



CITY OF HENDERSONVILLE JUNE 1 DOWNTOWN COMMUNITY CHARACTER TEAM



(Virtual) Downtown Program Offices - 125 5th Avenue W.
Tuesday, June 01, 2021 – 9:00 AM

AGENDA

1. **CALL TO ORDER**
2. **APPROVAL OF AGENDA**
3. **APPROVAL OF MINUTES**

A. **Approval of April 2021 Community Character Minutes**

4. **Staff / Workplan Updates**
5. **NEW BUSINESS**

A. **Review Proposals for 7th Avenue Branding**

A) Table overview of 8 proposals, RFP and Q&A is included in agenda packet

B) Proposals can be found on this public folder: https://hvlncgov-my.sharepoint.com/:f/g/personal/jcarpenter_hvlnc_gov/EmQigGuNZYxJq-hSoZ91oiQBtdwU5OwES99wujU2C12vmQ?e=w9MJzb

C) Pre meeting- rank proposals via survey: <https://survey123.arcgis.com/share/81bd68526d1e47818d08916481a66f94>

D) Process for discussion:

1. Before discussing individual proposals, team should come to consensus on outcomes for the entire process.
2. Review Ranking Survey Community Character Team and Staff voted.
3. Any stand outs or can we eliminate some proposals?

B. **Sidewalk Dining Text Amendment - Adding 7th Avenue**

Review and discuss proposed updates to sidewalk dining text amendment to change the area allowed to include "all municipal service districts" instead of just "central business district".

6. **OTHER BUSINESS**
7. **ADJOURNMENT**
- 8.

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 DOWNTOWN COMMUNITY CHARACTER MEETING - MAY

125 5th Avenue W, Hendersonville, NC 28792
Tuesday, May 04, 2021 – 9:00 AM



MINUTES

1. CALL TO ORDER

In attendance: Caroline Gunther, Patsy DuPre, Michele Sparks, Matthew Hickman attended virtually. Chris Cormier joined the meeting virtually.

Also on the call were: Lyle Chariff and Jill Dunlap.

Dennis Dunlap was present in person.

2. APPROVAL OF MINUTES

1. April 2021 Community Character Team Minutes

Caroline Gunther made a motion to approve the April 2021 minutes, Patsy Dupre Seconded. Michele, Matthew, Caroline and Patsy were all in favor.

3. OLD BUSINESS

1. Community Character Workplan / Project Updates

Jamie Carpenter, Downtown Manager updated on several downtown community character projects:

- Pressure Washing will occur on Main Street in May. There was discussion among the team about more frequent pressure washing. Pressure washing all of Main Street costs between \$6,000-\$10,000 each time. We typically pressure wash after the Apple Festival but had remaining budget to do it this month since the Apple Festival did not occur. Future budgets may include more going toward public works which could support a regular power washing schedule.
- The Depot area was cleaned up, with the tree removed to make more room in the plaza. Hanging baskets will go on the Depot instead of light posts on Maple Street because public works cannot easily access those poles to water.
- Proposals are coming in for the 7th Avenue Branding project.

4. NEW BUSINESS

1. Facade Grant Application - 330 7th Avenue E

The team reviewed the proposal presented by Dennis Dunlap and Lyle Charriff (property owner) for 330 7th Avenue E.

Caroline Gunther made a motion to recommend this facade grant application. Matthew Hickman seconded. Caroline, Matthew, Michele, Patsy and Chris Cormier were all in favor.

5. OTHER BUSINESS

6. ADJOURNMENT

7.

