the committee level including the recommendation from the Business Advisory Council. Staff reviewed the guidance from the Comprehensive Plan and the criteria for considering a zoning text amendment. A Planning Board member presented photos of local parking lot lighting. The Planning Board considered this item for just over two hours.

Members of the public asked questions and expressed their opinions on the matter at hand. Those opposed to aspects of the ordinance included the following:

1. Susan Frady, Partners for Economic Progress – voiced the following concerns about the ordinance: burden to limit to .5 footcandles instead of a 1 footcandle limit, City's ability to enforce the ordinance, cost to the City, using amortization vs non-conforming triggers, and the exemption for ornamental lights gives the City a pass.
2. Ken Gordon, Norm's Minit Mart - voiced the following concerns about the ordinance: amortization is burden for current businesses and not cost-effective for City to enforce, opposed to stream buffer limitations, and nuisance-based enforcement is not practical nor fair.
3. Ken Fitch, 1046 Patton St – voiced the following concerns about the ordinance: concerned about impact to churches, definition of stream buffer, and reflective light.

Those in favor of the ordinance included:

1. Lynne Williams, Chadwick Ave – supportive of Dark Sky efforts, finds the ordinance forward-thinking, and relieved that action is being taken after the issue has been discussed at the board level for years.

The Planning Board discussed and reflected varying opinions on various aspects of the draft ordinance. Some members who were opposed had the following concerns: the ordinance is too hard to understand, there needs to be a definition for 'repair', enforcement at end of amortization too difficult, there are no exceptions for certain non-residential uses such as churches and hospitals and concern over impacts to small businesses.

Those Planning Board members in support of the ordinance expressed the following: the proposed language does not restrict light levels on a site, it just requires that it be shielded; they pointed out the number of local jurisdictions in the region that have lighting ordinances with amortization dates; and enumerated the concessions that have been made between the MLO version and the current draft ordinance, and one of the members supported the amortization as a small business owner.

MOTION:
Mr. Brown made a motion to approve the petition. The motion passed 4-3 with the following language:

COMPREHENSIVE PLAN CONSISTENCY AND REASONABLENESS STATEMENT:
The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:

The petition aligns with the Comprehensive Plan’s goals to minimize the negative impacts of growth (Strategy LU-3.5) and to protect wildlife habitat (Strategy NR-1.2).

REASONABLENESS STATEMENT
We find this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- [Rationale for Approval]
- 1. *The proposed text amendment establishes standards which allow for the sufficient and safe lighting of sites while reducing negative impacts on people, plants and animals.*
 - 2. *The proposed text amendment establishes standards which address light pollution, an issue of growing international, national and regional concern.*
 - 3. *The text amendment would ensure that both public lighting and private, nonresidential and multi-family lighting would meet standards that minimize light pollution.*

- BOARD ACTION
- **Motion/Second:** Brown / Glassman
 - **Yeas:** Brown, Martin, Cromar, Glassman
 - **Nays:** Robertson, Blatt, Hanley
 - **Absent:** Peacock, Flores
 - **Recused:** N/A

Ordinance #23-05

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE CITY OF HENDERSONVILLE ZONING ORDINANCE, ARTICLE VI – GENERAL PROVISIONS ADDING SECTION 6-19 AND REVISING SECTION 6-2.

NONCONFORMITIES AND SECTION 6-13. NUISANCES AND ARTICLE VII DEVELOPMENT REVIEW REVISING SECTION 7-3 AND ARTICLE XII – DEFINITION OF TERMS TO REGULATE THE INSTALLATION ON-SITE LIGHTING FOR CERTAIN LAND USES WITHIN THE CITY OF HENDERSONVILLE.

WHEREAS, the City of Hendersonville’s Planning Board has reviewed and recommended for adoption a zoning text amendment to establish Lighting Standards for non-residential and multi-family land uses within the City of Hendersonville’s zoning jurisdiction; and

WHEREAS, the proposed amendment is intended to encourage compatible redevelopment and infill development by reducing the potential negative impacts of these projects on existing development and on natural resources; and

WHEREAS, City Council desires to minimize adverse offsite impacts of lighting such as light trespass and obtrusive light, curtail light pollution, reduce skyglow, improve the nighttime environment, help protect the natural environment from the adverse effects of artificial lighting at night and conserve energy and resources to the greatest extent possible.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Article VI. – General Provisions, Article VII. Development Review and Article XII. Definition of Terms of the Zoning Ordinance of the City of Hendersonville be amended to add the following:

Article VI. - General Provisions

Section 6-19. Lighting.

Intent. The purpose of these standards is as follows:

- a) Minimize adverse offsite impacts of lighting such as light trespass and obtrusive light.
- b) Curtail light pollution, reduce skyglow and improve the nighttime environment.
- c) Help protect the natural environment from the adverse effects of artificial lighting at night.
- d) Conserve energy and resources to the greatest extent possible.

6-19-1. General Standards of Applicability. The lighting standards of this section shall be applicable as follows:

- a) Non-residential uses shall be subject to these standards. For the purposes of these standards non-residential shall include, but not be limited to, commercial, institutional, educational, industrial, etc.
- b) Multi-family residential uses shall be subject to these standards. For the purposes of these standards multi-family residential shall include all residential uses with three or more attached dwelling units.
- c) Residential uses shall be exempted from these standards. For the purposes of these standards, residential uses shall include all single family & two-family residences.
- d) Street and roadway lighting shall be exempt from these standards. Street and roadway lighting are subject to the standards of the City of Hendersonville Code of Ordinances (Chapter 46, Article VI).
- e) For the purposes of these standards the term “stream buffer” shall refer to the term as defined in Section 17-3 of this ordinance.
- f) All new exterior lighting fixtures and site lighting installed, after the effective date of this Ordinance and within the zoning jurisdiction of the City of Hendersonville, shall comply with the standards established in Sections 6-19.2., 6-19.3. and 6-19.4. unless exempted.

6-19-2. Lighting Fixture Standards

- a) Lighting fixtures shall be designed with an uplight rating of U0 per IES TM-15 and designed to limit Backlight trespass.
- b) New floodlights shall be prohibited. Replacement area lighting shall be shielded to prevent uplight and to prevent front, side, and/or back light depending on the implications on surrounding properties.
- c) All wall pack lights shall be full cutoff and shielded.
- d) The following applications are exempted from 6-19-2 (a), (b) & (c); all other standards of Section 6-19 shall apply:
 - i. flagpoles
 - ii. sports facilities
 - iii. temporary construction sites
 - iv. correctional facilities
 - v. lighting used solely for signage (see sign regulations)
 - vi. temporary lighting as needed under emergency conditions
 - vii. low voltage landscape lighting
 - viii. temporary holiday lighting
 - ix. ornamental and architectural lighting of/for:
 - 1. bridges
 - 2. public monuments
 - 3. statuary
 - 4. church spires, belfries, cupolas and domes not intended for human occupancy
 - 5. structures individually listed or within a National Register Historic District
 - 6. public buildings
- e) The nominal CCT of lighting fixtures shall be $\leq 4,000K$

- f) The CRI of lighting fixtures shall be ≥ 70 .

6-19-3. Site Lighting Standards

- a) Lighting levels and placement shall be designed in accordance with applicable 2020 Illuminating Engineers Society (IES) Lighting Library Standards Collection recommended practices.
- b) The maximum light level using maintained lumens shall be no more than 0.5 foot candles for a non-residential to residential/multi-family residential use interface at the ground level of the property line.
- c) The maximum light level using maintained lumens shall be no more than 0.25 foot candles for a multi-family residential-to-residential use interface at the ground level of the property line.
- d) The maximum light level using maintained lumens shall be no more than 0.0 foot candles for a non-residential/multifamily residential to stream buffer interface at the ground level of the edge of the stream buffer.
- e) No lights shall be installed within a Stream Buffer except as described below. Lighting may be permitted within a Stream Buffer only where facilities exempted under Section 17-3-5 are located and shall be oriented to minimize light intrusion within the Stream Buffer.
- f) For the purposes of this section maintained lumens shall mean L80 or 80% of initial lumens.
- g) Sites with compliant lighting plans shall be deemed compliant with these standards when the fixtures are installed as shown on an approved lighting plan as to type, orientation, location, height, shielding and rating of fixtures.
- h) A lighting plan is not required to take into account lighting sources external to the site.

6-19-4. Existing Exterior Lighting.

Non-compliant lighting installed prior to the effective date of this ordinance shall be considered non-conforming and may continue to be used in accordance with the non-conforming standards found in Section 6-2-5 with the following exception:

- a) Amortization. On or before [INSERT 10 YEARS FROM EFFECTIVE DATE], all exterior lighting shall comply with this Code.

Section 6-2. - Nonconformities

6-2-5 Nonconforming Exterior Lighting.

The following applies to existing non-compliant lighting installed prior to [adoption date of ordinance].

Full compliance with the lighting requirements in Section 6-19 shall be required under the following circumstances:

- a) When repairing or replacing 50% or more of total existing exterior lighting fixtures on a site within any 12-month period; provided however any replacement of a floodlight shall be required to meet the standards of section 6-19-2(b).
- b) When expanding or improving 50% or more of an existing parking or lighted area. Examples of activities that would trigger compliance under 6-2-5(b) include; paving an unpaved parking lot,

adding 20 additional parking spaces to an existing 40 space lot or adding bio-retention facilities to 12 spaces in a 20 space lot. Examples of activities that would not trigger compliance include: repaving an existing paved lot, reorganizing spots within an existing lot or adding 10 spaces to an existing 25 space lot.

- c) When structures on a site with non-conforming lighting are renovated and the total cost of renovations exceeds 50% of the assessed value of the building according to Henderson County tax records.

Section 6-13. - Nuisances

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~~ to mitigate off-site lighting trespass to surrounding properties.

Article VII Development Review

7-3-4.3 Contents of Final Site Plan.

- r) Site Lighting Plan conforming with the standards established in Section 6-19. Such plan shall include proposed fixture list including type, orientation, location, height, shielding and rating of fixtures, footcandle map, property lines and stream buffers at a minimum.

Article XII. – Definition of Terms

Uplight – For an exterior light fixture, light output emitted into the hemisphere above the horizontal plane of the light emitting light opening (i.e. above 90 from straight down) (see Figure 1)

Backlight – For an exterior light fixture, light output emitted into the lower rear quarter sphere behind the fixture and opposite the intended aiming direction of the fixture. For a light fixture with a symmetric light output pattern, the backlight is the same as the forward light. (see Figure 1)

Lumen - The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from “watt,” a measure of power consumption).

Maintained Lumens - The lumen output remaining, at a selected operating time, expressed as a percentage of the initial lumen output of a fixture.

Footcandle (FC) - A unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot

Correlated Color Temperature (CCT) - A description of the color appearance of a light source in terms of warmth (lower temperatures) or coolness (higher temperatures), as measured on the Kelvin (K) scale (i.e. High-Pressure Sodium 2200K, Metal Halide 3000-4200K, moonlight 4100K)

Color Rendering Index (CRI) - A method to describe the effect a light source (from 0 poor to 100 best) has on the observer's ability to differentiate the true color of objects being illuminated (High Pressure Sodium 27, Metal Halide 65-80, LED 70-90, sunlight 100)

Illuminating Engineering Society (IES) – Established in 1906, the IES is the recognized technical and educational authority on illumination. Their mission is to improve the lighted environment by bringing together those with lighting knowledge and by translating that knowledge into actions that benefit the public.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND
CHAPTER 46 – STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES ADDING
ARTICLE VI – STREET LIGHTS TO THE CODE OF ORDINANCES.**

WHEREAS, the City of Hendersonville’s Planning Board has reviewed and recommended for adoption an amendment establishing Lighting Standards for public streets and sidewalks within the City of Hendersonville’s zoning jurisdiction; and

WHEREAS, the proposed amendment is intended to reduce the potential negative impacts of public street lighting on city-maintained streets on existing development and on natural resources; and

WHEREAS, City Council desires to minimize adverse offsite impacts of lighting such as light trespass and obtrusive light, curtail light pollution, reduce skyglow, improve the nighttime environment, help protect the natural environment from the adverse effects of artificial lighting at night and conserve energy and resources to the greatest extent possible.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Chapter 46 – Streets, Sidewalks, and Other Public Places be amended to add the following:

Chapter 46 – Streets, Sidewalks, and Other Public Places

Article VI – Street Lights

Sec. 46-184. – Definitions

Whenever and wherever used in this article the following words and names shall have the following meanings:

Public Roadway or Highway and Sidewalk Lighting shall mean lighting provided for freeways, expressways, limited access roadways, and roads on which pedestrians, cyclists, and parked vehicles are generally not present. The primary purpose of roadway or highway lighting is to help the motorist remain on the roadway and help with the detection of obstacles within and beyond the range of the vehicle's headlights.

Public Street and Sidewalk Lighting shall mean lighting provided for boulevards, major & minor thoroughfares, and local roads where pedestrians and cyclists are generally present. The primary purpose of street lighting is to help the motorist identify obstacles, provide adequate visibility of pedestrians and cyclists, and assist in visual search tasks, both on and adjacent to the roadway.

Public Ornamental Street and Sidewalk Lighting shall mean a luminaire intended for illuminating streets that serves a decorative function in addition to providing optics that effectively deliver street lighting. It has a historical period appearance or decorative appearance, and has the following design characteristics:

- Designed to mount on a pole using an arm, pendant, or vertical tenon;
- The top shall be capped or opaque, while the sides shall be translucent;
- An optical aperture that is either open or enclosed with a flat, sag or drop lens;
- Mounted in a fixed position.

Sec. 46-185. – Applicability

The provisions of this article shall apply to all public streets and sidewalks except where pre-empted by federal, state or other superseding jurisdiction.

Sec. 46-186. - Light Shielding and Distribution

All street lighting shall have no light emitted above 90 degrees with the following exception:

- a) Ornamental street lighting shall be permitted on all public streets and sidewalks.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

LIGHTING ORDINANCE – ZONING TEXT AMENDMENT

Collaboration Exhibit

All newly proposed language has been highlighted. Language proposed by the PEP team is highlighted in Yellow while the language added by Community Development staff is highlighted in Green. Changes proposed by Duke Energy are highlighted in Blue. Existing language is not highlighted.

Article VI. - General Provisions

Section 6-19. Lighting.

Intent. The purpose of these standards is as follows:

- a) Minimize adverse offsite impacts of lighting such as light trespass and obtrusive light.
- b) Curtail light pollution, reduce skyglow and improve the nighttime environment.
- c) Help protect the natural environment from the adverse effects of artificial lighting at night.
- d) Conserve energy and resources to the greatest extent possible.

6-19.1 General Standards of Applicability. The lighting standards of this section shall be applicable as follows:

- a) Non-residential uses shall be subject to these standards. For the purposes of these standards non-residential shall include, but not be limited to, commercial, institutional, educational, industrial, etc.
- b) Multi-family residential uses shall be subject to these standards. For the purposes of these standards multi-family residential shall include all residential uses with three or more attached dwelling units.
- c) Residential uses shall be exempted from these standards. For the purposes of these standards, residential uses shall include all single family & two-family residences.
- d) Street and roadway lighting shall be exempt from these standards. Street and roadway lighting are subject to the standards of the City of Hendersonville Code of Ordinances (Chapter 46, Article VI)
- e) For the purposes of these standards the term “stream buffer” shall refer to the term as defined in Section 17-3 of this ordinance.

6-19.2. Standards.

All new exterior lighting installed, after the effective date of this Ordinance and within the zoning jurisdiction of the City of Hendersonville, shall comply with the following standards:

- a) Lighting levels and placement shall be designed in accordance with applicable Illuminating Engineering Society (IES) recommended practices.
- b) Lighting shall be designed to an Uplight ratio of zero (0) and designed to limit Backlight trespass.
 - a. Exceptions. Lighting for flagpoles, sports facilities, temporary construction sites, correctional facilities, lighting used solely for signage (see sign regulations), lighting as needed under emergency conditions, low voltage landscape lighting, temporary seasonal lighting, and ornamental and architectural lighting of bridges, public monuments, statuary and public buildings.
- c) The CCT limit shall be 4,000K
- d) The CRI limit shall be ≥ 70 .
- e) New floodlights shall be prohibited. Replacement area lighting shall be shielded to prevent uplight and to prevent front, side, and/or back light depending on the implications on surrounding properties.
- f) All wall pack lights shall be full cutoff and shielded.
- g) The maximum light level using maintained lumens shall be no more than 0.5 foot candles for a non-residential to residential/multi-family residential use interface.
- h) The maximum light level using maintained lumens shall be no more than 0.25 foot candles for a multi-family residential-to-residential interface.
- i) The maximum light level using maintained lumens shall be no more than 0.0 foot candles for a non-residential/multifamily residential to Stream Buffer interface.
- j) No lights shall be installed within a Stream Buffer except as described below. Lighting may be permitted within a Stream Buffer only where facilities exempted under Section 17-3-5 are located and shall be oriented to minimize light intrusion within the Stream Buffer.

6-19-3. Existing Exterior Lighting. Non-compliant lighting installed prior to the effective date of this ordinance shall be considered non-conforming and may continue to be used in accordance with the non-conforming standards found in Section 6-2-5 with the following exception:

- a) Amortization. On or before [INSERT 10 YEARS FROM EFFECTIVE DATE], all exterior lighting shall comply with this Code.

Section 6-2. - Nonconformities

6-2-5 Nonconforming Exterior Lighting.

The following applies to existing non-compliant lighting installed prior to [adoption date of ordinance].

6-2-5.1 Thresholds for compliance.

Full compliance with the lighting requirements in Section 6-19 shall be required under the following circumstances:

- a) When repairing 50% or more of total existing exterior lighting fixtures on a site within any 12-month period.
- b) When expanding, moving, or altering 50% or more of an existing parking or lighted area.
- c) When structures on a site with non-conforming lighting are renovated and the total cost of renovations exceeds 50% of the assessed value of the building according to Henderson County tax records

Section 6-13. - Nuisances

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 to mitigate off-site lighting trespass to surrounding properties.

Article VII Development Review

7-3-4.3 Contents of Final Site Plan.

- r) Site Lighting Plan conforming with the standards established in Section 6-19 and Section 6-2-5. Such plan shall include proposed fixture list, location and orientation of fixtures, footcandle map, property lines and stream buffers at a minimum.