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Final Round Review - 7th Avenue Branding Proposals

Firm Name	full service firm (does downtown/community planning and design in addition to branding)	Contact Name	Firm Location	Proposal Price	Relevant Experience	Proposal includes diversity/inclusion in employees or staffing. NOTE: If space is blank it does not mean they are not diverse, just that it isn't explicitly indicated.
Blueprint	N	Matthew Potts	Raleigh, NC	7975	Looks like they have significant experience in place branding. Not downtowns specifically but county economic development and tourism	
Arnett Muldrow	y	Tripp Muldrow	Greenville, SC	10500	designed the H logo for downtown hendersonville many years ago	
Chandlerthinks	N - but downtown/community branding specific firm	Steve Chandler	Franklin, TN	13850	yes - is specifically a place marketing firm	
Destination by Design	y	Matt Powell	Boone, NC	15,000	yes - is specifically a place marketing firm. attends/exhibits at NC Main street conference	
Trio	N	Jessica Munday	Mount Pleasant, SC	14,000	specialties in municipalities and tourism	certified woman owned business
Mosaic	y	Taylor Broyhill	Boone, NC	see menu	worked in laurel park, brevard, morganton, brevard gateway signage. Belmont NC branding	
Motley	N - does not do comprehensive/downtown planning but does do economic development planning and has a strong focus on diversity/equity	Chelsea Glen Dickey	Greensboro, NC	14865	nice community branding examples (gibsonville train example)	woman owned/diverse team
Summit Marketing	n, but collaborates with our landscape design firm	Chris Burns	Hendersonville, NC	see proposal breakdown	LOCAL FIRM - works with Watermark landscape - collaboration on gateway signage	

RFP: Branding of 7th Avenue District

The City of Hendersonville Community Development Department desires to establish a new logo to be utilized in marketing and building a stronger awareness of the unique qualities of the 7th Avenue District. The department is seeking a qualified design firm that can utilize a collaborative process with integrated community engagement that identifies a brand for the 7th avenue district within the context of existing downtown branding.

District Background

The 7th Avenue District is a historic hub of commerce in Hendersonville, serving as a primary gateway into the city during the late 1800's and early 1900's. The district was built around the train with the historic depot (1879) being the center of activity. The loss of passenger rail service, changing retail trends and road projects led to less prominent role in the local economy beginning the 60's. These changes precipitated a lack of investment in the district and the associated deterioration of many of the commercial properties around the depot.

In 1998, the Historic Seventh Avenue District established a municipal service district to generate investment into the district as an independent nonprofit. In 2015/2016 the non-profit and associated Board became a component of the Downtown Economic Development department within the City. While the district has a more industrial setting than Main Street, the non-profit had done much to support a variety of businesses and several unique but underused properties.

In more recent years, infrastructure and event improvements have been made in the district. Maple Street was renovated in 2018 with the Hendersonville Farmers Market opening in 2020 along that enhanced corridor. With the intention of generating traffic and awareness of the district in addition to offering fresh produce, the market has been a tremendous success and valuable brand component for the district. Beginning in late 2021, a \$1.3 million streetscape project will begin, while the police department will relocate to a brand-new facility immediately adjacent to the district.

Running parallel to this public sector driven improvement, the private sector has also been busy, with several properties changing hands and new businesses being generated, all of which has added to energy in the district and the draw of the district for visitors and residents alike. This including 3 breweries, Underground Bakery and White Duck Taco Shop, among others.

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DOWNTOWN PROGRAM OFFICES
125 5TH AVENUE W
HENDERSONVILLE, NC 28792

Current Overall materials: Different variations of the “H” logo are used for downtown and city wide branding. We are not seeking to replace the “H” Logo, and foresee that being used as a way to connect both districts by brand. The “H” logo is used on city furniture, tree grates, etc.



Past 7th Avenue Logo:



Project Overview

Efforts have been made to brand the overall Downtown as being inclusive of both the Main Street and Seventh Avenue Districts. The ideal branding would elevate the distinct features of Seventh Avenue as a niche while still being a part of the overall downtown district. The final deliverables would include a branding position for the district that fits within the downtown context, including a logo that can be adapted into a variety of media. The branding would also help to inform gateway signage that will be incorporated into the scope of work for the streetscape improvements.

Goals of the project:

1. **District and Community Input:** Department staff can assist with development of digital (survey) and facilitating focus groups or public input to gain buy in for the district’s brand. This input may also be used as a primer for additional community discussions and master planning processes.
2. **Brand Position and Naming:** The district currently is referred to as a few combinations of names (Historic 7th Avenue District, 7th Avenue Historic District, 7th Avenue Depot District, Historic 7th Avenue Depot District, and a combination of using the numerical 7 and spelled “seventh”). The final project should result in a determined name for the district.



- 3. District Logo:** A district logo that is complementary to the Downtown “H” and which can be used for a variety of functions, including signage and marketing collateral.

Scope of Work:

Develop a brand theme and logo for the Seventh Avenue District in Hendersonville, NC

The scope of the project will extend from concept to completion and shall include:

- An outline for public input that includes price breakout and areas department staff will be needed for support or facilitation.
- A simple brand story or theme outline that includes a brief summary for how that brand was developed by a public input process, and any additional recommendations.
- A logo design that can be adapted for multiple formats, including:
 - Full color version on black, white and transparent background
 - Single color version on black, white and transparent background
 - Grayscale version on black, white and transparent background
 - Horizontal and vertical layout (if necessary)
 - High resolution vector logo that can be scalable and includes layered images of the final approved logo, as well as flattened images in .jpeg, .png and pdf formats.
- Consultation on style for gateway signage that will be installed as a part of the streetscape improvement that fits within the context of the brand story.

Target Deliverable Schedule:

Questions may be emailed to Jamie Carpenter, Downtown Manager at jcarpenter@hvlnc.gov until May 14 2021. All questions will be answered by the end of day May 18, 2021.

Proposals are due in electronic format to jcarpenter@hvlnc.gov by 5pm on May 21, 2021. Proposals will be reviewed by the downtown Community Character Team and Staff on June 1 and final proposals will be voted on by the Downtown Advisory Board June 8, 2021.

Public input should take place between July and September 2021, with a draft due to Downtown Program Staff in September with a **final target project completion by October 8.**

If the timeline needs to be adjusted, please include those adjusted dates in your proposal.



Budget Constraints:

Target budget for this project is between \$5,000 and \$15,000. Please include cost breakout in the proposal, with options that may be reduced by support from downtown program staff (ie. Coordinating or facilitating meetings, survey design and distribution, etc).

Revisions: Please include in your proposal a process and cost outlay for revisions and feedback.

Evaluation Metrics:

The Downtown Advisory Board will evaluate bidders and proposals reviewed by staff and the Community Character Team based on the following review criteria:

Skills/Creativity: Please demonstrate through the submission of portfolio samples, including assignment and/or speculative projects that demonstrate technical and creative execution, particularly for similar projects. You should be able to document/demonstrate the full scope of the various services your firm provides.

Resources/capability: Please demonstrate through a brochure or other document your business experience, staff, skills and expertise, projects of note, project management, methodology, ability to meet milestones.

Pricing Structure/Rate: Please provide a comprehensive pricing and/or rate sheet for all potential services you may provide under this RFP agreement and any additional services that could be offered.

Additional consideration may be given for future projects to firms that offer robust downtown master planning services.

CONTACT:

For questions, please contact Jamie Carpenter, Downtown Manager

jcarpenter@hvlnc.gov

828-233-9144



QUESTIONS & RESPONSES The following are emailed questions and response (in red) to the 7th Avenue RFP
Published 5/17/2021

What type of Marketing if any is done now to promote the 7th District?

Currently, marketing is mostly based on events that happen in the district, particularly the Hendersonville Farmers Market. With limited staff capacity, our downtown department does not do significant amounts of district marketing beyond events, and social media posts for downtown businesses, however our local Tourism Development Authority promotes businesses and places in a robust social media and marketing presence.

What is being done currently for the existing downtown branding?