Article XII. – Definition of Terms

Uplight – For an exterior light fixture, light output emitted into the hemisphere above the horizontal plane of the light emitting light opening (i.e. above 90 from straight down) (see Figure 1)

Backlight – For an exterior light fixture, light output emitted into the lower rear quarter sphere behind the fixture and opposite the intended aiming direction of the fixture. For a light fixture with a symmetric light output pattern, the backlight is the same as the forward light. (see Figure 1)

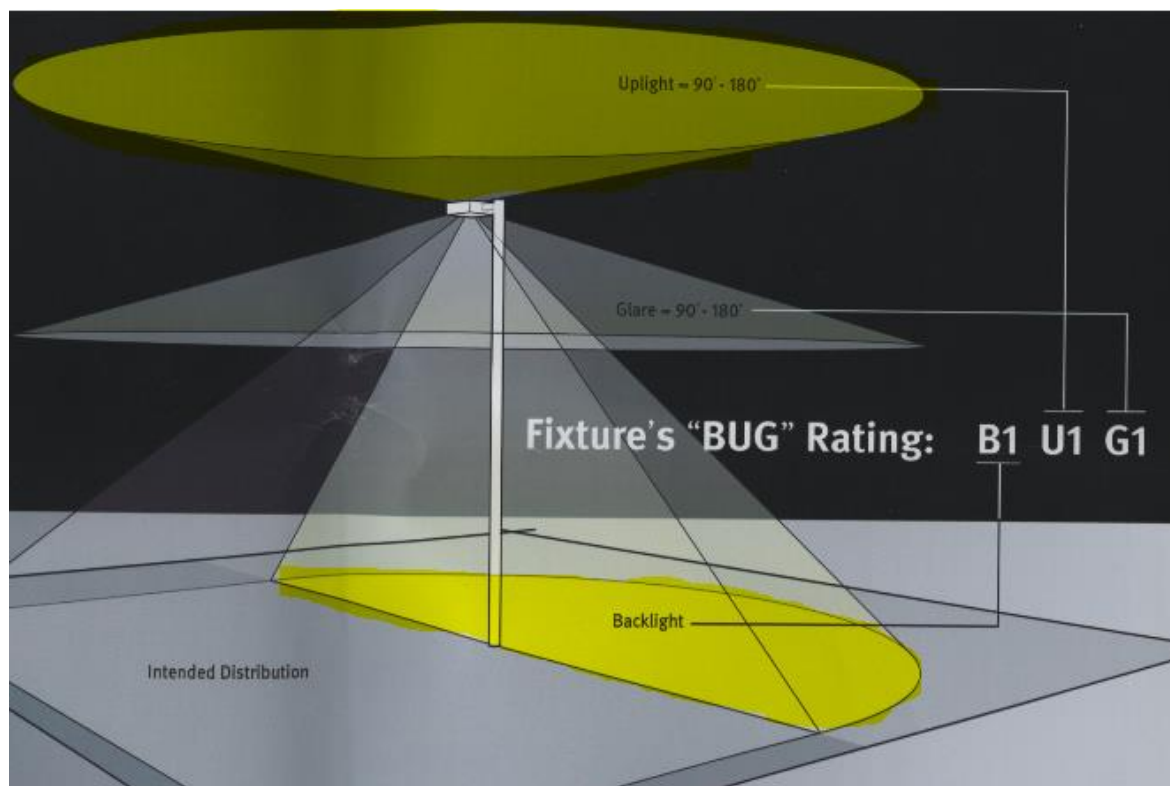


Figure 1 (provided by International Dark Sky Association & Illuminating Engineering Society)

Lumen - The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from “watt,” a measure of power consumption).

Footcandle (FC) - A unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot

Correlated Color Temperature (CCT) - A description of the color appearance of a light source in terms of warmth (lower temperatures) or coolness (higher temperatures), as measured on the Kelvin (K) scale (i.e. High Pressure Sodium 2200K, Metal Halide 3000-4200K, moonlight 4100K)

Color Rendering Index (CRI) - A method to describe the effect a light source (from 0 poor to 100 best) has on the observer's ability to differentiate the true color of objects being illuminated (High Pressure Sodium 27, Metal Halide 65-80, LED 70-90, sunlight 100)

PUBLIC LIGHTING

Code of Ordinances

Chapter 46 – Streets, Sidewalks, and Other Public Places

Article VI – Street Lights

Sec. 46-184. – Definitions

Whenever and wherever used in this article the following words and names shall have the following meanings:

Roadway or Highway Lighting shall mean lighting provided for freeways, expressways, limited access roadways, and roads on which pedestrians, cyclists, and parked vehicles are generally not present. The primary purpose of roadway or highway lighting is to help the motorist remain on the roadway and help with the detection of obstacles within and beyond the range of the vehicle's headlights.

Street Lighting shall mean lighting provided for boulevards, major & minor thoroughfares, and local roads where pedestrians and cyclists are generally present. The primary purpose of street lighting is to help the motorist identify obstacles, provide adequate visibility of pedestrians and cyclists, and assist in visual search tasks, both on and adjacent to the roadway.

Ornamental Street Lighting shall mean a luminaire intended for illuminating streets that serves a decorative function in addition to providing optics that effectively deliver street lighting. It has a historical period appearance or decorative appearance, and has the following design characteristics:

- Designed to mount on a pole using an arm, pendant, or vertical tenon;
- Opaque or translucent top and/or sides;
- An optical aperture that is either open or enclosed with a flat, sag or drop lens;
- Mounted in a fixed position.

Sec. 46-185. – Applicability

All street lighting not governed by regulations of federal, state or other superseding jurisdiction.

Sec. 46-186. - Light Shielding and Distribution

All street lighting shall have no light emitted above 90 degrees with the following exception:

- a) Ornamental street lighting for specific districts or projects shall be permitted.

This document has been reformatted and the technical clarifications recommended by staff and included in the final version of the proposed draft ordinances (both the Zoning Ordinance & Code of Ordinance) have been highlighted. Clarifications are intended to better align the proposed amendments with the intent as discussed during review by stakeholders and committees and do not change the standards of the amendment.

ZONING TEXT AMENDMENT – OUTDOOR LIGHTING STANDARDS

Article VI. - General Provisions

Section 6-19. Lighting.

Intent. The purpose of these standards is as follows:

- a) Minimize adverse offsite impacts of lighting such as light trespass and obtrusive light.
- b) Curtail light pollution, reduce skyglow and improve the nighttime environment.
- c) Help protect the natural environment from the adverse effects of artificial lighting at night.
- d) Conserve energy and resources to the greatest extent possible.

6-19-1. General Standards of Applicability. The lighting standards of this section shall be applicable as follows:

- a) Non-residential uses shall be subject to these standards. For the purposes of these standards non-residential shall include, but not be limited to, commercial, institutional, educational, industrial, etc.
- b) Multi-family residential uses shall be subject to these standards. For the purposes of these standards multi-family residential shall include all residential uses with three or more attached dwelling units.
- c) Residential uses shall be exempted from these standards. For the purposes of these standards, residential uses shall include all single family & two-family residences.
- d) Street and roadway lighting shall be exempt from these standards. Street and roadway lighting are subject to the standards of the City of Hendersonville Code of Ordinances (Chapter 46, Article VI).
- e) For the purposes of these standards the term “stream buffer” shall refer to the term as defined in Section 17-3 of this ordinance.
- f) All new exterior lighting fixtures and site lighting installed, after the effective date of this Ordinance and within the zoning jurisdiction of the City of Hendersonville, shall comply with the standards established in Sections 6-19.2., 6-19.3. and 6-19.4. unless exempted.

6-19-2. Lighting Fixture Standards

- a) Lighting fixtures shall be designed with an uplight rating of U0 per IES TM-15 and designed to limit Backlight trespass.
- b) New floodlights shall be prohibited. Replacement area lighting shall be shielded to prevent uplight and to prevent front, side, and/or back light depending on the implications on surrounding properties.
- c) All wall pack lights shall be full cutoff and shielded.
- d) The following applications are exempted from 6-19-2 (a), (b) & (c), all other standards of Section 6-19 shall apply:
 - i. flagpoles
 - ii. sports facilities
 - iii. temporary construction sites
 - iv. correctional facilities
 - v. lighting used solely for signage (see sign regulations)
 - vi. temporary lighting as needed under emergency conditions
 - vii. low voltage landscape lighting
 - viii. temporary holiday lighting
 - ix. ornamental and architectural lighting of/for:
 - 1. bridges
 - 2. public monuments
 - 3. statuary
 - 4. church spires, belfries, cupolas and domes not intended for human occupancy
 - 5. structures individually listed or within a National Register Historic District
 - 6. public buildings
- e) The nominal CCT of lighting fixtures shall be $\leq 4,000\text{K}$
- f) The CRI of lighting fixtures shall be ≥ 70 .

6-19-3. Site Lighting Standards

- a) Lighting levels and placement shall be designed in accordance with applicable 2020 Illuminating Engineers Society (IES) Lighting Library Standards Collection recommended practices.
- b) The maximum light level using maintained lumens shall be no more than 0.5 foot candles for a non-residential to residential/multi-family residential use interface at ground level of the property line.
- c) The maximum light level using maintained lumens shall be no more than 0.25 foot candles for a multi-family residential-to-residential use interface at ground level of the property line.

- d) The maximum light level using maintained lumens shall be no more than 0.0 foot candles for a non-residential/multifamily residential to stream buffer interface at ground level of the edge of the stream buffer.
- e) No lights shall be installed within a Stream Buffer except as described below. Lighting may be permitted within a Stream Buffer only where facilities exempted under Section 17-3-5 are located and shall be oriented to minimize light intrusion within the Stream Buffer.
- f) For the purposes of this section maintained lumens shall mean L80 or 80% of initial lumens.
- g) Sites with compliant lighting plans shall be deemed compliant with these standards when the fixtures are installed as shown on an approved lighting plan as to type, orientation, location, height, shielding and rating of fixtures.
- h) A lighting plan is not required to take into account lighting sources external to the site.

6-19-4. Existing Exterior Lighting.

Non-compliant lighting installed prior to the effective date of this ordinance shall be considered non-conforming and may continue to be used in accordance with the non-conforming standards found in Section 6-2-5 with the following exception:

- a) Amortization. On or before [INSERT 10 YEARS FROM EFFECTIVE DATE], all exterior lighting shall comply with this Code.

Section 6-2. - Nonconformities

6-2-5 Nonconforming Exterior Lighting.

The following applies to existing non-compliant lighting installed prior to [adoption date of ordinance].

Full compliance with the lighting requirements in Section 6-19 shall be required under the following circumstances:

- a) When repairing or replacing 50% or more of total existing exterior lighting fixtures on a site within any 12-month period; provided however any replacement of a floodlight shall be required to meet the standards of section 6-19-2(b).
- b) When expanding or improving 50% or more of an existing parking or lighted area. Examples of activities that would trigger compliance under 6-2-5(b) include; paving an unpaved parking lot, adding 20 additional parking spaces to an existing 40 space lot or adding bio-retention facilities to 12 spaces in a 20 space lot. Examples of activities that would not trigger compliance include; repaving an existing paved lot, reorganizing spots within an existing lot or adding 10 spaces to an existing 25 space lot.
- c) When structures on a site with non-conforming lighting are renovated and the total cost of renovations exceeds 50% of the assessed value of the building according to Henderson County tax records.

Section 6-13. - Nuisances

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~~ to mitigate off-site lighting trespass to surrounding properties.

Article VII Development Review

7-3-4.3 Contents of Final Site Plan.

r) Site Lighting Plan conforming with the standards established in Section 6-19. Such plan shall include proposed fixture list including type, orientation, location, height, shielding and rating of fixtures, footcandle map, property lines and stream buffers at a minimum.

Article XII. – Definition of Terms

Uplight – For an exterior light fixture, light output emitted into the hemisphere above the horizontal plane of the light emitting light opening (i.e. above 90 from straight down) (see Figure 1)

Backlight – For an exterior light fixture, light output emitted into the lower rear quarter sphere behind the fixture and opposite the intended aiming direction of the fixture. For a light fixture with a symmetric light output pattern, the backlight is the same as the forward light. (see Figure 1)

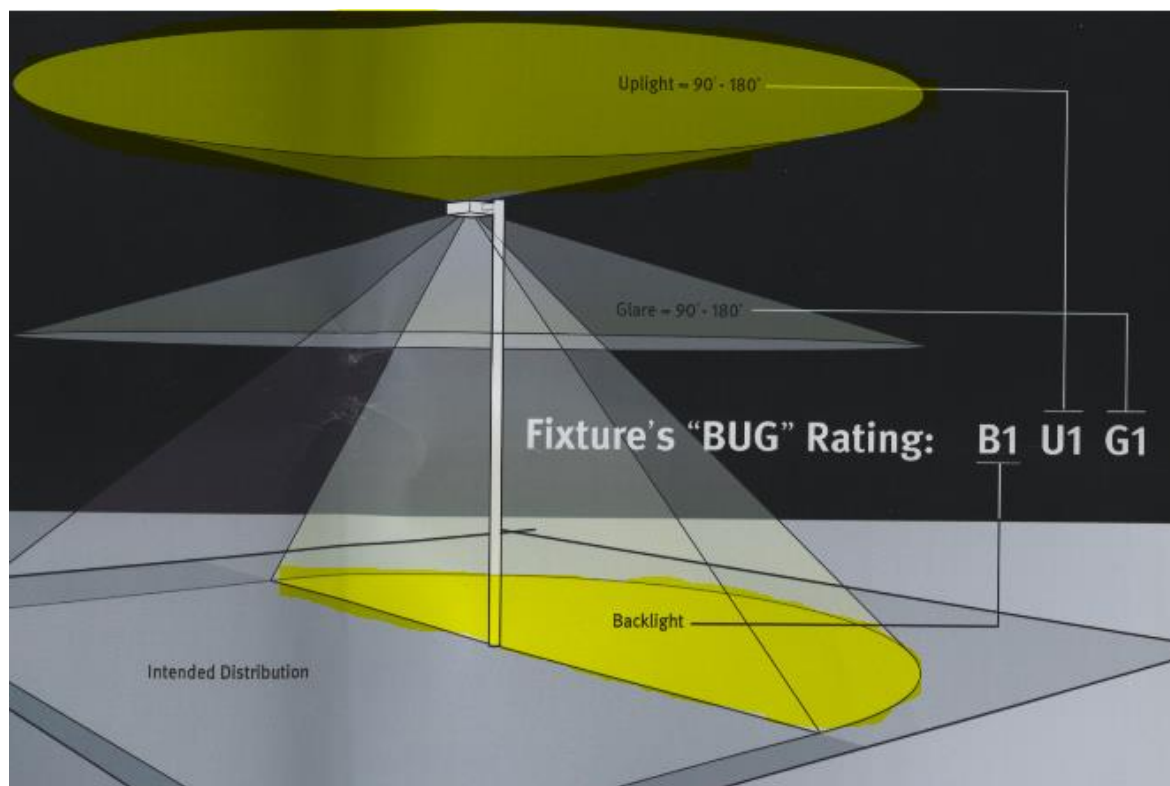


Figure 1 (provided by International Dark Sky Association & Illuminating Engineering Society)

Lumen - The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from “watt,” a measure of power consumption).

Maintained Lumens - The lumen output remaining, at a selected operating time, expressed as a percentage of the initial lumen output of a fixture.

Footcandle (FC) - A unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot

Correlated Color Temperature (CCT) - A description of the color appearance of a light source in terms of warmth (lower temperatures) or coolness (higher temperatures), as measured on the Kelvin (K) scale (i.e. High Pressure Sodium 2200K, Metal Halide 3000-4200K, moonlight 4100K)

Color Rendering Index (CRI) - A method to describe the effect a light source (from 0 poor to 100 best) has on the observer's ability to differentiate the true color of objects being illuminated (High Pressure Sodium 27, Metal Halide 65-80, LED 70-90, sunlight 100)

Illuminating Engineering Society (IES) – Established in 1906, the IES is the recognized technical and educational authority on illumination. Their mission is to improve the lighted environment by bringing together those with lighting knowledge and by translating that knowledge into actions that benefit the public.

Chapter 46 – Streets, Sidewalks, and Other Public Places

Article VI – Street Lights

Sec. 46-184. – Definitions

Whenever and wherever used in this article the following words and names shall have the following meanings:

Public Roadway or Highway and Sidewalk Lighting shall mean lighting provided for freeways, expressways, limited access roadways, and roads on which pedestrians, cyclists, and parked vehicles are generally not present. The primary purpose of roadway or highway lighting is to help the motorist remain on the roadway and help with the detection of obstacles within and beyond the range of the vehicle's headlights.

Public Street and Sidewalk Lighting shall mean lighting provided for boulevards, major & minor thoroughfares, and local roads where pedestrians and cyclists are generally present. The primary purpose of street lighting is to help the motorist identify obstacles, provide adequate visibility of pedestrians and cyclists, and assist in visual search tasks, both on and adjacent to the roadway.

Public Ornamental Street and Sidewalk Lighting shall mean a luminaire intended for illuminating streets that serves a decorative function in addition to providing optics that effectively deliver street lighting. It has a historical period appearance or decorative appearance, and has the following design characteristics:

- Designed to mount on a pole using an arm, pendant, or vertical tenon;
- The top shall be capped or opaque, while the sides shall be translucent;
- An optical aperture that is either open or enclosed with a flat, sag or drop lens;
- Mounted in a fixed position.

Sec. 46-185. – Applicability

The provisions of this article shall apply to all public streets and sidewalks except where pre-empted by federal, state or other superseding jurisdiction.

Sec. 46-186. - Light Shielding and Distribution

All street lighting shall have no light emitted above 90 degrees with the following exception:

- a) Ornamental street lighting shall be permitted on all public streets and sidewalks.