Our overall downtown brand revolves around the “H” logo that was developed 10+ years ago. We use the “H” logo on street furniture and banners for Main Street, and will likely include that on features in 7th Avenue as the streetscape improvement continues. We see the “H” logo being the downtown brand that encompasses both districts while the new 7th Avenue Branding to be used when we are distinctly referring to that district.

What are the distinct features of Seventh Avenue? Or who will help determine what these are?

The historic Train Depot is the most architecturally significant feature in the district, and served as a hub of activity when passenger rail was active. Now, the Hendersonville Farmers Market takes place weekly by the depot.

The 7th Avenue district could be described as “grittier” than Main Street, which does not mean a bad thing. It includes a couple warehouse like buildings that could lend themselves for future development. The district also includes 3 breweries, a bakery, soul food and taco restaurants that offer unique attractions to the district.

From around the 1960s-early 2000s, the district was seen as the less desirable / unsafe part of town. This led to some disinvested structures and lower income neighborhoods that have felt left behind. In recent years we have brought the district in as an overall part of our downtown program. Toward the end of this year/ early next year a portion of 7th Avenue will begin first phases of a streetscape improvement project to create a better pedestrian environment.

Branding position for the district that fits within the downtown context. Can you expand on what you mean by the “downtown context?”

Downtown Hendersonville is composed of both the Main Street and 7th Avenue districts. When we are marketing or talking about Downtown Hendersonville, we’re referring to the combination of both districts. We envision marketing the district like “The 7th Avenue District in Downtown Hendersonville” or something similar. The “H” logo we use as branding for downtown Hendersonville will still be used for that overall downtown marketing, so having a

logo/style for 7th Avenue that fits within the overall downtown branding but that's distinct from Main Street is the goal.

Including a logo that can be adapted into a variety of media (What type of Media do you expect?)

We need the ability to print in 1 color (screen printing t shirts, signage, etc) and for it to be a vector file so it can be in large format (banners), or small for letterhead, business cards, window decals, etc.

The branding would also help to inform gateway signage that will be incorporated into the scope of work for the streetscape improvements. Are there drawings of the streetscape improvements available for review?

I will attach renderings.

How many Focus groups do you anticipate or public input meetings?

I believe 1 or 2 focus groups/public meetings would be sufficient. The commercial district neighbors some lower-income and diverse residential neighborhoods who have expressed an interest in being involved in the process, and we feel that an in-person discussion may be a better way to connect. It's possible businesses in the district and the nearby residents may have different opinions and bringing them together to talk about the district would be a valuable conversation.

At what stage of the process do you desire the community's input?

This is open. It may be best to start with a survey and then schedule a public meeting after reviewing the responses.

The final project should result in a determined name for the district. Have there been any survey's of which nomenclature is preferred?

This has not taken place. We've had some discussions at a committee level but no conclusion. If surveys have happened it has likely been 10+ years ago when the municipal service district was created, but it is unlikely they occurred.

What are the different variations of the H logo? Can we see the brand guidelines for it?

We do not have specific brand guidelines for the H logo that are currently followed. We have used a number of variations for events, website, seasons, etc.

Are there events happening during July and September 2021, that correlate with then the public input should happen? So perhaps we could survey people at a certain event?

Yes! The Hendersonville Farmers Market occurs weekly in the district and can be an excellent opportunity for surveying. We also have our Rhythm & Brews concert series (3rd Thursday) and LoveHendo Saturday (2nd Saturday) on Main Street that is not in the 7th Avenue district but could be a valuable time for community input, particularly from a general public perception and feedback.

Is there an event driving the final completion date of October 8?

The timing is mostly related to our bidding timeline for the streetscape. We anticipate construction bidding to take place in the fall and that would include the gateway signage.

Are there any current brand guidelines you'd like to see contributors follow or would you like a brand created 100% new from scratch?

The "H" logo is an overall downtown brand that we would like the 7th avenue brand to be incorporated into or to be complementary. We don't have any set ideas for how that works, (can be seen on our downtown website here: <https://www.hendersonvillenc.gov/downtown-hendersonville>)

Currently we use Bembo Bold and News Gothic for fonts, which are incorporated in the overall downtown "H" logo.

Is the brand guideline intended to support an entire ecosystem of other brands/divisions of Hendersonville or will it be managed independently?

The "H" logo serves the purpose of being the overall city/downtown brand (started as solely downtown, but has also been used by city departments), the 7th Avenue Branding would be incorporated as a division / brand of the overall downtown brand

Could we please receive more information on the platforms Hendersonville will utilize to source public input? What are some of the criterias the public input will submit

We currently have used a variety of survey forms, including google forms, survey monkey, survey123 (arcgis) for sourcing information. For this particular project, we believe there should be an in-person component that includes inviting the neighboring residential areas to have opportunities for input on the vision/branding for the commercial district.

Why is the district taking on this project now?

The impetus of this project is a streetscape improvement that is being planned for the district. In recent years, there has been improvements on Maple Street in the district, and in 2020 the Hendersonville Farmers Market launched on Maple Street.

The district itself has seen increased investment in the past several years with 3 breweries, a popular bakery, and a regional restaurant White Duck Taco (locally owned restaurant with multiple locations) came into the district.

While reviewing streetscape improvement plans, our team (staff and volunteers) reviewed gateway signage which led to the discussion for a need for more specified branding for the district.

Are you willing to work with an out-of-state firm?

We are not opposed to an out of state firm, however if all factors in the proposals are similar, we would most likely select a firm that is in closer proximity to the town.

Because we are out-of-state, given the budget are you open to virtual meetings?

We believe at least one in-person session for public input will be important for this project. The commercial district neighbors some lower-income and diverse residential neighborhoods who have expressed an interest in being involved in the process, and we feel that an in-person discussion may be a better way to connect.

For the community engagement portion: Would we be gathering a list and reaching out to stakeholders directly for the community survey or would we provide the survey to be disseminated to a pre-existing group of identified stakeholders?

We can disseminate the communication to our identified stakeholders. For some more background, the 7th Avenue commercial district neighbors a historically African American neighborhood and the district was disinvested until more recent years so we want to be very transparent and communicative not only with the businesses and property owners within the geographic boundaries of the municipal service district, but to involve the areas neighboring so there can be some level of comfort with the improvements that are being made in the district and corridor. In-person input will be valuable that we may not be able to obtain effectively from a survey.

Is there interest to create a social media campaign or a placebased social media account for the launching of the project? If so, we could add this into the proposal for the committee to view.

I don't believe we will have that interest. While we want to use the branding to help make the 7th Avenue district distinct, we do want to continue to promote both 7th avenue and Main Street overall as downtown. This is intentional as we recently merged our 7th Avenue and Main

Street committees to be one overall downtown advisory board, and up until the past several years the 7th Avenue district had some feeling as if they were less favored to the Main Street district. By having both districts as a part of downtown that will help continue to send our messaging that both districts are important and valued. In addition, we are a small staff so managing another social media account would be difficult to handle. We have our downtown page and a couple event pages.

Is there a page limit or any formatting restrictions for the electronic submittal?

There is no page limit.

The RFP is requesting pricing and portfolio experience that is relevant to the scope of the project (ie-branding/brand implementation), along with additional services that could be offered. There is also a note that “additional consideration may be given for future projects to firms that offer robust downtown master planning services”. Is it acceptable to include examples of firm experience that is relevant to master planning services, and if so, are you requesting to see pricing structures for that as well?

We are not requesting those pricing structures at this time for master planning services as we have yet to determine the direction we want to go with downtown master planning / comprehensive planning and that may be a couple years down the road. While it's not a priority for this branding project, if the experience with the branding partners work well and the company is qualified in master planning, that may be considered for future downtown planning projects.