City of Hendersonville Existing Public Lighting							
LOCATION		NOTES	LOCATION		NOTES	LOCATION	NOTES
City Hall			7th Avenue			Rotary Park	
Uncapped Blk Ornamental Ped Lights	12	Running during day light hours	Uncapped Ornamental Ped Lights	25		Floodlight	1
Other lights							
Wall Packs (full cutoff)			Maple Street			Sullivan Park	
Cobra streetlight facing building	1	King St side	Capped Ornamental Ped Lights	10		Floodlight	1 on b'ball structure
Flag Pole Light	1	Uplight - Exempt					
			4th Avenue			MLK Park	
City Operations			Capped Ornamental Ped Lights	18		Uncapped Ornamental Ped Lights	5
PW Overflow Parking Lot		Running during day light hours					
Floodlights	4		Patton Park			Oklawaha Greenway Trailhead (Berkley Rd)	
Cobra Streetlights	2		Parking Lot			Cobra Streetlights	2 Solar powered
PW Garage Lot			Cobra Streetlights	10			
Floodlights	9		Floodlights	2	In stream buffer	7th Ave Depot	
City Ops Main Parking			Picnic Shelter			Ornamental	4 Under cover
Cobra Streetlights	5		Floodlight	1		Barn light	1 small
Building illuminating lights	6	Uplight - Exempt	Tennis Courts			Exposed bulb fixture	6 Under cover
Other lights			Floodlights	14	45 degree angle	Wallpacks	2 shielded
Wall Packs (full cutoff)			Pool Area				
			Capped Ornamentals	11		Police Station	
Azalea Lot			Greenway			Capped Ornamentals	13
Capped Ornamental Ped Lights	11		Cobra Pedestrian Lights	22		Wall Packs	6 Full cutoff
Other Lights			Soccer Field			Modern Wall Packs	29 Fully shielded
Floodlight	1	Facing Partnership on King St	Floodlights	24		Flag Pole	2 Uplights - Exempt
			Softball			Sign illumination	2
Maple Lot			Floodlight	1	Facing trees / n'hboring prop		
Capped Ornamental Ped Lights	5		PW Building			Fire Station 1	
Other Lights			Wallpacks	4	Full cutoff	Cobra Streetlights	8
Old Cobra Streetlight	1	Along Edwards Alley				Wallpacks	7 shielded
			Boyd Park			Flag Pole Lights	2 Uplight - Exempt
Apple Lot			Putt Putt				
Uncapped (Black) Ornamental	12		Floodlights	12	45 degree	Fire Station 2 / Public Works Warehouse	
			Ornamental Globe Ped Light	1		Cobra Streetlights	6
Dogwood Lot			Tennis Courts			Flag Pole	4 uplight*
LED Cobrahead Streetlights	10		Floodlights	9	45 degree	Wall Packs	10 not shielded
						Sconces	5
Main Street			Toms Park/Whitemire Center			Warehouse Wall Packs	6 shielded
Capped Ornamental Ped Lights	106		Capped Ornamental Ped Lights	11		Floodlights	3
						Sign illumination	2 Uplight

* Flag Pole lights are uplight but are proposed to be exempted

Total Needing Attention (Red)	155	Includes numbers shown in orange
Total Presumed Compliant (Green)	333	
Could be exempted or retrofited	122	Some of these will be replaced as part of planned upcoming projects
Total Lights	488	
Total needing attention if those in orange are replaced / exempted / retrofited	33	

City of Hendersonville Streetlights			
Type	Count	Unit Cost	Total Cost
LEDS (at least 450 are 3000K)	1182		
Mercury Vapor (MV)	58	\$36	\$ 2,088
High Pressure Sodium (HPS)	225	\$36	\$ 8,100
Metal Halide (MH)	39	\$36	\$ 1,404
TOTAL	1612		\$ 11,592
City of Hendersonville Floodlights			
Cost by Type	Count	Unit Cost	Total Cost
Unshielded LED to Shielded LED	55	\$101	\$ 5,555
HPS Floods to Shielded LED	35	\$101	\$ 3,535
MH Floods to Shielded LED	1	\$101	\$ 101
TOTAL	91		\$ 9,191

Needing Attention (Red)
Presumed Compliant (Green)



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Connet **MEETING DATE:** January 5, 2023

AGENDA SECTION: UNFINISHED BUSINESS **DEPARTMENT:** Administration

TITLE OF ITEM: Consideration of Ordinance Amending Chapter 20, Article II, Noise of the Hendersonville City Code – *Lew Holloway, Blair Myhand, Angela Beeker, John Connet*

SUGGESTED MOTION(S):

I move that City Council adopt *An Ordinance of the City of Hendersonville City Council to Amend Chapter 20 Article II of the Code of Ordinances – Noise*, as presented for the first reading.

SUMMARY:

Several months ago, the Police Department raised concerns about several inconsistencies in our Noise Ordinance. After hearing comments from City Council at the November 2022 meeting, staff has reviewed the ordinance and made several amendments. This ordinance amendment will require two readings.

BUDGET IMPACT: \$ NA

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS:

Proposed Ordinance

Ordinance #23-07

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND CHAPTER 20 ARTICLE II OF THE CODE OF ORDINANCES- NOISE

WHEREAS, the City of Hendersonville is desirous of amending and updating provision of the Code of Ordinance regulating noise within the municipal limits of the City, in particular Chapter 20, Article II- Noise; and

WHEREAS, a proposed modifications have been prepared and presented to City Council for consideration; and

WHEREAS, City Council wishes to adopt these modifications as presented.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Chapter 20, Environment, Article II, Noise, of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

CHAPTER 20 - ENVIRONMENT

ARTICLE II. NOISE

Sec. 20-31. Article designated noise control ordinance.

(a) ____ This article shall be known as the "Noise Control Ordinance for the City of Hendersonville."

(b) Statement of policy. The City of Hendersonville will maintain a peaceful community while recognizing that certain noises are part of acceptable economic and recreational activity in a vibrant community. The goal of the city is to encourage such activity while ensuring that persons in the community are not disturbed by unreasonably loud, raucous or disturbing noise, particularly during time periods when customarily at rest or have a reasonable expectation of peaceful enjoyment of their residences.

Sec. 20-32. Terminology and methodology.

(a) Definitions and Terminology. The words and phrases defined in this section shall have the meaning indicated when used in this article unless otherwise specifically provided, or unless otherwise clearly required by the context. All terminology used in this article not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- (1) *A-weighted sound level*: The sound pressure level in decibels ~~as is~~ measured on a sound level meter using the ~~Aweighting~~-frequency-weighted network ~~and slow meter response setting~~. ~~The level so read is designed~~ Sound levels are represented herein by the designation dB (A).

(2) *Decibel (dB)*: A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base ten of the ratio for the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.

(3) *Nighttime. 10pm – 7am*

(34) *Sound pressure level*: 20 times the logarithm to the base ten of the ratio of the RMS sound of 20 micronewtons per square meter.

(45) *Sound level meter*: An instrument, which includes a microphone, amplifier, RMS detector, integrator, or time-averaged, output meter.

(56) *Sound level*: The weighted sound pressure level ~~obtaining by the use of~~ obtained using a sound level meter and frequency weighted network, such as A, B, or C as specified in American National Standards Institute or the latest approved version thereof) ANSI S1.4-1971, or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

(67) *Emergency work*: Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

(78) *Outdoor amplified sound*: Any sound using amplifying equipment whose sound is outside ~~or whose source is inside, and the sound propagates outside through open doors or windows or other openings in the building.~~

(89) *Sound amplifying equipment*: Any device for the amplification of the human voice, music, or any other sound, including jukeboxes, stereos, and radios.

(10) MSD: A municipal service district established pursuant to North Carolina General Statutes Chapter 160A, Article 23, Municipal Service Districts.

(b) *Methodology- Noise violation based on sound level meters. It shall be unlawful to create, cause or allow the continuance of any noise that exceeds the decibel limits provided in Section 20-35 below. However, enforcement of this article does not require the use of a sound level meter to determine compliance. When a sound level meter is used to determine sound levels pursuant to this article, the standards, instrumentation, personnel, measurement procedures, and reporting procedures to be used in the measurement of sound as provided for in this section shall be those as specified herein: shall be as specified in this section, and all terminology not defined in this section shall be in conformance with the ANSI.*

(1) Sound level measurement shall be made with a sound level meter using the “A”-weighting scale, set on “slow” response.

(2) Sound level meters shall be ~~of at least type three meeting American National Standard Institute Incorporated (ANSI) S1.4-1971 requirements. The entire sound measurement system serviced, and~~ calibrated and operated as recommended by the manufacturer. and in accordance with regulations prescribed by the Chief of Police. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level measuring equipment.

(3) ~~The chief of police or his designee may adopt standards for sound level measurement and enforcement consistent with this article.~~ Sound level measurements shall be made from within the boundary line of an adjoining or complaining property. Whether the sound level violates the prescribed limits in section 20-35 below will be determined by whether the readings taken within the adjoining or complaining property are in excess of the levels allowed by Section 20-35 below.

(4) Except as specified in subsection (g) below, the sound level measurement shall be averaged over a period of at least one (1) minute for purposes of determining the sound level.

(5) In the case of noise that is impulsive or not continuous, the sound level measurement shall be taken over a period of time of at least one (1) minute. Any such sound or noise that exceeds the prescribed level more than two (2) times in a minute shall be deemed to exceed the prescribed sound levels.

(6) If an officer does not have possession of a department-owned and ANSI-approved sound level meter at the time of responding to a noise complaint, sound level measurements for the purpose of determining violations of this article may not be taken using any other device, including but not limited to applications on cellular devices or any hand-held personal sound level meters obtained from any other source. The officer shall instead proceed under the other sections of this article in order to determine whether a violation of this ordinance is occurring.

(c) Methodology- In addition to the methodology contained in Section 20-32(b) above, violations of this ordinance (including but not limited to violations of Section 20-33(a) below) may also be determined as follows:

(1) Any police officer responding to a noise complaint may, in the officer's discretion, issue a civil citation or enforce any other penalties under this article if the officer determines that a violation of this ordinance has occurred or is occurring.

(2) An officer does not have to use a sound level meter or actually witness the sound or noise personally in order to take enforcement action under this section. Citations may be issued based upon statements and evidence obtained from complaining witnesses when the officer determines that such evidence is reliable, appropriate, and sufficient. Examples of such evidence may include, but are not limited to, the following: that a person could not hear a person standing next to them speak at a conversational tone or level, or that furniture, windows or floor were rattling or thumping from vibrations created by the noise.

(3) It shall be a violation of this article for any person to communicate a noise complaint to any city staff or official, using the 911 system or otherwise, for the purpose of harassing the subject of the complaint, and knowing or having reason to know that no violation of this ordinance actually exists or existed.

(4) Factors to consider in determining whether a violation of this ordinance has occurred or is occurring include, but are not limited to, the following:

- a. The volume of the noise;
- b. The intensity of the noise;
- c. Whether the nature of the noise is usual or unusual;
- d. Whether the origin of the noise is natural or unnatural;

- e. The volume and intensity of the background noise, if any;
- f. The proximity of the noise to residential sleeping facilities;
- g. The density of the inhabitation of the area from which the noise emanates;
- h. The time of the day or night the noise occurs;
- i. The duration of the noise;
- j. Statements of any complaining witnesses, including any pictures or audio/video documentation produced by complaining witnesses; and
- k. Whether the noise is recurrent, impulsive, intermittent, or constant.
- l. Whether the noise exceeds the levels stated in Section 20-35 below.

Sec. 20-33. Noises prohibited, nuisances.

- (a) *General prohibitions.* ~~It shall be unlawful to create, cause or allow the continuance of any unreasonably loud, disturbing, or frightening noise, particularly during nighttime which substantially interferes with neighboring residents' reasonable use and enjoyment of their properties.~~ It shall be unlawful for any person or group of persons, regardless of number, to willfully make, continue or cause to be made or continued any loud, raucous and/or disturbing noise, which term shall mean any sound which, because of its volume level duration and/or character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the City of Hendersonville.
- (b) *Specific prohibitions.* In addition the general definition of "loud, raucous and/or disturbing noise" contained in Section 20-33 above, these terms shall be deemed to include the ~~The~~ following acts, which are prohibited and shall be considered nuisance acts:

(1) *Horns and signaling devices.* The intentional sounding of any horn or signaling device of a motor vehicle on any street or public place continuously or intermittently in a manner that would annoy, disturb, or injure the comfort, health or peace of a reasonable person in the vicinity, except as a danger or emergency warning.

~~(2) *Motor vehicles.* Operating or permitting the operation of any motor vehicle or motorcycle not equipped with a muffler or other device in good working order to effectively prevent loud or explosive noises therefrom.~~

~~(3)~~ *Exterior loudspeakers.* Operating or permitting the operation of any mechanical device or loudspeaker, ~~without a permit to do so,~~ in a fixed or moveable position exterior to any building or mounted on any aircraft or motor vehicle in such a manner that the sound therefrom is ~~in excess of~~ more than the maximum decibel level as described in section 20-35 of this chapter.

~~(4)~~ *Power equipment.* Operating or permitting the operation of any power saw, sander, drill, grinder, leaf blower, lawn mower, or other garden equipment, or tools of a similar nature, outdoors during nighttime.

~~(5) Explosives. The use or firing of explosives, firearms, fireworks, or similar devices which create impulsive sounds.~~ **(4) Fireworks. Launching or permitting the launching of fireworks during nighttime.**

~~(6) Security alarms.~~ The sounding of a security alarm, for more than 20 minutes after being notified by law enforcement personnel.

~~(7) Dogs and other animals. Allowing one or more dogs or other animals to bark or make disturbing noises continuously or intermittently for more than 30 minutes.~~

~~(8) Motor vehicle speakers or speakers located in or on a motor vehicle.~~ Operating or permitting the operation of any speaker or sound in or on a motor vehicle in such a manner that the sound therefrom is ~~in excess of~~ **more than** the maximum decibel level described in sections 20-35 of this chapter when registered ~~25-10~~ or more feet from the motor vehicle.

(7) Burnouts. Operating or permitting the operation of a motor vehicle or motorcycle in such a manner that the motor vehicle remains stationary and the tires are spun rapidly against a solid surface continuously or intermittently producing loud noise. The friction between the tires and the solid surface typically produces smoke in addition to loud noise.

~~(9) Any business situated within the municipal services district that permits to be played within its building any electronically amplified music or speech, regardless of whether such music is live, shall not permit any door from any street or alley into such building to be or remain open during such amplification except while persons or goods are actively entering or exiting the building through such door, nor shall it permit any window to be or remain open during such amplification.~~

Sec. 20-34. Exceptions.

The following are exempt from the provisions of this article:

- ~~(1) a)~~ Sound emanating from regularly scheduled outdoor athletic events on the campus of local schools.
- ~~(2) b)~~ Construction operations from 7:00 a.m. to 9:10:00 p.m. ~~on weekdays and 8:00 a.m. to 9:00 p.m. on weekends~~ for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of the government; providing all equipment is operated in accord with manufacturer's mufflers and noise-reducing equipment is in use and in proper operating condition.
- ~~(3) c)~~ Noises of safety signals, warning devices, emergency pressure relief valves, and all church bells.
- ~~(4) d)~~ Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
- ~~(5)~~ ~~Any other noise resulting from activities of a temporary duration permitted by law, and for which a license or permit therefor has been granted by the city in accordance with section 20-37, below.~~

~~Regulations of noise emitting from operations under a permit shall be according to the conditions and limits stated on the permit and contained above.~~

- ~~(6e)~~ ~~Unamplified and amplified sound at street fairs and parades permitted pursuant to section 46-84 of the Code.~~ **Events which have received a special events permit from City Council.**
- (7f) All noises ~~coming~~**that come** from the normal operations of properly equipped aircraft (not including scale model aircraft).
- (8g) All noises that come from normal operation of motor vehicles properly equipped with the manufacturer's standard mufflers and in good working order.
- (9h) Noise from lawful fireworks and noisemakers on holidays and at religious ceremonies.
- (10i) Lawn mowers, agricultural equipment, and landscape maintenance equipment **that are** used between the hours of 7:00 a.m. and ~~9~~**10**:00 p.m. when operated with all the manufacturer's standard mufflers and noise-relating equipment in use and **in** proper operating condition.
- (11j) Musical accompaniment or firearm discharge related to military **or law enforcement** ceremonies.
- ~~(12k) Sound amplification equipment used in conjunction with telecommunications systems on business properties to notify employees of that business of incoming phone calls, providing that this system be used only between the hours of 7:00 a.m. and 10:00 p.m. And that any speakers attached to the system be oriented toward the interior of the property.~~ **Fireworks permitted by law, except during nighttime hours.**
- (13l) Emergency work **that is** necessary to restore property to a safe condition following a fire, accident or natural disaster, ~~or~~ to restore public utilities, or to protect persons or property ~~form an~~ **from** imminent danger.
- (14m) Noises resulting from the provision of government services.
- (15n) Noises resulting from the provision of sanitation services between the hours of 7:00 a.m. and ~~9~~**10**:00 p.m.

Sec. 20-35. Maximum permitted sound level.

~~In addition to the requirements of section 20-34, above, and except as otherwise provided herein or in conjunction with special events permits, it shall be unlawful for any person or group of persons, regardless of number, to willfully make, continue or cause to be made or continue any loud, raucous and disturbing noise, which term shall mean any sound which, because of its volume level, duration, and character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the City of Hendersonville. The term loud, raucous, and disturbing noise shall be limited to loud, raucous, and disturbing noises heard upon the public streets, in any public park, in any school or public building, or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use,~~

~~upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise, or upon the grounds thereof.~~

As provided in Section 20-32(b) above, the sound levels for the source of noise, taken from within the boundary line of an adjoining or complaining property, may not exceed the limits for the category of the complaining property, stated in the table below. As an example, if a house outside of an MSD is located next to a bar (regardless of whether or not the bar is also in the MSD), noise level measurements taken from the house tract for sound generated by the bar cannot exceed the Residential limits stated below.