Who was the firm that did the current logos (city and district)?

Arnett Muldrow did our past city logo (the H that is used) It was originally just a downtown logo but has been used for a variety of city resources. We consider it our overall downtown branding so we'd like to have the 7th Avenue branding fit within the context of that because it's important to us to have 7th Avenue as a distinct district but a part of the overall downtown that includes Main Street and 7th Avenue. I have sent the RFP to Arnett Muldrow.

Are there current firms that are currently under contract for any current design work with the city?

We do not have any current design contracts with our department, and none that I'm aware of with other departments within the city, so there will be no preference to firms in that way. We have 2 local marketing firms that may submit proposals that we've done some work with in the past.

Is there a rating scale for the selection criteria's to your "Evaluation Metrics" section. Normally in these RFPs they provide numeric numbers to show how much each section is weighted.

We don't have a rating scale at this time. This the first time anyone on our boards/committees have done a branding project like this as the branding with the H logo was over 10 years ago so in reviewing the proposals will create some valuable conversations for the direction the committee wants to go.

Assuming due diligence is maintained and quality of work does not suffer, is the Downtown Community Character Team okay with vendors turning around the scope of work ahead of schedule? (It is our professional opinion that 4 months is not necessary and only inflates pricing for Hendersonville entities.)

There is no issues with an earlier schedule, we just need to have the project completed before the deadline in order to fit the final product in with our streetscape project that will happen at the end of 2021/early 2022.

Does the Downtown Community Character Team prefer a process that fosters in-person collaboration that includes focus groups, polling, and A/B testing or a process that takes advantage of digital technologies that include SMS, Google Survey, Google Slides, etc.? These factors play a hand in cost basis and timeline.

In person focus groups and collaboration will be an important factor for this project. The district includes and neighbors some marginalized communities and we would like to ensure that there is an inclusive public input and communication among the neighboring residential areas in addition to the businesses within the district.

Is the RFQ open only to design firms? I am a local graphic designer specializing in museum and commercial signage. I have worked with town governments, parks and museums around the country,

We are not limiting it specifically to design firms and would gladly review a proposal.

Ordinance #11-1053

**AN ORDINANCE RELATING TO SIDEWALK DINING;
AMENDING SECTION 46-86 OF THE CITY CODE OF HENDERSONVILLE**

Be it ordained by the City Council of the City of Hendersonville:

1. Section 46-86 of the Code of Ordinances of the City of Hendersonville, concerning regulations for sidewalk dining in the central business district is hereby amended to read as follows:

Sec. 46-86. Exception; sidewalk dining in the central business district.

- (a) *General.* Notwithstanding any other provisions of this code to the contrary, sidewalk cafes or sidewalk dining shall be permitted in the municipal service districts ~~central business district~~ as indicated on the official zoning map of the city and shall be subject to such regulations as are set forth in this section.
- (b) *Permit required.* No restaurant owner may operate a sidewalk café without first obtaining a permit from the city manager in accordance with the requirements of this article. As used in this section, the term city manager includes his authorized representative.
- (c) *Application.* Any restaurant owner desiring to operate a sidewalk café shall prepare and file an application with the city manager which shall contain the following information:
 - (1) The name, addresses, and telephone number of the restaurant desiring to operate a sidewalk café.
 - (2) The name, address, and telephone number of the restaurant operator.
 - (3) The type of food, beverage, or food product to be sold and served at the sidewalk café.
 - (4) The hours of operation of the restaurant and the proposed hours of operation of the sidewalk café.
 - (5) A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk café, and the section to be kept clear for pedestrian and fire lane use, and depicting the proposed placement of tables, chairs, barricades, umbrellas, trash receptacles, and other furnishings on the sidewalk or pedestrian way.
 - (6) A description and images, drawings and other illustrative graphics of the barricades to be used (if any) around the sidewalk café and of the furniture to be used, i.e. tables, chairs, umbrellas, etc.
 - (7) Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the permittee and the city from all claims for damages to property and bodily injury, including death, which may arise from operation under or in connection with the permit. Such insurance shall name the city as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days advance written notice to the city. Such insurance shall afford minimum limits of \$500,000.00 aggregate annually.