<u>Maximum Sound Level Readings</u>	
<u>Adjoining or Complaining Property is located Downtown (defined as the Main Street and 7th Avenue MSDs)</u>	
<u>7am to midnight: 75 dB(A)</u>	<u>Midnight to 7am: 65 dB(A)</u>
<u>Adjoining or Complaining Property is Residential (including all types or residential properties, but excluding residential properties in the Main Street and 7th Avenue MSDs). Structures or developments containing both residential and nonresidential uses shall be considered residential.</u>	
<u>7am to 10pm: 65 dB(A)</u>	<u>10 pm to 7am: 55 dB(A)</u>
<u>Adjoining or Complaining Property is Nonresidential (including all types of nonresidential properties, but excluding nonresidential properties located in the Main Street and 7th Avenue MSDs)</u>	
<u>7am to midnight: 75 dB(A)</u>	<u>Midnight to 7am: 65 dB(A)</u>

Sec. 20-36. - ~~Motor vehicle noise.~~ Reserved

- ~~(a) — It shall be unlawful for any person to drive, operate, move or permit to be driven, operated or moved, a motor vehicle or combination of vehicles at any time in such a manner that the sound level of the vehicle or combination of vehicles exceeds 75 db(A) measured at a distance of 25 feet from the nearest lane(s) being monitored and at a height of at least four feet above the immediate surrounding surface.~~
- ~~(b) — This section shall apply to the total noise from a vehicle and shall not be construed as limiting or precluding the enforcement of any other provisions of this article.~~
- ~~(c) — Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements under this section.~~

Sec. 20-37. ~~Permits to exceed limits.~~ Reserved

~~(a) — A person or group of persons may produce or cause sound to be produced more than levels authorized in sections 20-35, above, only if a permit to exceed the limit for the time and place of the activity has been obtained.~~

~~(b) — Any person or group or persons desiring a permit shall apply as provided herein and shall provide all the information required. All applications shall be submitted to the chief of police or his designer at least 48 hours prior to the scheduled event. Failure to comply with this requirement shall be grounds for denying the permit.~~

~~(c) — The chief of police or his designee shall have the authority to take decisive action on all applications for permits specified in this article. In considering and acting on such applications, the chief of police or his designee shall consider, but shall not be limited to, the following in issuing or denying such permit: the timeliness of the application; the nature of the requested activity; previous experience with the applicant; the nature of the event; other activities in the vicinity of the location proposed; the frequency of the application; the cultural or social benefit of the proposed activity; the effect of the activity on the residential areas of the city; previous violations, if any, of the applicant.~~

~~(d) — Permits to exceed limits shall specify the duration for which noncompliance shall be permitted and may prescribe the conditions or requirements necessary to minimize adverse effects upon the community or surrounding neighborhood. The chief of police or his designee may require, but shall not be limited to, the following:~~

~~(1) — That no sound speakers shall be set up more than ten feet above the ground.~~

~~(2) — That the permit holders change the arrangement of the loudspeakers or the sound instruments to minimize the disturbance to others resulting from the position or orientation of the speakers or from atmospherically or geographically causing the dispersal of sound beyond the property lines.~~

~~(e) — Permit holders shall agree to cooperate with the police department in enforcing the noise control article by having signers of the permit available at the site of the event during the entire time for which a permit has been issued and capable of assisting the police in enforcing the noise control ordinance. The failure of the permittee or designees to be present or to assist the police in compliance with this article will result in the revocation of said permit.~~

Sec. 20-38. Violations.

(a) Any person who violates any portion of this article shall be subject to ~~a fine of not less than \$50.00 dollars nor more than \$500.00 plus court costs~~ **the penalties stated in this Section 20-38.** Each failure to obey an order to cease or abate shall constitute a separate violation of this article. **Multiple violations may occur within the same day.** ~~Violation of this section is cause for immediate revocation of a permit to exceed.~~

(b) **Repeated violations of this article by the same person, or repeated violations at the same address, within a 12-month rolling period shall be subject to civil penalties as follows:**

(1) First violation: \$250.00

(2) Second violation: \$500.00

(3) Third violation: \$750.00

(4) Fourth and all subsequent violations: \$1,000.00 per offense

(c) The 12-month rolling period is defined as the 12 months immediately preceding the violation. For example, for a violation of this article occurring on January 7, all violations occurring on or after January 8 of the preceding year shall be included for purposes of calculating civil penalties under this subsection.

(d) Any person who willfully fails to comply with the directive of a law enforcement officer to come into compliance with this article shall be subject to a civil penalty of \$1000.00 Violation of this subsection shall constitute a separate violation of this article.

(e) In addition to the remedies stated herein, the City may enforce the provisions of this article by appropriate equitable remedies as outlined in sections 1-6. Violations of this article shall not constitute a crime.

(f) Violation of the following sections of this Article, including all subsections, sub-subsections, sub-sub-subsections, and all other paragraphs, shall constitute a Class 3 misdemeanor, and shall subject the offender to a fine of not less than \$50.00 dollars nor more than \$500.00 plus court costs.

(1) Section 20-32. Terminology and methodology.

(2) Section 20-33. Noises prohibited, nuisances.

(3) Section 20-35. Maximum permitted sound level.

Sec. 20-39. Owner and occupant responsibility.

(a) Penalties for violations of this article may be assessed against any of the following:

(1) Persons who are responsible for or in control of the premises on which the violation occurs, _____ including but not limited to a business owner, an onsite manager or supervisor, or a tenant.

(2) Persons in possession or control of any device producing or causing the violation.

(3) The owner of the premises on which the violations occur.

(b) An owner of any premises, as well as any person responsible for or in control of such premises, shall be responsible for and may be held in violation of this article for, actions of tenants, guests, or other licensees that constitute violations of this article. This subsection shall not be interpreted to relieve any other person from responsibility for violations of this article.

Adopted on the first reading of the City Council of the City of Hendersonville, North Carolina on the 5th day of January, 2023, and adopted on the second reading of the City Council of the City of Hendersonville, North Carolina on the _____ day of _____, 2022.

[Not to be signed until after passing the second reading.]

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Becker, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Brian Pahle, Assistant City Manager

MEETING DATE: January 5th, 2023

AGENDA SECTION: New Business

DEPARTMENT: Administration

TITLE OF ITEM: Parking Fee Amendment – *Brian Pahle, Assistant City Manager*

SUGGESTED MOTION(S):

I move to adopt the parking fee amendment resolution as presented.

SUMMARY:

An agenda item to discuss and adopt amendments to the City's fee schedule related to the new parking services system.

BUDGET IMPACT: TBD

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:

Resolution

Fee Schedule

Ordinance #23-08

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND
SECTION 8 OF THE FISCAL YEAR 2022-23 BUDGET ORDINANCE TO AMEND THE FEE
SCHEDULE FOR PARKING SERVICES FEES AND RATES**

WHEREAS, on September 9th, 2021 the City adopted a resolution accepting a guaranteed maximum price amendment for the parking deck project of \$9,575,372; and

WHEREAS, the City Council intends to fund the new parking deck infrastructure through new parking rates and fees; and

WHEREAS, on July 1st, 2022 the City created a new parking services enterprise fund to account for all revenues and expenditures associated with parking services in the City; and

WHEREAS, through professional consulting services it was determined that parking fees and meters needed to be installed along and throughout the Main St. Municipal Service District to generate sufficient revenues to cover the debt service costs of the new parking deck; and

WHEREAS, this proposed amendment is estimated to generate enough revenues to pay for the costs of operating the new parking services enterprise fund.

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

1. Section 8 of the Fiscal Year 2022-23 Budget Ordinance for the City of Hendersonville shall be amended, effective March 1st, 2023, to revise the Fee Schedule as follows:

[The remainder of this page is intentionally left blank.]

	<u>Existing</u>	<u>Proposed</u>
Parking Fees, Fines & Penalties:		
All Other Parking Violations C.O. 50	\$25.00	\$ 50.00
Construction parking permit (per day)	\$5.00	\$ 15.00
Crosswalk	\$25.00	\$ 50.00
Fire Lane	\$100.00	
Fire Hydrant	\$100.00	
Habitual Offender (3 Tickets or more in 30 days)	\$100.00	
Handicapped	\$250.00	
Limited Zone (Same Block Parking)	\$50.00	\$ -
Loading Zone/15 minute parking	\$25.00	\$ 50.00
Monthly Parking Space - G Permit Interior	\$40.00	\$ -
Monthly Parking Space - G Permit Exterior	\$30.00	\$ -
Monthly Parking Space - R Permit Interior	\$30.00	\$ -
Monthly Parking Space - R Permit Exterior	\$20.00	\$ -
Monthly Parking Space - S Permit Interior	\$20.00	\$ -
Monthly Parking Space - S Permit Exterior	\$40.00	\$ -
Monthly Parking Space - Deck Permit	\$80.00	\$ 80.00
Monthly Parking Space - Interior Lot Permit	\$60.00	\$ 60.00
Monthly Parking Space - Exterior Lot Permit	\$25.00	\$ 25.00
Overtime/Expired meter	\$25.00	\$ 50.00
Parking Meter - Surface Lots and Decks (per 1/2 hour)	\$0.50	\$ 1.50
Parking Meter - Main St. and Avenues (per 1/2 hour)	\$0.50	\$ 2.00
Penalty after 15 days	\$25.00	\$ -
Penalty after 30 days additional	\$50.00	\$ 100.00
Subsequent overtime	\$50 + Doubles each Overtime	\$ -

2. All parking meter hourly fees are suspended until the new fee structure is effective March 1st, 2023.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

SUBMITTER:	John Connet	MEETING DATE:	1/05/2023
AGENDA SECTION:	NEW BUSINESS	DEPARTMENT:	Administration
TITLE OF ITEM:	Resolution Requestion Local Modification to §160A-301(a) – <i>John Connet, City Manager</i>		

SUGGESTED MOTION(S):

I move that the City Council adopt the resolution requesting the Henderson County legislative delegation to seek a local modification to §160A-301(a).

SUMMARY:

While conducting research on the authorization to establish parking fees City Attorney Beeker determined that proceeds from the use of parking meters on public streets must be used to defray the cost of enforcing and administering traffic and parking ordinances and regulations. These fees cannot be used to finance parking facilities. However, numerous municipalities have obtained a local modification to this law to allow the use of public street parking revenue to be pledged to pay debt service on bonds or finance such facilities or used for any other public purpose. Therefore, we are requesting the City Council to adopt the attached resolution requesting the Henderson County legislative delegation to seek a local modification to this statute on our behalf.

BUDGET IMPACT: \$ TBD

Is this expenditure approved in the current fiscal year budget? TBD

If no, describe how it will be funded. TBD

ATTACHMENTS:

General Statute 160A-301

Proposed Resolution

Resolution #23-08

**RESOLUTION REQUESTING A LOCAL MODIFICATION TO NORTH CAROLINA
GENERAL STATUTE §160A-301**

WHEREAS, North Carolina General Statute §160A-301 regulates parking enforcement within North Carolina municipalities; and

WHEREAS, §160A-301 specifies that proceeds from the use of parking meters on public streets must be used to defray the cost of enforcing and administering traffic and parking ordinances and regulations; and

WHEREAS, it is the desire of the City of Hendersonville to use revenue from parking meters on public streets to also defray the cost of constructing and maintaining public parking assets; and

WHEREAS, numerous North Carolina municipalities had received a local modification to allow public street parking meter revenue to be used in the same manner as off-street parking facility revenue as specified in §160A-301(b).

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The City Council humbly requests the Henderson County legislative delegation to submit a local modification to § 160A-301 on behalf of the City of Hendersonville that states:
Notwithstanding the provisions of G.S. 160A-301(a), a Hendersonville may use the proceeds from parking meters on public streets in the same manner in which proceeds from off-street parking facilities are permitted under G.S. 160A-301(b).

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of January, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

N.C. Gen. Stat. § 160A-301

Current through Session Laws 2022-75 (end) of the 2022 Regular Session of the General Assembly.

General Statutes of North Carolina > Chapter 160A. Cities and Towns. (Arts. 1 — 32) > Article 15. Streets, Traffic and Parking. (§§ 160A-296 — 160A-310)

§ 160A-301. Parking.

(a) On-Street Parking. — A city may by ordinance regulate, restrict, and prohibit the parking of vehicles on the public streets, alleys, and bridges within the city. When parking is permitted for a specified period of time at a particular location, a city may install a parking meter at that location and require any person parking a vehicle therein to place the meter in operation for the entire time that the vehicle remains in that location, up to the maximum time allowed for parking there. Parking meters may be activated by coins, tokens, cash, credit cards, debit cards, or electronic means. Proceeds from the use of parking meters on public streets must be used to defray the cost of enforcing and administering traffic and parking ordinances and regulations.

(b) Off-Street Parking. — A city may by ordinance regulate the use of lots, garages, or other facilities owned or leased by the city and designated for use by the public as parking facilities. The city may impose fees and charges for the use of these facilities, and may provide for the collection of these fees and charges through parking meters, attendants, automatic gates, or any other feasible means. The city may make it unlawful to park any vehicle in an off-street parking facility without paying the established fee or charge and may ordain other regulations pertaining to the use of such facilities.

Revenues realized from off-street parking facilities may be pledged to amortize bonds issued to finance such facilities, or used for any other public purpose.

(c) Nothing contained in Public Laws 1921, Chapter 2, Section 29, or Public Laws 1937, Chapter 407, Section 61, shall be construed to affect the validity of a parking meter ordinance or the revenues realized therefrom.

(d) The governing body of any city may, by ordinance, regulate the stopping, standing, or parking of vehicles in specified areas of any parking areas or driveways of a hospital, shopping center, apartment house, condominium complex, or commercial office complex, or any other privately owned public vehicular area, or prohibit such stopping, standing, or parking during any specified hours, provided the owner or person in general charge of the operation and control of that area requests in writing that such an ordinance be adopted. The owner of a vehicle parked in violation of an ordinance adopted pursuant to this subsection shall be deemed to have appointed any appropriate law-enforcement officer as his agent for the purpose of arranging for the transportation and safe storage of such vehicle.

(e) The registered owner of a vehicle that has been leased or rented to another person or company shall not be liable for a violation of an ordinance adopted pursuant to this section if, after receiving notification of the civil violation within 90 days of the date of occurrence, the owner, within 30 days thereafter, files with the officials or agents of the municipality an affidavit including the name and address of the person or company that leased or rented the vehicle. If notification is given to the owner of the vehicle after 90 days have elapsed from the date of the violation, the owner is not required to provide the name and address of the lessee or renter, and the owner shall not be held responsible for the violation.

History

1917, c. 136, subch. 5, s. 1; 1919, cc. 136, 237; C.S., s. 2787; 1941, c. 153, ss. 1, 2; c. 272; 1947, c. 7; 1953, c. 171; 1965, c. 945; 1971, c. 698, s. 1; 1973, c. 426, s. 48; 1979, c. 745, s. 2; 2003-380, s. 1; 2015-226, s. 1.

Annotations

Notes

Local Modification.

City of Ashville: 2001-46, s. 2, 2003-165, s. 1; city of Durham: 2014-34, s. 1; 2015-226, s. 2; city of Fayetteville: 1991 (Reg. Sess., 1992), c. 952; city of Greenville: 2001-46; city of Raleigh: 2009-164, s. 1; 2015-226, s. 2; city of Wilmington: 2001-9; 2015-226, s. 2; towns of Atlantic Beach and Beaufort: 2011-79; 2015-226, s. 2; town of Carolina Beach: 2001-9; 2015-226, s. 2; town of Chapel Hill: 2000-97, s. 3; 2001-46; 2009-164, s. 1; 2015-226, s. 2; town of Holden Beach: 2021-46, s. 2(a), as added by 2022-38, s. 1; town of Kure Beach: 2001-9; 2015-226, s. 2; town of Sunset Beach: 2016-9, s. 1; town of Surf City: 2021-46, s. 2(a); town of Wrightsville Beach: 1998-86; 2015-226, s. 2.

Editor's Note.

Session Laws 2013-360, s. 7.21(a)-(e), provides: "(a) A city or county may enter into an interagency agreement with the Department of Revenue and the Government Data Analytics Center (GDAC) to manage the collection of outstanding unpaid parking fines and penalties. The scope and manner of such collections services shall be determined by the agreement. A county or city that exercises the option to enter into such an arrangement may agree to the following, which are required terms in the agreement with the Department of Revenue and the GDAC:

"(1) That the city or county agrees to:

"a. Comply with State and federal law regarding data sharing, as appropriate.

"b. Provide for technical and business resources to support the analytics development.

"c. Provide for timely and responsive access to complete and accurate data, business rules, policies, and technical support.

"(2) That the GDAC be given access to all required information necessary to develop and support analytics allowing the identification of the owners of vehicles with associated unpaid parking fines and penalties.

"(b) In carrying out the purposes of this section and the agreements made under its provisions, the State Controller and the GDAC shall:

"(1) Ensure the security, integrity, and privacy of the data in accordance with State and federal law and as may be required by contract.

"(2) Leverage enterprise data sources, as allowed by State and federal law, and GDAC governance agreements, to provide analytics to integrate and match data to identify owner information associated with vehicles with unpaid parking fines and penalties.

"(3) Provide access to analytics reporting and information to the participating city or municipality and the Department of Revenue.

The revenue derived from on-street parking facilities is exacted in the performance of a governmental function, and must be set apart and used for a specific purpose. By whatever name called, it is in the nature of a tax. Britt v. City of Wilmington, 236 N.C. 446, 73 S.E.2d 289, 1952 N.C. LEXIS 590 (1952).

Validity of Making Parking Privilege Dependent on Amount of Money Placed in Meter. —

Where a municipal ordinance prescribed that parking in a designated zone should be limited to one hour, a motorist could not be convicted of overtime parking for parking in such zone for less than the prescribed one-hour period; hence, an additional provision of the ordinance, that a motorist would be subject to criminal prosecution if he parked in the one-hour zone for longer than 12 minutes upon the deposit of a one-cent coin or 24 minutes upon the deposit of two one-cent coins for successive periods, was unconstitutional as being discriminatory and as making the period of time dependent not upon public convenience but upon the amount of money deposited. State v. Scoggin, 236 N.C. 1, 72 S.E.2d 97, 1952 N.C. LEXIS 498 (1952).

Where a municipal ordinance prescribes one-hour and two-hour parking meter zones upon the deposit of a five-cent coin, the ordinance may permit, by nonpenal provisions, that a motorist may deposit a one-cent coin for a shorter length of time, provided the motorist is permitted, by depositing additional pennies, not to exceed a total of five, to remain in the parking space for the total length of time prescribed by the ordinance for such zone. State v. Scoggin, 236 N.C. 1, 72 S.E.2d 97, 1952 N.C. LEXIS 498 (1952).

Contract Binding City to Enact Parking Meter Ordinance Not Authorized. —

A municipality may not bind itself to enact or enforce on-street and off-street parking regulations by penal ordinance for the period during which bonds issued to provide off-street parking facilities should be outstanding, since it may not contract away or bind itself in regard to its freedom to enact governmental regulations. Britt v. City of Wilmington, 236 N.C. 446, 73 S.E.2d 289 (1952). But see, Town of Graham v. Karpark Corp., 194 F.2d 616 (4th Cir. 1952), upholding a contract with a parking meter manufacturer whereby city agreed to enact and enforce ordinances requiring parking meters until the meters were paid for.

City ordinance prohibiting parking of automobiles on one side of a street

on certain blocks where, because of the narrowness of the street, there was insufficient room for cars to pass between parked cars and a streetcar track in the street, was valid in the light of former G.S. 160-200(31). State v. Carter, 205 N.C. 761, 172 S.E. 415, 1934 N.C. LEXIS 61 (1934).

Zoning amendment, which addressed the number of vehicles that could be parked on a private lot, did not address the same subject as G.S. 160A-301, which governed ordinary parking on public vehicular areas; therefore, G.S. 160A-301 is not a more "specific" statute that renders the provisions of G.S. 160A-4 inapplicable because it simply addresses a different subject. Patmore v. Town of Chapel Hill N.C., 233 N.C. App. 133, 757 S.E.2d 302, 2014 N.C. App. LEXIS 298 (2014).

Zoning Amendment and Statute Did Not Address Same Subject. —

Fact that a town chose to restrict the number of cars parked on a lawn as a rough proxy for the number of tenants did not transform a zoning amendment into a "parking" ordinance because the amendment was intended to regulate the ratio of bedrooms to tenants in rental properties by restricting the number of vehicles parked in the yard; the doctrine of expressio unius est exclusio alterius was not applicable to the relationship between the statute and the zoning amendment. Patmore v. Town of Chapel Hill N.C., 233 N.C. App. 133, 757 S.E.2d 302, 2014 N.C. App. LEXIS 298 (2014).

Parking Improvements Permissible. —

"(4) Provide data to the Department of Revenue for use in the withholding of tax refunds of persons that have unpaid parking fines and penalties.

"(c) The Department of Transportation, Division of Motor Vehicles, shall provide the GDAC with access to historical and current information required to identify owners associated with vehicles with unpaid parking fines and penalties.

"(d) The Department of Revenue shall (i) receive data from the GDAC associated with persons that have unpaid parking fines and penalties; (ii) withhold tax refunds for the purpose of the collection of those fines and penalties as allowed by law; and (iii) from the withholdings, pay to the appropriate city or county the amounts due.

"(e) Any fee imposed by the Department of Revenue or the GDAC to cover the administrative costs of withholding for the collection of unpaid parking fines and penalties shall be borne by the city or county and shall be negotiated as part of the agreements authorized by this section."

Session Laws 2013-360, s. 1.1, provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 2013.'"

Session Laws 2013-360, s. 38.2, provides: "Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2013-2015 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2013-2015 fiscal biennium."

Session Laws 2013-360, s. 38.5, is a severability clause.

Notwithstanding the provisions of G.S. 160A-301(a), a town may use the proceeds from parking meters on public streets in the same manner in which proceeds from off-street parking facilities are permitted under G.S. 160A-301(b).

Effect of Amendments.

Session Laws 2015-226, s. 1, effective August 25, 2015, substituted "coins, tokens, cash, credit cards, debit cards, or electronic means" for "coins or tokens" in the third sentence of subsection (a).

CASE NOTES

Editor's Note. —

Most of the cases cited below were decided under former G.S. 160-200(31).

A municipality may require a motorist who parks his vehicle in a parking meter zone to set the meter in operation by depositing a coin,

provided that the deposit of the coin is the method selected by its governing body in the exercise of its discretion for the purpose of regulating parking in the interest of the public convenience and not as a revenue raising measure. State v. Scoggin, 236 N.C. 1, 72 S.E.2d 97, 1952 N.C. LEXIS 498 (1952).

The deposit of a coin by a motorist at the time of parking, to activate the parking meter, is not a fee,

charge or toll for using the parking space, but is simply the method adopted by the governing authorities of the city for putting the meter in operation, and the revenue derived therefrom is expressly set apart and dedicated to a particular use by the legislature. Britt v. City of Wilmington, 236 N.C. 446, 73 S.E.2d 289, 1952 N.C. LEXIS 590 (1952).

But Revenue Derived Therefrom Is in the Nature of a Tax. —

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2023

SENATE BILL _____

Short Title: City of Hendersonville Parking Proceeds.

(Local)

Sponsors: Senator Tim Moffit.

Referred to: _____.

January ____, 2023

A BILL TO BE ENTITLED
AN ACT TO ALLOW THE CITY OF HENDERSONVILLE TO USE
PROCEEDS FROM ON-STREET PARKING METERS IN THE SAME MANNER
IN WHICH PROCEEDS FROM OFF-STREET PARKING FACILITIES ARE
USED.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 160A-301(a), a city may use the proceeds from parking meters on public streets in the same manner in which proceeds from off-street parking facilities are permitted under G.S. 160A-301(b).

Section 2. This act applies to the City of Hendersonville only.

Section 3. This act is effective when it becomes law.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Connet **MEETING DATE:** 1/5/2022

AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Administration

TITLE OF ITEM: Establish 2023 NCLM Legislative Priorities and Appoint Mayor Volk as NCLM Voting Delegate – *John Connet, City Manager*

SUGGESTED MOTION(S):

I move that the City Council appoint Mayor Volk as the City’s NCLM voting delegate and endorse the following 10 legislative goals.

SUMMARY:

Each legislative session the North Carolina League of Municipalities establishes legislative goals. This year they have developed sixteen (16) draft goals and would like each municipality to select ourr top 10 goals. Once the top 10 goals are selected by the City Council, your voting delegate will vote on behalf of the City Council. Mayor Volk serves on the NCLM Legislative Advocacy Committee. Therefore, I recommend her appointment as your voting delegate.

BUDGET IMPACT: \$ NA

Is this expenditure approved in the current fiscal year budget? NA

If no, describe how it will be funded. NA

ATTACHMENTS:

Proposed NCLM Goals

LEGISLATIVE GOAL STATEMENTS

RECOMMENDED BY THE NCLM BOARD OF DIRECTORS

The following goal statements are grouped by subject area but NOT listed in any priority order.

- Expand federal and state resources for affordable housing.
 - Housing affordability is a growing problem across North Carolina, affecting cities and towns of all sizes and people across different income levels.
 - Increasingly, the lack of affordable housing acts as a major impediment to business and workforce recruitment.
 - Ongoing state and federal revenue streams to address housing affordability are extremely limited, with much of the burden for solutions left with cities and towns
- Revitalize vacant and abandoned properties with enhanced legal tools and funding.
 - Abandoned and vacant properties, often the subject of so-called tangled titles, can affect the ability of communities to revitalize areas and improve economic conditions.
 - The abandoned properties, with enhanced legal tools to help heirs clear up title issues and sell properties at market rates, could help address local housing needs.
 - Many towns do not have the funding to adequately address abandoned properties.
-
- Create an adequate and permanent funding stream for local infrastructure.
 - Infrastructure – including roads, water, sewer, stormwater, parks and beaches – are critical to economic development and job creation.
 - Many cities in the state are growing, creating a constant need for investment to keep pace with population growth; many cities and towns also have aging infrastructure that must be replaced.
 - Creating more permanent funding streams for local infrastructure, such as a dedicated tax source, would allow for better planning to meet needs.



- Allow municipalities to use local resources and capabilities to expand broadband access in their communities through innovative partnerships.
 - Slow and unreliable internet service threatens educational and professional opportunities, and the economic future of entire communities.
 - Municipalities own existing infrastructure – including dark fiber, towers and electric poles – that could be utilized in innovative partnerships and assist in making broadband service more affordable.
 - Failure to utilize local government assistance and assets will continue to create digital gaps that have real-world consequences for North Carolinians.

- Extend deadlines for completion of federal infrastructure projects.
 - Current deadlines for the allocation and expenditure of American Rescue Plan Act funding may make more complex infrastructure projects unrealistic.
 - High inflation and worker shortages are leading to higher project costs; extending ARPA and other funding deadlines will spread projects out and may help lower costs.
 - Cities and towns require flexible deadlines to get the best bang for their buck out of this funding.

-

- Expand state transportation funding streams for construction and maintenance for municipal and state-owned secondary roads.
 - Current Powell Bill and other state funding is not adequate to address transportation needs, particularly as they affect municipal and state-owned secondary roads.
 - In many cities and towns, major commuting corridors are not receiving the level of investment needed to keep pace with traffic.
 - More investment is needed for these roads if existing residents are to embrace business and residential growth.



- Support integrated and multi-modal transportation solutions.
 - Today, cities and towns seek to make downtowns and other areas accessible to residents and visitors, whether traveling by foot, bike, car, mass transit and other means.
 - Making areas accessible in this manner requires integrated planning and funding with the state.
 - Only through recognizing the need for multi-modal transportation solutions can cities and towns maximize tourism and other economic opportunities, ensuring that local businesses thrive.
- Increase state funding for public transportation operations.
 - Road construction is not keeping pace with transportation needs in any many areas, and public transportation provides a means to reduce the burden of building roads.
 - Investment in public transportation can improve traffic safety, air quality and residents' accessibility to businesses and public services.
 - One of the biggest impediments to economic growth is traffic and commuting times, which can be alleviated through public transportation options.
-
- Expand incentives and funding for local economic development.
 - Funding is simply inadequate in many cities and towns to encourage job growth.
 - State grants and incentives are often targeted in ways that fail to assist the areas in greatest need of job creation.
 - Maintaining or expanding funding for film tax credits, major industrial site development, downtown development and renewable energy tax credits helps cities and towns across the state.



- Expand incentives that encourage regionalization of water and sewer, as well as other municipal services, when appropriate.
 - A number of municipal water and sewer systems continue to financially struggle with deferred maintenance needs.
 - These challenges came about largely due to population and job losses in rural areas, leading to an erosion of taxpayer and ratepayer bases.
 - While legislators and municipalities have begun to address these issues with the creation of the Viable Utility Reserve and the use of ARPA funding, state estimates show needs still exceed expenditures by several billion dollars.
-
- Enhance state systems and resources for local law enforcement officer recruitment, training, and retention.
 - Municipalities across the state are facing law enforcement staffing shortages, in many cases severe shortages.
 - State training resources are limited, and the cost of local law enforcement agencies to send recruits and existing officers to NC Justice Academy locations can be prohibitive.
 - Grant writing assistance is one of several options that might provide better access to the large volume of federal law enforcement grant funding that is available.
- Provide state assistance for yearly financial audits, ensuring that an adequate number of auditors is available.
 - Several dozen local governments have been placed on the state Unit Assistance List due to late audits.
 - Often these audits are late due to staffing shortages, changes in financial personnel and a growing shortage of private auditors willing to perform this work.
 - Addressing this challenge would lessen negative portrayals of local government financial controls.

- Revise state contracting laws to better protect public entities from the effects of inflation.
 - Labor and materials costs have been rising at a rapid rate, leaving municipalities with few options when project bids and costs exceed expectations.
 - Additional flexibility regarding the contracting process could assist municipalities in protecting taxpayers from inflation and escalating costs.
 - Without contracting law flexibility, projects can be delayed and costs can further increase.
-
- Update annexation petition thresholds to make voluntary annexations easier to initiate.
 - Voluntary annexation by petition currently requires 100 percent consent from all property owners, a threshold that can be impossible to meet even if a majority of property owners can benefit by utilizing their property for business or residential purposes.
 - Lowering the threshold from 100 percent represents a middle ground that would still reflect the will of property owners but not handicap communities' ability to economically thrive.
 - The ability of a city or town to grow and reflect its urban footprint is vital to its financial health; city services are relied on by residents whether they live in or near municipal boundaries.
- Provide authority to municipal water systems to recoup costs of clean-up from polluters.
 - Local municipal water systems are increasingly being looked to for the clean-up of PFAS and other "forever" chemicals found in surface waters.
 - State regulators plan to set surface water standards for these chemicals and propose Maximum Contaminant Levels for PFAS chemicals in drinking water.
 - To date, cities' only recourse to try to recoup the cost for utility ratepayers is through the courts.
- Provide local revenue options beyond property tax.
 - Roughly 40 percent of municipal general fund revenue is generated by local property taxes.
 - Cities have little to no authority to raise significant revenue in other ways.
 - A lack of diverse, local tax options can affect economic growth, as well as cause large swings in revenue based on economic changes.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Jamie Carpenter **MEETING DATE:** 01/05/2023
AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Administration
TITLE OF ITEM: Special Event Fee Amendment – *Jamie Carpenter, Downtown Manager*

SUGGESTED MOTION(S):

I move to adopt the event fee amendment resolution as presented.

SUMMARY:

An agenda item to discuss and adopt amendments to the City's fee schedule related to downtown events.

BUDGET IMPACT: N/A

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:

Resolution
Fee Schedule

Ordinance #23-09

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND
SECTION 8 OF THE FISCAL YEAR 2022-23 BUDGET ORDINANCE TO AMEND THE FEE
SCHEDULE FOR EVENT SERVICES**

SECTION 8: That there is hereby adopted an official Fee Schedule listing specific fees, licenses, and utility rates charged by the City of Hendersonville for the use of City facilities and equipment for the purposes of making them available to public, specific utility rates the proceeds of which are for the maintenance and expansion of its utility systems, the reproduction of public records and other miscellaneous services to cover the actual cost of producing these documents and information under the provision of NCGS §132-6.2, and other various fees associated with enhanced direct services provided by the City. The *Fee Schedule* is incorporated herein by reference and shall be placed on file in the office of the City Clerk.

Special Event Fees	Existing	Proposed	Note
Event Application Fee		\$25.00 per application	Add
Class A Special Event Closure (High-Impact full Main Street MSD Closure)	-	\$700.00 per day	Add
Class B Special event closure (Moderate-Impact, full Main Street MSD Closure)	-	\$450.00 per day	Add
Class C Special Event Closure (Full Main Street with Avenues Open)	-	\$300.00 per day	Add
Class D Special Event Closure (Closure of 2 blocks or less)	-	\$75.00 per block, per day	Add
Class E - Special Event Closure (Closure of parking spaces at Courthouse Plaza)	-	\$50.00 per day	Add
Single-Day Food Vendors	\$30.00	-	Delete
Multi-Day Food Vendors	\$55.00 per day	\$55.00 per day	Keep
Non-Food Vendors	\$15.00	-	Delete

WHEREAS, Special Events are a source of community pride, economic development, and marketing for Downtown Hendersonville; and,

WHEREAS, providing a safe public space for special events is a priority; and,

WHEREAS, the City of Hendersonville Code of Ordinances section 46-85 outlines the roles and responsibilities of the Special Events Committee; and,

WHEREAS, on June 16, 2013, City Council adopted a special event policy to define the processes taken by the Special Events Committee in cooperation with the Downtown Advisory Committee; and,

WHEREAS, the Special Events Committee and Downtown Advisory Board reviewed updates to the Special Events Fee structure, to establish equity of event fees for various types of events on city streets; and,

WHEREAS, this proposed amendment will increase revenues to provide clean and safe events in Hendersonville; and,

WHEREAS, the City Council reviewed preliminary proposed special event fee amendments at the October 6, 2022 meeting of the Hendersonville City Council; and,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that SECTION 8 of the Fiscal Year 2022-2023 (FY23) Budget Ordinance for the City of Hendersonville shall be amended to revise the Fee Schedule as follows:

CITY OF HENDERSONVILLE FEE SCHEDULE
ADOPTED BY BUDGET ORDINANCE FOR FISCAL YEAR 2022 - 2023

Public Hearing required for items denoted with asterisk Amended 01/05/2023

DESCRIPTION	COST / CHARGE / FEE
Special Event Fees	
Event Application Fee	\$25.00 per application
Class A Special Event Closure (High-Impact full Main Street MSD Closure)	\$700.00 per day
Class B Special event closure (moderate impact, full Main Street MSD Closure)	\$450.00 per day
Class C Special Event Closure (Full Main Street with Avenues Open	\$300.00 per day
Class D Special Event Closure (Closure of 2 blocks or less)	\$75.00 per block, per day
Class E - Special Event Closure (Closure of parking spaces at Courthouse Plaza)	\$50.00 per day
Multi-Day Food Vendors	\$55.00 per day

ADOPTED by the City Council of the City of Hendersonville, North Carolina on this 5th day of January, 2023.

Attest:

 Barbara G. Volk, Mayor, City of Hendersonville

 Jill Murray, City Clerk

Approved as to form:

 Angela S. Beeker, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Connet **MEETING DATE:** 01/05/2023

AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Administration

TITLE OF ITEM: Discussion Regarding Placement of Kiwanis' Splashpad at Patton Park – *John Connet, City Manager*

SUGGESTED MOTION(S):

I move that the City Council authorize staff to move forward with developing plans to construct the Kiwanis' Splashpad at Patton Park.

SUMMARY:

City staff has evaluated several locations for the proposed Kiwanis' Splashpad. We would recommend placing the splashpad at Patton Park. The splashpad would replace the existing kiddie pool.

BUDGET IMPACT: \$ TBD

Is this expenditure approved in the current fiscal year budget? NO

If no, describe how it will be funded. TBD

ATTACHMENTS:

None



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

SUBMITTER:

John Connet

MEETING DATE:

01/05/2023

AGENDA SECTION:

NEW BUSINESS

DEPARTMENT:

Administration

TITLE OF ITEM:

Rescheduling of February 2, 2023, and April 6, 2023, City Council meetings –
John Connet, City Manager

SUGGESTED MOTION(S):

I move that the February 2, 2023, and April 6, 2023, City Council meetings be rescheduled to February ____ 2023 and April ____ 2023 respectively.

SUMMARY:

The North Carolina City and County Management Conference in Winston-Salem is scheduled for February 1-3, 2023, and Council Member Hensley is going to be out of town for the April 6, 2023, meeting. Therefore, I would like to propose that we reschedule these two City Council meetings to Wednesday, February 8, 2023, and Wednesday, April 12, 2023, respectively.

BUDGET IMPACT:

\$ None

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded. None

ATTACHMENTS:

None

CITY COUNCIL:
BARBARA G. VOLK
Mayor
LYNDSEY SIMPSON
Mayor Pro Tem
DR. JENNIFER HENSLEY
DEBBIE O'NEAL ROUNDTREE
JERRY A. SMITH, JR., J.D.

CITY OF HENDERSONVILLE

The City of Four Seasons

Office of the City Clerk

Section 10, Item A.

City Manager
ANGELA S. BEEKER
City Attorney
JILL MURRAY
City Clerk



To: The Honorable Mayor and Members of the City Council
From: Jill Murray, City Clerk
Subject: Board and Commission Vacancies
Date: December 13, 2022

Honorable Mayor and Members of City Council:

I am providing you with information regarding the December appointment cycle for your advisory boards. We have several vacancies to fill, however, we appear to have applications for each one. As you know, City Council adopted a Handbook which states that there is a two-term limit in effect. City Council always reserves the right to alter or extend at its discretion. Below are the upcoming vacancies.

Appointments to Boards/Commissions Committees

A. Historic Preservation Committee

(3 vacancies ending December, 2022) terms of Jane Branigan, Ralph Hammond-Green and Crystal Cauley. They have all submitted applications, are in good standing and wish to serve again. I have also received 2 additional applications from Robert D. Johnson and Xana Peltola. **You have 3 available seats and 5 applicants.** If/when appointed, their terms will expire in December, 2025.

B. Planning Board

(4 vacancies ending December, 2022) terms of Neil Brown, Peter Hanley, Laura Flores and Dr. Stuart Glassman. They have all submitted applications, are in good standing and wish to continue to serve.

(1 vacancy/unexpired term ending December, 2024) term of Frederick Nace who resigned 11/30/2022.

I have also received 2 additional applications from Yolanda Robinson and Samantha Jamison. **You have 5 available seats and 6 applicants.** If/when appointed, their terms will expire in December, 2025. The unexpired term for Frederick Nace will expire December, 2024.

C. Tree Board

(2 vacancies ending December, 2022) terms of Patricia Christie and Andreas Crawford.

Neither of these individuals would like to remain on the Board. I also received a resignation effective December 21, 2022 from Mark Madsen. His term does not expire until December, 2024. I have received 4 applications. One lives in the City limits, Lauren Redfern and two of them do not live in the City. It appears that the current by-laws state that only four of the seven members need to be residents of the City. Rebecca Doll lives in Pisgah Forest (Transylvania County). Although this is rare, the current by-laws appear to allow this. She is an arborist with Bartlett Tree Experts. Serena Crismali lives in the County and Joseph Peiso lives in the ETJ.

You have 3 available seats and 4 applicants. If/when appointed, whoever replaces Patricia Christie and Andreas Crawford, their terms will expire in December, 2025 and whoever replaces Mark Madsen, their term will expire in December, 2024.

I would like to suggest that we continue to request that applications be submitted throughout the year for any of our Boards and that I, as the Clerk, will hold them for 2 years so that we will hopefully always have applications on file if needed.

Please let me know if you have any questions.

s:/Jill Murray, CMC, NCCMC
City Clerk, City of Hendersonville

Board/Commission/Committee Appointment Application

The City of Hendersonville City Council invites residents to participate in governmental decisions by serving as a member on any of the 16 advisory boards, commissions, or committees. Applications received will be filed and considered for vacancies as applicable. Vacancies are posted as they become available.

****Application deadline is 5:00 p.m. Tuesday, November 15, 2022 in order for City Council to consider vacancies at their December 2022 meeting.**** The City often has advisory boards which consist of both City and County residents. Some of these boards require that persons reside in the county (but within the City's ETJ) and some appointments are made through the County or other entity. Please visit our website at <https://www.hendersonvillenc.gov/> to find out further information regarding residency and appointment requirements. County appointments require the applicant to fill out a county application which may also be downloaded from the advisory boards page. For additional assistance you may contact the City Clerk. Information contained herein becomes a matter of public record per North Carolina General Statute 132-1

Date of Application

11/21/2022

Select Board/Commission/Committee

Historic Preservation Commission

Name

Jane Branigan

**Do you reside
within
Hendersonville's
City limits?**

Yes

Street Address112 Clairmont Drive, Hendersonville, North Carolina
28791

**Mailing Address (If
Different)**

Phone

(307) 220-0965

Email

mjbranigan24@gmail.com

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-profits ect.

None other at the present time.

Please list educational background, special qualifications, i.e., civic memberships, related experience, etc.

Section 10, Item A.

Varied: majored in history, was a banker, had a CO real estate license working in trust department, moved into academia as executive assistant to Chancellors and Presidents of two CO universities (supporting one lawyer, auditing his classes and working on lecture material and translation of Swedish water law), served as Board of Regents and Board of Governors liaison for both universities before serving as Deputy Secretary to the Board of Governors for the Colorado State University System. Have owned three contributing homes in nationally designated historic districts as well participated in management of The Nagle Warren Mansion (www.naglewarrenmansion.com) in Cheyenne WY
I have a passion for history and have been actively researching Hendersonville's local history since moving here. I have been serving as a commissioner for the last several months, filling a vacancy in on the commission.

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

I have always recognized the importance of preserving local histories and I have varied knowledge of law, real estate and board operations that help me to function in this environment. I have a real affinity for this community and would like to use my skills in any way that may be of assistance. I have a fundamental knowledge of board work and have viewed historic preservation from the aspect of board/legal issues as well as that of a property owner who values our historic districts.

For reporting purposes, please select how you identify.

Female

Race: For purposes of diversity and inclusion please identify your race.

White

The City Council adopted a Code of Ethics for Advisory Boards/Commissions/Committees as well a Handbook. All persons appointed to City advisory boards must sign acknowledgement of this document. [You may view the Handbook and Code of Ethics Resolution and other information here.](#)

[The training video is available here.](#)

Signature- I hereby affirm that, to the best of my knowledge, the information provided on this application is true and accurate. I also acknowledge upon appointment to an advisory board I will view the Advisory Board Training Video, Handbook & Code of Ethics on the City's website and agree to abide by its tenants.

Jane Branigan

Date of Application

7/11/2022

Select Board/Commission/Committee

Historic Preservation Commission

Name

Ralph R Hammond-Green

Do you reside within
Hendersonville's City
limits?

Yes

Street Address

1232 Hyman Ave, Hendersonville, North Carolina 28792

Mailing Address (If Different)

Phone

(828) 606-6098

Email

rrhgreen@aol.com

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-proffits ect.

Historic Preservation Commission

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

College major in chemistry, ~40 year career in metal finishing including engineering, supervision, hazardous materials & safety. My wife & I own and live in a home in the Hyman Heights historic district

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

I have served on the HPC since appointment, attending all meetings except during the pandemic.

For reporting purposes, please select how you identify.

Female

Race: For purposes of diversity and inclusion please identify your race.

White

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[The training video is available here.](#)

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Ralph R. Hammond-Green

Entry #: 268 - 6/7/2022

Status: Submitted

Submitted: 6/7/2022 5:24 PM

Section 10, Item A.

Date of Application

6/7/2022

Select Board/Commission/Committee

Historic Preservation Commission

Name

Crystal F. Cauley

Do you reside within
Hendersonville's City
limits?

Yes

Street Address

627 5th Avenue West #1B, Hendersonville, North Carolina 28793

Mailing Address (If Different)

PO Box # 1, Hendersonville,
North Carolina 28793

Phone

(828) 489-2213

Email

bbnofwnc@gmail.com

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-profits ect.

Historic Preservation Committee

The Arts Council of Henderson County

Safelight

Substitute Teacher- Henderson County Public School System

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

Founder of Black Business Network of WNC,

Black History Collective of Henderson County NC

African American Parent Alliance

D.I.C.E. Diversity Inclusion Community Engagement

Exodus Performing Arts

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

I am a historian, community leader and focused in preserving Hendersonville, NC for present and future generations. Presently the HPC Board continues to give me experience in the areas that I am most interested in which is historical preservation.

For reporting purposes, please select how you identify.

Female

Race: For purposes of diversity and inclusion please identify your race.

Black

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Section 10, Item A.

A handwritten signature in black ink, appearing to read "C. Cauley". The signature is written in a cursive style with a large, looped "C" at the beginning and a long, sweeping underline.

Date of Application

8/30/2022

Select Board/Commission/Committee

Historic Preservation Commission

Name

Robert D Johnson

Do you reside within
Hendersonville's City
limits?

Yes

Street Address

216 Fleming Street, Hendersonville, North Carolina 28739

Mailing Address (If Different)

Phone

(828) 638-1955

Email

rdj@biltwright.com

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-proffits ect.

None

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

Resident of Henderson County since 1986 to present (except period of military and federal service from 2007 to 2021 with US Army (Afghanistan, The Pentagon, and Arlington National Cemetery) and Inspector General's office at HUD and USDA in Washington, DC). B.A. (English) from Virginia Military Institute, M.B.A from Campbell University, M.P.S. (Publishing) from George Washington University, and M.A. (Writing) from Johns Hopkins University.

Scoutmaster, Troop 604 Hendersonville; Board member and board president, Housing Assistance Corporation, Henderson County; board member, Hendersonville Planning Board (February-December 2021)

Published author of 2 books, numerous articles in magazines, newspapers, and literary journals.

Strong interest in history of U.S. and North Carolina including a book I wrote on WWII veterans from Henderson County and a published article on Arlington National Cemetery where I worked for 27 months. Also in architecture, especially residential. Experience in teaching writing and architecture at 7 colleges in NC, NV, and DC.

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

I have a strong interest in historical preservation in Hendersonville where I recently built two new homes downtown, ensuring their architecture and landscaping "fit" with the surrounding homes in the neighborhood. I believe we should ensure that new structures (residential and commercial) are appropriate for surrounding structures in their design and scale.

For reporting purposes, please select how you identify.

Male

Race: For purposes of diversity and inclusion please identify your race.

White

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[The training video is available here.](#)

Signature- I hereby affirm that, to the best of my knowledge, the information provided on this application is true and accurate. I also acknowledge upon appointment to an advisory board I will view the Advisory Board Training Video, Handbook & Code of Ethics on the City's website and agree to abide by its tenants.

Section 10, Item A.

Robert Johnson

Entry #: 281 - 9/8/2022

Status: Submitted

Submitted: 9/8/2022 11:37 PM

Section 10, Item A.

Date of Application

9/8/2022

Select Board/Commission/Committee

Historic Preservation Commission

Name

Xana C Peltola

Do you reside within
Hendersonville's City
limits?

Yes

Street Address

444 Ballantyne Common Cr., Apt 201, Hendersonville, North Carolina
28792

Mailing Address (If Different)

444 Ballantyne Common
Circle, Apt 201,
Hendersonville, North Carolina
28792

Phone

(864) 650-2976

Email

xanapeltola@yahoo.com

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-profits ect.

None

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

Masters of Science in Historic Preservation, Clemson University and College of Charleston graduated 2008.

Undergraduate History emphasis on Southern American History, minor in Art History Georgia Southern University, 2006

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

Hendersonville. For the past ten (10) years I have worked for FEMA (Federal Emergency Management Agency) reviewing federally funded projects across the US for compliance with historic preservation and environmental laws (title: Environmental Preservation Specialist, Manager). This includes identifying and addressing laws within the context of federally funded projects resulting from disasters for compliance with State and Federal environmental laws. This includes but not limited to: NEPA, NHPA, CWA, CAA, ESA, EO 11988 and EO 11990. Between 2015 and 2016 I worked for MNHS (Minnesota Historical Society) which holds among other standings the heritage preservation department. This sub-entity in part functions as the SHPO (State Preservation Office). Among multiple tasks during my employment I reviewed and provided guidance and direction/information to local historical societies across the state to hone their public history tours, national register district survey documentation, and development of historic contexts (be they community/neighborhood, town/city or county/state in geographic in scope).

For reporting purposes, please select how you identify.

Female

Race: For purposes of diversity and inclusion please identify your race.

White

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[The training video is available here.](#)

Signature- I hereby affirm that, to the best of my knowledge, the information provided on this application is true and accurate. I also acknowledge upon appointment to an advisory board I will view the Advisory Board Training Video, Handbook & Code of Ethics on the City's website and agree to abide by its tenants.

Section 10, Item A.

A handwritten signature in black ink, appearing to read "Nana Polite". The signature is written in a cursive, stylized font with large, sweeping letters.

City of Hendersonville Historic Preservation Commission
Rules of Procedure
Amended through 17 May 2017

ARTICLE I
NAME

The name of the organization shall be the Hendersonville Historic Preservation Commission.

ARTICLE II
OBJECT, MISSION, AND PURPOSE

The object of the Hendersonville Historic Preservation Commission, hereafter termed “Commission,” shall be to preserve the historical, prehistorical, architectural, archaeological, and cultural heritage of the City of Hendersonville, hereinafter sometimes referred to as the “City.”
(amended 6.21.2006)

The Commission serves as the City Council’s official historic advisory body to identify, preserve, protect and educate the public about Hendersonville’s historic resources.

The purpose of these rules shall be to establish procedures for organizing the business of the Commission and for processing applications for certificates of appropriateness as defined in the Hendersonville City Code, Chapter 28, as amended from time to time, or any successor ordinance.
(amended 6.21.2006)

ARTICLE III
POWERS

The powers of the Commission shall be as set forth in the Hendersonville City Code, Chapter 28, as amended from time to time, or any successor ordinance as supplemented by these rules and limited by applicable law. The Commission shall have the following responsibilities and advisory functions which shall be in addition to any other powers, responsibilities and functions specified in these Rules. *(amended 6.21.2006)*

1. Act as, establish, or designate a group, body, or committee to give advice to property owners concerning the treatment of the historical and visual characteristics of their properties, such as color schemes, gardens and landscape features, and minor decorative elements. *(added 6.21.2006)*
2. Propose to the City Council changes to this or any other ordinance, and propose new ordinances or laws relating to historic properties or relating to a total program for the protection and/or development of the historic resources of the City and environment. *(added 6.21.2006)*

3. Communicate with other City boards or commissions or with agencies of the local government or other governmental units to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest. *(added 6.21.2006)*
4. Publish information about or otherwise inform the public of any matters pertinent to its purview, duties, organization, procedures, responsibilities, functions, or requirements as its budget may allow. *(added 6.21.2006)*
5. Report violations of Chapter 28 of the City Ordinances, the zoning ordinances, or the building code with respect to historic properties to the Development Assistance Director. *(added 6.21.2006)*
6. Accept funds granted to the Commission for preservation purposes from private individuals and organizations. *(added 6.21.2006)*
7. Organize itself and conduct its business. *(added 6.21.2006)*

ARTICLE IV GENERAL RULES

The Commission shall be governed by Hendersonville City Code, Chapter 28, as amended from time to time, or any successor ordinance as supplemented by these rules. The Chair may from time to time refer to rules set forth in the current edition of *Suggested Rules of Procedure for Small Local Government Boards* to assist in the running of orderly meetings. *(amended 5.17.2017)*

ARTICLE V JURISDICTION

The Commission's geographical jurisdiction shall be the City's zoning jurisdiction as delineated on the City's official zoning map. *(amended 6.21.2006)*

ARTICLE VI ORGANIZATION OF THE COMMISSION

1 - Membership

The Commission shall consist of such number of members as the City Council may determine from time to time. Members shall be as appointed by the City Council and shall serve at its pleasure. Subject to these limitations, the length of term of the members shall be no more than three years. All members shall be eligible for reappointment at the pleasure of the City Council. In the event of a vacancy, the Chairperson shall forthwith ask the City Council to fill the unexpired term. *(amended 6.21.2006)*

The members shall serve without compensation.

2 - Actions of the Commission

The Commission, meeting as a whole, shall exercise the powers enumerated in Article III, except when it explicitly authorizes an officer or committee to act for it in a specific instance. Such authorization shall be limited to (1) ministerial and administrative acts that the Commission is empowered to perform and (2) advice to the Commission on legislative acts it is empowered to perform. Without authorization in the form of a City ordinance the Commission shall not delegate its quasi-judicial powers. *(amended 6.21.2006)*

The Commission, meeting as a whole, shall elect its officers and adopt the annual operating and supplementary budgets for the Commission contingent upon actions by the City Council on appropriations requested by the Commission.

ARTICLE VII
MEMBERS, OFFICERS, STAFF, AND, DUTIES

1 - Personnel and Terms

The officers elected by the commission shall consist of a Chairperson, a Vice Chairperson and a Secretary whose initial terms shall be for one year. The terms of these officers shall begin on March 1.

2 - Chairperson

The Chairperson shall be the presiding officer of the Commission; and shall preside over the regular and special meetings of the Commission. The Chairperson shall appoint such standing committees as these Rules may provide, and such ad hoc committees as the Chairperson may deem convenient from time to time, and designate their chairpersons and shall be and ex officio member of all committees. The chairperson shall execute all financial obligations authorized by the commission or by an officer or committee authorized by the Commission pursuant to City Code Chapter 28. *(amended 6.21.2006)*

3 – Vice Chairperson

The Vice Chairperson shall assist the Chairperson and in the absence of the Chairperson have all powers and duties of the Chairperson. The Vice Chairperson shall act as Chairperson upon absence of the Chair. *(amended 6.21.2006)*

4 – Secretary

The Secretary shall execute all official documents as required by the office. *(amended 10.21.2004)*

5 – Staff

The City Manager shall designate a person from the City's Development Assistance Department to serve as professional staff to the Commission in the form of "Commission Coordinator," herein also referred to as the "Coordinator," to assist with administrative duties. *(amended 6.21.2006)*

6 – Attendance at Meetings

Any member of the Commission who misses more than three consecutive regular meetings or more than one half of the regular meetings in a calendar year shall thereupon cease to be a member of the Commission. The Chairperson shall in such case report the vacancy created to the City Council as provided in these Rules. Absence because of sickness, death in the immediate family and like may be excused at the discretion of the Commission by a vote of two-thirds of the other members of the Commission. *(amended 6.21.2006)*

7 – Conflict of Interest.

A member 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 conflicts 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. *(added 6.21.2006)*

8 – Qualification to Vote

Before voting on any matter affecting an application, including a request for reconsideration, any member who has not attended all previous Commission deliberations related to the application shall state for the record that he or she has reviewed the minutes and record of such deliberations. No Commission member shall vote on any matter deciding an application or a request to reconsider, unless that member shall have attended, or have had access to the minutes and record of, the Commission's previous deliberations on such application. In the event of an absence from previous deliberations, the member shall declare for the record that the member has reviewed minutes and record and is familiar with the previous deliberations. *(amended 6.21.2006)*

9 – Impartiality

In order to protect the integrity of the quasi-judicial process, members shall not communicate with any person concerning a pending application before the beginning of deliberations on the application. A member shall before the beginning of deliberations disclose the entire substance of any communication concerning the application to which the member has been a party. *(added 6.21.2006)*

10 – Designation Committee

A Designation Committee may be established from the membership of the Commission to review the inventory and recommend to the full Commission, from time to time, the designation of historic landmarks and districts.

The Designation Committee may also review applications for historic landmark or district designation submitted by property owners. It may meet with applicants for designation at an early stage in the process of preparing the application in order to advise them informally concerning the Commission's standards for reports, the criteria for designation, the boundaries of the property or properties to be designated, and other relevant matters. *(amended 6.21.2006, 5.19.2010)*

The Committee, collectively and individually, shall refrain from an indication of approval or disapproval, but shall not for that reason be barred from reasonable discussion of the applicants' proposals. No advice or opinion given or reported as having been given by any member of the committee at such informal meeting(s) shall in any way be official or binding upon the Commission.

**ARTICLE VIII
MEETINGS**

1 – Regular Meetings

The Commission shall hold regularly scheduled meetings at intervals not less than every three months, unless there is at the time scheduled for a regular meeting no business to come before the Commission. Regular meetings of the Commission shall be held as agreed to by the Commission in the City Hall Council Chambers or such other place as the Commission may determine from time to time, subject always to notice as required by law. *(amended 6.21.2006)*

2 – Special Meetings

Special meetings may be called by the Chairperson. Special meetings may also be called by a majority of members. Minimum notice of special meetings shall be one week to all members and 48 hours to members of the press. *(amended 6.21.2006)*

3 – Cancellation of Meetings

Whenever there is no business for the Commission, the Chairperson shall cancel a regular meeting. The Chairperson may also cancel any meeting for good cause, including severe weather, except that the Chairperson shall not cancel a meeting called by a majority of the members without the consent of a majority of the members. The Chairperson or a designee shall, at least twenty-four hours before the time set for a cancelled meeting, give notice of cancellation to all members and to the press and other such interested persons as the Chairperson may determine. In the case of a meeting cancelled for severe weather, notice shall be given at the earliest practical time. *(amended 6.21.2006)*

4 – Quorum

A majority of members shall constitute a quorum at any meeting of the Commission or of any committee. *(amended 6.21.2006)*

5 – Conduct of the Meetings

All meetings shall be open to the public as provided by law. The order of business at regular meetings to include the review of applications for Certificates of Appropriateness shall be as follows: roll call; approval of agenda; approval of minutes; consideration of returning applications; consideration of new applications; old business; new business; committee reports; commissioner's report; staff report; other business; financial report; adjournment. *(amended 6.21.2006)*

The order of business at regular meetings not to include the review of applications for Certificates of Appropriateness shall be as follows: roll call; approval of agenda; approval of minutes; old business; new business; committee reports; commissioner's report; staff report; other business; financial report; adjournment. *(amended 6.21.2006)*

ARTICLE IX CERTIFICATE OF APPROPRIATENESS APPLICATION PROCEDURES

1 – Filing of Application

Application for a Certificate of Appropriateness shall be made as set forth in the Hendersonville City Code, Chapter 28 as amended or any successor ordinance.

2 – Notice to Owners of Materially Affected Property

When an application for a Certificate of Appropriateness is filed notification to affected property owners shall be made at least seven calendar days prior to the application being heard by the Historic Preservation Commission. *(amended 6.21.2006, amended 9.16.2009)*

3 – Design Review Advisory Committee

The Chairperson shall appoint a Design Review Advisory Committee (referred to in this Article IX as the "Advisory Committee"). The Advisory Committee may include persons the Chairperson considers competent to review applications, but shall not include any sitting member of the Commission. The Advisory Committee shall consider itself a public body subject to North Carolina laws concerning meetings of public bodies, and shall treat its documents as public records subject to laws concerning inspection and copying of public records. *(added 6.21.2006)*

The Advisory Committee shall review applications and discuss their contents and progress with affected persons not including the members of the Commission. Members of the Advisory

Committee may make recommendations, based on the Design Guidelines approved, and as amended from time to time, by the Commission, to applicants but shall in all cases explain clearly that the Committee sits in an advisory and not a judicial capacity, and that the Committee's recommendations or opinions are not binding on any person. *(added 6.21.2006)*

The Advisory Committee shall meet and review all applications for additions, garages and carports, new commercial buildings and new houses and other applications at the Commission Coordinator's discretion. For all other applications, the Advisory Committee shall, upon the request of the applicant, meet when necessary after an application has been filed. The Chair of the Advisory Committee shall notify all interested persons of meetings not less than 7 days and the press not less than 48 hours before any properly called meeting. *(added 6.21.2006, amended 10.20.2008)*

4 – Public Hearings

Before the approval, approval with conditions or denial of a Certificate of Appropriateness, the applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard. Subject to its power to limit testimony as inadmissible, redundant and the like, the Commission shall permit relevant testimony from any person. *(amended 6.21.2006)*

For purposes of all hearings the Board takes official notice of the official file and of all Hendersonville City Ordinances including specifically the Zoning Ordinance, and of the Zoning map, the Thoroughfare Plan, the Land Development Plan, and all North Carolina Statutes and Hendersonville City Ordinances all without the necessity of any person or entity requesting such notice. Persons may refer to these documents without having them entered into evidence. *(amended 5.17.17)*

5 – Time for Decision.

Applications for Certificates of Appropriateness shall be acted upon within the time limits set forth in the Hendersonville City Code, Chapter 28.

6 – Approved Application

If the application is approved, the Commission shall have prepared a Certificate of Appropriateness for signature by the Chairperson or a designee, clearly describing the nature of the work which has been approved. A placard form of the Certificate of Appropriateness to be displayed on the project shall be included with the Certificate, and both shall be transmitted to the applicant. *(amended 6.21.2006)*

7 – Denied Application

If an application is denied, the Commission shall have prepared a letter for signature by the Chairpersons or a designee, clearly stating the reasons for the denial. The letter and a copy of the Commission meeting minutes shall be transmitted to the applicant.

8 – Appeals

An appeal of a decision of the Commission in granting or denying any Certificate of Appropriateness may be taken to the Hendersonville Board of Adjustment. Appeals may be taken by any aggrieved party within twenty calendar days after the decision of the Commission and shall be in the nature of certiorari (only evidence presented at the Commission's meeting shall be considered at the appeal). Appeal from the decision of the Board of Adjustment shall be to the Henderson County Superior Court.

9 -- Administrative Approval of Minor Works

Notwithstanding Sections 1 through 7, above, upon receipt of a completed application, the Commission Coordinator may issue a Certificate of Appropriateness on behalf of the Commission for minor works when it is in conformance with the development standards cited in Hendersonville City Code, Chapter 28. *(amended 6.21.2006)*

Minor works are defined in Hendersonville City Code, Section 28-153 and are further described, but not limited to, the following: *(added 6.21.2006)*

1. *Fences and Walls:* Fences or low walls of wood, stone, brick or cast iron, which comply with the Design Guidelines; chain link fences may be permitted in side or rear yards if they cannot easily be seen from a street. *(added 6.21.2006)*
2. *Landscaping Projects:* Heavy pruning or removal of hedges, large shrubs or trees 6" and larger in diameter; construction or replacement of brick or stone retaining walls; construction or replacement of patios which cannot easily be seen from a street; walks and driveways made of brick, stone, concrete or gravel; removal of dead or diseased trees or trees where the roots or limbs are causing damage to a house; new parking areas which are located to the rear of buildings, are not easily visible from a street and which are screened from adjoining properties with fencing or plant materials. *(added 6.21.2006)*
3. *Roof Construction:* Replacement of asphalt or fiberglass roof coverings with new dark color asphalt or fiberglass shingles; replacement of slate, tile or membrane roof covering where there is no change in materials. Installation of rooftop mounted utility, access, or safety structures that are not visible from a street. *(added 6.21.2006, amended 12.19.2007, 7.15.2009)*
4. *Installation of Mechanical and Utility Equipment:* Installation of mechanical and utility equipment including but not limited to heating and air conditioning units which cannot easily be seen from a street or which are screened from view with shrubbery or appropriate fencing, or are installed on the side or rear of a building in the Main Street Local Historic District. *(added 6.21.2006, amended 1.15.09)*

5. *Foundation Repairs:* Repair or replacement of masonry foundations where the original foundation material is retained or where new material matches the original as closely as possible; installation of metal foundation vents (on sides and rear only) and replacement of wood access doors which cannot easily be seen from a street. *(added 6.21.2006)*
6. *Masonry Repairs:* Repainting and other masonry repairs when the color and composition of the mortar matches the original and new brick or stone matches the original as closely as possible. *(added 6.21.2006)*
7. *Exterior Lighting Fixtures:* Lighting fixtures which cannot easily be seen from a street or are similar to those existing in the District. *(added 6.21.2006)*
8. *Awnings:* Addition, removal or replacement of cloth, canvas, or acrylic awnings. *(added 6.21.2006)*
9. *Small Identification Signs:* Signs made of wood or metal nine square feet or smaller in size.
10. *Removal of Artificial Siding:* Total removal of asbestos, asphalt or other artificial siding when the original siding is to be repaired and repainted. Replacement with siding other than the original constitutes a major work. *(added 6.21.2006)*
11. *Replacement of Exterior Stairs, Landing, Steps and Entryways:* Repair or replacement of exterior stairs, steps, ramps or flooring which are made of masonry, rock, painted wood or comparable materials and are similar to styles found in the District. Install new exterior stairs, landings, or steps in the Main Street Local Historic District on side or rear facades that are not visible from King Street, Church Street, or an avenue. *(added 6.21.2006, amended 12.19.2007, 7.19.2009)*
12. *Replacement of Missing Details:* Replacement of missing or deteriorated siding and trim, porch floors, ceilings, columns and balustrade or other architectural details with new materials identical to the original details. *(added 6.21.2006)*
13. *Upper Façade Windows:* Replacement of deteriorated upper façade windows in the Main Street Local Historic District. *(added 6.21.2006, amended 1.19.2009)*
14. *Removal of Accessory Buildings:* Removal of deteriorated accessory buildings which are not original to the site or otherwise historically significant and which cannot be easily seen from a street. *(added 6.21.2006)*
15. *Accessibility for People with Disabilities:* Installation of a temporary structure designed to promote safe access for individuals with disabilities. *(added 7.19.2009)*

16. *Decks*: Installation of a deck in the Main Street Local Historic District on the rear of a building that is not visible from King Street, Church Street, or an avenue. *(added 7.19.2009)*
17. *Other Minor Construction*: Other minor construction not easily visible from a street.

10 - Time Limits for Approved Applications

If an application for a certificate of appropriateness is approved, it shall be valid for a period of six months (or one year here if desired) from the date of issuance. Failure to complete the project, receive a zoning permit, building permit, or other applicable permit if needed for the work proposed, within the six month period directly following issuance shall warrant the certificate of appropriateness null and void. *(added 6.21.2006)*

Applicants may request time extensions for certificates of appropriateness based on the following: If an application was previously approved by the members of the Commission and not by the Coordinator, time extension requests must be received by the Development Assistance Department within the original six month period of issuance and then approved by the Commission at their next regularly scheduled meeting. If the applicant fails to request renewal of a certificate of appropriateness within the initial six month after approval, the project must be resubmitted to the Commission. A certificate of appropriateness for a minor work may be renewed for six months by the Coordinator upon written request of the applicant if the request is received, by the Development Assistance Department, within the initial six month time period of approval. *(added 6.21.2006)*

ARTICLE X
APPLICATION HEARINGS

1 – Consideration of Applications for a Certificate of Appropriateness

Any person with an interest in the application may appear and present a case personally, by agent, or attorney at the meeting. All persons-presenting testimony regarding an application shall be sworn as required by law. Any interested person may cross examine all persons giving testimony and may inspect documents presented to the Commission. *(amended 6.21.2006)*

The Chairperson may order the hearing in any reasonable way consistent with the requirements of due process. The following order shall be deemed acceptable as a guide: *(amended 6.21.2006)*

1. Potential witnesses shall be sworn.
2. The Chairperson or a designee may summarize the application.
3. Hendersonville historic preservation staff may be invited to comment on the application.
4. The applicant may give testimony, subject to cross examination.

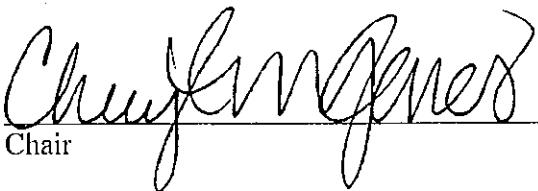
- 5. Other persons supporting the application may give testimony, subject to cross examination.
- 6. Persons not supporting the application may give testimony, subject to cross examination.
- 7. The Chairperson may permit or request arguments if clarification is required.

2 - Powers of the Chairperson to Manage the Hearing

The Chairperson shall, subject to the requirements of due process and subject to being overruled by a majority of the members present at the hearing, have plenary powers to manage the hearing on an application. The Chairperson shall in all cases require testimony to be sworn and permit interested persons to cross examine witness and inspect tendered documents, but may otherwise restrict testimony and cross examination in any reasonable way. *(added 6.21.2006)*

ARTICLE XI
AMENDMENTS

These rules may be amended or rescinded from time to time by a vote of a majority of regular members of the Commission but any such change shall conform to City of Hendersonville ordinance and applicable law. Any proposed amendment may be read at any meeting. Final vote thereon, shall take place, if at all, not earlier than ten days nor later than seventy days following the initial reading. *(added 7.15.2009)*


Chair

Adopted 4.19.1995	Revised 10.16.1996
	10.21.2004
	6.21.2006
	7.19.2007
	8.20.2008
	7.15.2009
	9.16.2009
	5.19.2010
	5.17.2017

Date of Application

7/24/2022

Select Board/Commission/Committee

Planning Board

Name

Neil Brown

Do you reside within
Hendersonville's City
limits?

Yes

Street Address

849 Sandburg Ter, Hendersonville, North Carolina 28791-2992

Mailing Address (If Different)

849 Sandburg Ter,
Hendersonville, North Carolina
28791-2992

Phone

(614) 946-4614

Email

ndbrown1701@gmail.com

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-profits ect.

Sustainability Committee of the Hendersonville City ESB
Henderson County Environmental Advisory Board

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

B.S. Cornell University, Agricultural Economics
MBA, Boston College, Quantitative Marketing and Corporate Finance

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

As I am nearing the end of my first term on the City Planning Board, I am now understanding the issues, latitude, and dynamics that must be considered when making PB recommendations to City Council. With that "training" behind me, I would like to earn a second term in order to provide input for both the new Comprehensive Plan for the City, and to participate in overdue wholesale reviews of the overall zoning code.

For reporting purposes, please select how you
identify.

Male

Race: For purposes of diversity and inclusion please identify your
race.

White

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[The training video is available here.](#)

Signature- I hereby affirm that, to the best of my knowledge, the information provided on this application is true and accurate. I also acknowledge upon appointment to an advisory board I will view the Advisory Board Training Video, Handbook & Code of Ethics on the City's website and agree to abide by its tenants.

Section 10, Item A.

A handwritten signature in dark ink, consisting of a series of loops and strokes, positioned above a horizontal line.

Date of Application

7/13/2022

Select Board/Commission/Committee

Planning Board

Name

Peter Hanley

Do you reside within
Hendersonville's City
limits?

Yes

Street Address

1507 Greenville Hwy, Hendersonville, North Carolina 28739

Mailing Address (If Different)

115 E Caswell St,
Hendersonville, North Carolina
28792

Phone

(828) 606-6712

Email

hendrealinc@yahoo.com

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-profits ect.

Have applied for a Board of Adjustment seat.

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

Hendersonville Board of Realtors-Board Member; Hendersonville Real Estate Broker for 25 years

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

On the Planning Board currently this is a renewal

For reporting purposes, please select how you identify.

Male

Race: For purposes of diversity and inclusion please identify your race.

White

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[The training video is available here.](#)

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Date of Application

12/9/2022

Select Board/Commission/Committee

Planning Board

Name

LAURA FLORES

Do you reside within
Hendersonville's City
limits?

Yes

Street Address

832 4TH AVE WEST, HENDERSONVILLE, North Carolina 28739

Mailing Address (If Different)

Phone

(828) 329-9397

Email

LAURA@NEXTHOMEWNC.COM

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-profits ect.

BOARD OF ADJUSTMENT

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

BA University of Southern California. Broker/Owner NextHome WNC Realty. Historic Home Restoration.

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

16 years experience real estate brokerage

For reporting purposes, please select how you identify.

Female

Race: For purposes of diversity and inclusion please identify your race.

White

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Date of Application

12/9/2022

Select Board/Commission/Committee

Planning Board

Name

Stuart Glassman

Do you reside within
Hendersonville's City
limits?

Yes

Street Address

1215 Lugano Drive, Hendersonville, North Carolina 28791

Mailing Address (If Different)

Phone

(828) 243-1471

Email

doctorglassman@gmail.com

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-profits ect.

Planning Board

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

I've been on Planning Board for several months and would like to continue.

College: University of Illinois with BA in Political Science

Medical School: University of Miami with MD

Retired from General and Peripheral Vascular surgery in 2020 after 50 years of training and practice.

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

I've lived and worked in Hendersonville for ~40 years. I'm a voice as a long term resident and I'm not a developer, builder or real estate agent.

For reporting purposes, please select how you identify.

Male

Race: For purposes of diversity and inclusion please identify your race.

White, Jewish

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Signature- I hereby affirm that, to the best of my knowledge, the information provided on this application is true and accurate. I also acknowledge upon appointment to an advisory board I will view the Advisory Board Training Video, Handbook & Code of Ethics on the City's website and agree to abide by its tenants.

Stuart Glassman, MD

Date of Application

10/5/2022

Select Board/Commission/Committee

Planning Board

Name

Yolanda Robinson

Do you reside within
Hendersonville's City
limits?

Yes

Street Address

1205 Pinebrook Circle, Hendersonville, North Carolina 28739

Mailing Address (If Different)

Phone

(856) 217-3942

Email

yolandamrobinson@gmail.com

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-profits ect.

TDAC-not for profit board member

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

Doctorate in Clinical Social Work, Masters in Clinical Social Work, researcher for Knox HMIS, research for Department of Defense

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

I am dedicated to continuing the city of Hendersonville's strong growth into the future. This means assuring that planning is approached with a strong strategic eye toward maintaining the family values of the town while still encouraging healthy business development.

For reporting purposes, please select how you identify.

Female

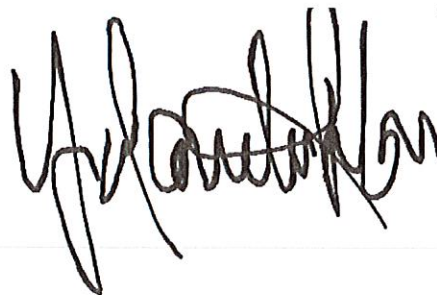
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White

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Entry #: 284 - 9/27/2022

Status: Submitted

Submitted: 9/27/2022 4:17 PM

Section 10, Item A.

Date of Application

9/27/2022

Select Board/Commission/Committee

Planning Board

Name

Samantha R Jamison

Do you reside within
Hendersonville's City
limits?

Yes

Street Address

810 Knollwood Drive, Hendersonville, North Carolina 28791

Mailing Address (If Different)

Phone

(828) 490-7710

Email

sjamison1023@gmail.com

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-proffits ect.

None

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

I am building a career in public service - most recently I worked in a project coordinator/public relations role at Smart Start Partnership for Children (an early childhood advocacy nonprofit), and I currently serve on the United Way Rising Leaders planning committee, as well as the WNC Budding Futures Forum (an advocacy forum for young children and their families). I graduate with a Master's in Public Affairs this December from WCU, and am highly interested in serving our community through public policy. I also belong to the Association of Public Policy Analysis and Management.

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

I'm new to public service, compared to some, but I've got a lot of energy and drive to contribute to my community and serve my neighbors. Hendersonville is my family's home and it has offered myself and my children so much, and I want to do my part in maintaining the community this beautiful city fosters while adding to the voices making smart decisions about its necessary growth. I'm a critical thinker who keeps the bigger picture in mind as I dig in the weeds, I'm motivated to serve, and I love a good challenge. I think you'll find me a great asset to the planning board should you chose to accept my application. Thank you so much for your consideration.

For reporting purposes, please select how you identify.

Female

Race: For purposes of diversity and inclusion please identify your race.

White

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Section 10, Item A.

Samantha Jamison

**CITY OF HENDERSONVILLE
PLANNING BOARD**

RULES OF PROCEDURE
As Originally Adopted 18 December 1995

With Amendments Through: 12 June 2017

Article I. Name

The name of this organization is the City of Hendersonville Planning Board, hereinafter referred to as the "Board."

Article II. Purpose and Powers

The purpose of the Board is to function as the planning agency for the City of Hendersonville and to exercise all powers and duties specified by Section 40-39 of the Code of Ordinances of the City of Hendersonville, as such may be amended from time to time, and to fulfill such other responsibilities as may otherwise be delegated to the Board by City Council.

Article III. General Rules

The Board shall be governed by the Ordinances of the City of Hendersonville, the Laws of the State of North Carolina and these rules of procedure. The Chair may from time to time refer to rules set forth in the current edition of *Suggested Rules of Procedure for Small Local Government Boards* to assist in the running of orderly meetings.

Article IV. Jurisdiction

The Board's jurisdiction shall apply equally within the City limits and the City's area of extraterritorial jurisdiction.

Article V. Organization

Section 1. Membership. The Board shall consist of ten members, seven of whom shall be residents of the City of Hendersonville; the other three shall be residents of the City's extraterritorial jurisdiction. The members who reside in the extraterritorial jurisdiction shall be entitled to equal rights, privileges and duties with other members of the board regardless of where the matters at issue arise.

Section 2. Officers. At its January meeting each year, the Board shall elect a chair and vice-chair for the coming year. The chair and vice chair shall hold office for one year and shall be eligible for reelection. The chair shall preside over all meetings of the Board. The vice-chair shall assist the chair and shall serve as acting chair in the absence of the chair. If the chair is vacated the vice-chair shall become the chair for the remainder of the vacated term.

Section 3. Attendance at Meetings. Any member who misses more than three consecutive regular meetings or more than one-half the regular meetings actually held in a calendar year shall by that fact cease to be a Board member. A vacancy created under this Section 3 shall be treated as any other vacancy for purposes of filling the vacated seat.

Section 4. Conflict of Interest. No Board member shall take part in the hearing, consideration, or deliberation of any case or matter before the Board in which the Board member, or any member of the Board member's family, either directly or indirectly, is a party or has any financial interest.

Section 5. Committees. The Board shall have such standing committees as it finds necessary and convenient. In addition the chair may create ad hoc committees.

The chair shall designate the membership of all committees. The chair shall be either an active or ex officio member of all committees.

VI. Meetings

Section 1. Regular Meetings. The Board shall hold a regular meeting on the second Monday of each month or at such other time as it may find convenient.

Section 2. Special Meetings. The chair may call special meetings. A majority of the Board may by written demand of a majority of its members call a meeting. Written notice of a special meeting shall be provided to all members at least one week in advance of the meeting.

Section 3. Cancellation of Meetings. Whenever there is no business for the Board the chair may cancel a meeting, by giving notice to all members not less than twenty-four hours before the time set for the meeting. In the event of severe weather or other sufficient cause the chair may cancel a meeting by giving reasonable notice to all members before the time set for the meeting. In the case of a meeting called by a majority of the Board the chair may cancel the meeting only upon the concurrence of a majority of the Board.

Section 4. Quorum. A majority of members shall constitute a quorum for the conduct of business of the Board or of any committee.

Section 5. Conduct of Meetings. All meetings shall be noticed and open to the public as provided by law. Any person who may be substantially affected by final action in any matter that comes before the Board may appear in person or by agent or attorney to make presentations respecting any such matter. The Chair may impose reasonable restraints on presentations.

Section 6. Voting. Members must be present to vote on any matter. Except as may be otherwise required by these rules or other prevailing law, any motion to be carried must have the vote of the majority of members actually voting. The chair shall be eligible to vote as any other member.

Section 7. Electronic notice. Notice to a member conforms to a requirement of these rules to be in writing if sent by electronic mail to an electronic address provided by the member and not returned to the sender with an error message.

Article VII. Public Hearings

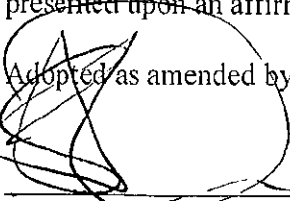
Section 1. Conduct of Hearings. The Board may conduct public hearings to fulfill its responsibilities as specified in Section 40-40 of the Code of Ordinances of the City of Hendersonville. The chair shall preside at all hearings and unless overruled by a majority of the board shall have plenary power to limit presentations in the interest of brevity, clarity, fairness or other considerations. "Limit" in this sense shall be construed broadly, and shall include the power to provide for the representation of groups by spokespersons.

Section 2. Review of Zoning Amendments. The Board shall advise and comment on whether any proposed zoning amendment is consistent with the 2010 Comprehensive Plan, any other comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Board shall provide a written recommendation to City Council that addresses plan consistency and other matters as deemed appropriate by the Board.

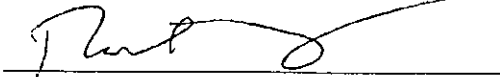
Article VIII. Amendments

These rules may be amended at any meeting after the meeting at which the amendment is first presented upon an affirmative vote of not fewer than six members of the Board.

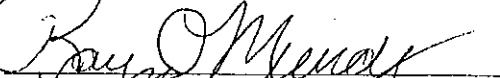
Adopted as amended by at least six members of the Board this 12th day of June 2017.



Board chair



Board member



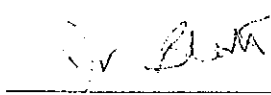
Board member



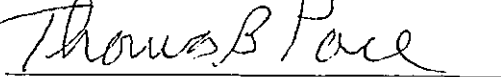
Board member



Board member



Board vice chair



Board member



Board member



Board member



Board member

Date of Application

9/26/2022

Select Board/Commission/Committee

Tree Board

Name

Lauren Redfern

Do you reside within
Hendersonville's City
limits?

Yes

Street Address

627 5th Ave West, Hendersonville, North Carolina 28739

Mailing Address (If Different)

627 5th Ave West,
Hendersonville, North Carolina
28739

Phone

(828) 676-9125

Email

l_redfern@webmail.blueridge.edu

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-profits ect.

None at this time

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

20+ years in administrative assistance positions. My work with the Hendersonville Rescue Mission. My heavy involvement in churches in our community. Community service work. I am currently enrolled in Blue Ridge Community College majoring in human services concentration in substance abuse and recovery

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

Hendersonville would benefit from having me involved because I am passionate about serving my community. Through Christ I can do all things. Using my gift God gave me including, communication, people skills, positive outlook on life and ability to add empathy.

For reporting purposes, please select how you identify.

Female

Race: For purposes of diversity and inclusion please identify your race.

Slavic

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Signature- I hereby affirm that, to the best of my knowledge, the information provided on this application is true and accurate. I also acknowledge upon appointment to an advisory board I will view the Advisory Board Training Video, Handbook & Code of Ethics on the City's website and agree to abide by its tenants.



****In order for City Council to consider vacancies at their June 2023 meeting, applications are due Friday, May 5, 2023 at 5:00 p.m.****

Date of Application

10/20/2022

Select Board/Commission/Committee

Tree Board

Name

Rebecca (Becca) G Doll

**Do you reside within
Hendersonville's City
limits?**

No

Street Address

42 Skyland Drive, Pisgah Forest, North Carolina 28768

Mailing Address (If Different)

Phone

(828) 384-4170

Email

bdoll@bartlett.com

The tree board is composed of seven (7) members, at least four (4) of whom must be residents of the territory subject to the zoning jurisdiction of the city or own property in the city. Membership is appointed by the City Council.

Tree Board

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-profits ect.

None

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

International Society of Arboriculture (ISA) Certified Arborist #SE-10640A, CTSP (Certified Tree Care Safety Professional), and TRAQ (Tree Risk Assessment Qualification)

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

I have been an arborist for five years with Bartlett Tree Experts. I service the Hendersonville and Flat Rock area. I would like to help the board with consulting on any horticultural or arboricultural projects. I am happy to help provide advice and input on any issues or projects. I am a great team player and would like to give back to the community in a tangible way.

For reporting purposes, please select how you identify.

Female

Race: For purposes of diversity and inclusion please identify your race.

White

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Section 10, Item A.

Becca Doll

****In order for City Council to consider vacancies at their June 2023 meeting, applications are due Friday, May 5, 2023 at 5:00 p.m.****

Date of Application

11/15/2022

Select Board/Commission/Committee

Tree Board

Name

Serena (Arias) E Crismali

**Do you reside within
Hendersonville's City
limits?**

Yes

Street Address

697 Courtney Dr, Hendersonville, North Carolina 28792

Mailing Address (If Different)

Phone

(570) 369-6355

Email

ARCrismali@gmail.com

The tree board is composed of seven (7) members, at least four (4) of whom must be residents of the territory subject to the zoning jurisdiction of the city or own property in the city. Membership is appointed by the City Council.

Tree Board

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-proffits ect.

N/A

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

Worked with the early planning of an Arboretum including identifying local flora, planning a pathway, and expanding plant diversity. I took part in Civil Air Patrol learning about the inner workings of the military and community service. I am working on getting a degree in Biological Science to reflect my passion for nature and I hope to apply that in local government.

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

I am new to the area and very much want to immerse myself in the community and local government. I have observed the governings of small towns to large cities and would like to apply the knowledge I have obtained to Hendersonville.

For reporting purposes, please select how you identify.

Non-binary

Race: For purposes of diversity and inclusion please identify your race.


Hispanic

The City Council adopted a Code of Ethics for Advisory Boards/Commissions/Committees as well a Handbook. All persons appointed to City advisory boards must sign acknowledgement of this document. [You may view the Handbook and Code of Ethics Resolution and other information here.](#)

[The training video is available here.](#)

Signature- I hereby affirm that, to the best of my knowledge, the information provided on this application is true and accurate. I also acknowledge upon appointment to an advisory board I will view the Advisory Board Training Video, Handbook & Code of Ethics on the City's website and agree to abide by its tenants.

Section 10, Item A.

A handwritten signature in black ink, appearing to be 'Noi', written on a horizontal line.

****In order for City Council to consider vacancies at their June 2023 meeting, applications are due Friday, May 5, 2023 at 5:00 p.m.****

Date of Application

12/20/2022

Select Board/Commission/Committee

Tree Board

Name

Joseph R Peiso

**Do you reside within
Hendersonville's City
limits?**

No

Street Address

169 Plantation Dr., Hendersonville, North Carolina 28792

Mailing Address (If Different)

169 Plantation Dr.,
Hendersonville, North Carolina
28792

Phone

(828) 513-6235

Email

jpeiso@icloud.com

The tree board is composed of seven (7) members, at least four (4) of whom must be residents of the territory subject to the zoning jurisdiction of the city or own property in the city. Membership is appointed by the City Council.

Tree Board

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-proffits ect.

Upaya Holdings, Inc. - I currently serve on the board of a start up beverage company

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

BSA - Accounting - University of Florida
Charter Property Casualty Underwriter
Florida CPA since 1982
FI Licensed General Lines Insurance Agent
NC Licensed Real Estate Broker

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

I believe my financial and risk management experience would contribute to the effective operation of this Board and our city.

For reporting purposes, please select how you identify.

Male

Race: For purposes of diversity and inclusion please identify your race.

Hispanic, White

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[The training video is available here.](#)

Signature- I hereby affirm that, to the best of my knowledge, the information provided on this application is true and accurate. I also acknowledge upon appointment to an advisory board I will view the Advisory Board Training Video, Handbook & Code of Ethics on the City's website and agree to abide by its tenants.

Section 10, Item A.

Joseph Peiso

**CITY OF HENDERSONVILLE
TREE BOARD
Bylaws**

Article I. Name

The name of this organization is the City of Hendersonville Tree Board, hereinafter referred to as the “Board.”

Article II. Purpose and Powers

The purpose of the Board is to function as the planning agency for the City of Hendersonville and to exercise all powers and duties specified by Chapter 46 Article IV Division 2 of the Code of Ordinances of the City of Hendersonville, as such may be amended from time to time, and to fulfill such other responsibilities as may otherwise be delegated to the Board by City Council. All provisions of these bylaws are subject to the Hendersonville City Code of Ordinances and the General Statutes of North Carolina, and in the case of any conflict the provisions of those laws prevail over these bylaws.

Article III. General Rules

The Board shall be governed by the Ordinances of the City of Hendersonville, the Laws of the State of North Carolina and these bylaws. The Chair may from time to time refer to rules set forth in the current edition of *Suggested Rules of Procedure for Small Local Government Boards* to assist in the running of orderly meetings.

Article IV. Jurisdiction

The Board’s jurisdiction shall apply equally within the City limits and the City’s area of extraterritorial jurisdiction.

Article V. Organization

Section 1. Membership. The Tree Board board shall consist of seven members, at least four of whom shall be residents of the City of Hendersonville. All members shall be entitled to equal powers, privileges and duties in all matters.

Section 2. Officers. At its January meeting each year, the Board shall elect a chair for the coming year. The chair shall hold office for one year and shall be eligible for reelection. The chair shall reside within the corporate limits of the City of Hendersonville. The chair shall preside over all meetings of the Board. If the chair is vacated the Board shall elect a new chair. In the absence of the chair the Board shall select from among themselves a member to preside at a meeting.

Section 3. Attendance at meetings. Any member who misses more than three consecutive regular meetings or more than one-half the regular meetings actually held in a calendar year shall

by that fact cease to be a Board member. A vacancy created under this Section 3 shall be treated as any other vacancy for purposes of filling the vacated seat.

Section 4. Conflict of Interest. No Board member shall take part in the hearing, consideration, or deliberation of any case or matter before the Board in which the Board member, or any member of the Board member's family, either directly or indirectly, is a party or has any financial interest.

Section 5. Committees. The Board shall have such standing committees as it finds necessary and convenient. In addition the chair may create ad hoc committees.

The chair shall designate the membership of all committees. The chair shall be either an active or ex officio member of all committees.

VI. Meetings

Section 1. Regular Meetings. The Board shall hold a regular meeting on the first Tuesday of each month or at such other time as it may find convenient.

Section 2. Special meetings. The chair may call special meetings. A majority of the Board may by written demand of a majority of its members call a meeting. Written notice of a special meeting shall be provided to all members at least one week in advance of the meeting.

Section 3. Cancellation of Meetings. Whenever there is no business for the Board the chair may cancel a meeting, by giving notice to all members not less than twenty-four hours before the time set for the meeting. In the event of severe weather or other sufficient cause the chair may cancel a meeting by giving reasonable notice to all members before the time set for the meeting. In the case of a meeting called by a majority of the Board the chair may cancel the meeting only upon the concurrence of a majority of the Board.

Section 4. Quorum. A majority of members shall constitute a quorum for the conduct of business of the Board or of any committee.

Section 5. Conduct of Meetings. All meetings shall be noticed and open to the public as provided by law. Any person who may be substantially affected by final action in any matter that comes before the Board may appear in person or by agent or attorney to make presentations respecting any such matter. The Chair may impose reasonable restraints on presentations.

Section 6. Voting. Members must be present to vote on any matter. Except as may be otherwise required by these rules or other prevailing law, any motion to be carried must have the vote of the majority of members actually voting. The chair shall be eligible to vote as any other member.

Section 7. Electronic notice. Notice to a member conforms to a requirement of these rules to be in writing if sent by electronic mail to an electronic address provided by the member and not returned to the sender with an error message.

Article VII. Amendments

These rules may be amended at any meeting after the meeting at which the amendment is first presented upon an affirmative vote of not fewer than six members of the Board.

Adopted as amended by at least six members of the Board this ____ day of _____ 2017.

Board chair

Board member

Board member

Board member

Board member

Board member

Board member



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Connet **MEETING DATE:** 01/05/2023
AGENDA SECTION: BOARD AND COMMISSION **DEPARTMENT:** Administration
APPOINTMENTS
TITLE OF ITEM: Parks & Recreation Master Plan Committee – *John Connet, City Manager*

SUGGESTED MOTION(S):

I move that the City Council appoint the following individuals to the Parks & Recreation Master Plan Committee.

SUMMARY:

Staff is requesting that each City Council member appoint one representative to the Parks & Recreation Master Plan Committee.

BUDGET IMPACT: \$ TBD

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS:

None



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

SUBMITTER:

John Connet

MEETING DATE:

1/5/2023

AGENDA SECTION:

CLOSED SESSION

DEPARTMENT:

Administration

TITLE OF ITEM:

Closed Session – *John Connet, City Manager*

SUGGESTED MOTION(S):

I move that City Council enter closed session pursuant to NCGS § 143-318.11 (a) (1), (4) and(6) to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes, to discuss matters relating to the location or expansion of industries and businesses in the area served by the public body and to consider the qualifications, competence, performance and character, fitness conditions of an individual public officer.

SUMMARY:

City staff is requesting a closed session to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes, to discuss matters relating to the location or expansion of industries and businesses in the area served by the public body and to consider the qualifications, competence, performance and character, fitness conditions of an individual public officer

BUDGET IMPACT: \$ TBD

Is this expenditure approved in the current fiscal year budget? NA

If no, describe how it will be funded. NA

ATTACHMENTS:

None