- (8) A copy of all the permits and licenses issued by the county, state, or the city, including health and ABC permits and business licenses, necessary for the operation of the restaurant business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the city or other governmental authority, for exterior alterations or improvements to the restaurant.
 - (9) A sworn statement describing any violation by the restaurant operator of any laws, regulations, or ordinances relating to the possession, sale consumption, or transportation of intoxicating beverages or controlled substances during the five years immediately preceding the date of the permit application.
 - (10) Such additional information as may be requested by the city manager or his designee in order to determine compliance with this section.
 - (11) An annual fee equal to \$0.50 per sq.ft. of sidewalk café area to cover the cost of processing and investigating the application, and issuing the permit and additional maintenance for dining areas.
- (d) *Issuance of permit.* No permit for the operation of a sidewalk café may be issued unless the application is complete and the following requirements are met:
- (1) The sidewalk café must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, rest room facilities, and other customer convenience facilities as the restaurant. The sidewalk café must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business.
 - (2) The operation of the sidewalk café must be clearly incidental to the associated restaurant business. The seating capacity of the sidewalk café may not be more than 50 percent of the interior seating capacity of the associated restaurant.
 - (3) The placement of tables, chairs and other furnishings as shown in the drawing submitted with the site plan must be done in such a manner that at least five feet of unobstructed space remains on the sidewalk or pedestrian way for the passage of pedestrians. No fire exits or lanes may be blocked and such must remain clear at all times. The pedestrian passage may not be used for the display of merchandise or for portable signs otherwise authorized pursuant to subsection 46-81(e).
 - (4) The restaurant seeking to operate the sidewalk café must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk café. The placement of tables, chairs, and other furnishings may not extend beyond the sidewalk or pedestrian way frontage of the associated restaurant, with the following exception: café furnishings and barricades may extend up to eight feet onto adjacent property frontage in either or both directions with the written permission (provided at the time of application) of the occupant of the adjacent property.
 - (5) The tables, chairs and other furnishings used in the sidewalk café shall not be anchored and shall be of a type of street furniture that is easily movable. Café furnishings other than tables, chairs, trash receptacles and umbrellas are not approved for use in sidewalk café areas. Café furnishings must be constructed of metal (aluminum, steel, wrought

iron, etc.). Commercial umbrellas must be made with outdoor fabric and a metal or commercial grade plastic stand and must be free of logos or other signage.

- (6) Except as elsewhere permitted by the Code, the operation or furnishing of the sidewalk café shall involve no permanent alteration to or encroachment upon any street, sidewalk, or pedestrian way or to the exterior of the associated restaurant.
 - (7) Each sidewalk café shall provide adequate trash receptacles for its patrons within the perimeter of the barricades. At the end of each business day and during operating hours, the operator shall remove all trash and debris of any sort from the area within the barricade and between it and the curb. In addition, the operator shall remove from the sidewalk alongside and abutting properties any trash or debris originating as a result of the operation of the sidewalk café.
 - (8) Tables, chairs and other furnishings that remain on the sidewalk at times when the business is not in operation shall be secured in a manner that allows clear access from the street equal to or exceeding half of the frontage of the associated restaurant.
 - (9) The leading edge of sidewalk café barricades must be perpendicular to the sidewalk direction and be a minimum height of 3' and maximum height of 4'2". The barrier must be detectable by the visually impaired. Sidewalk café barricade stanchions/posts must not be a tripping hazard. If a stanchion or other vertical element is attached to a base, that base must be flat and must measure no more than 1" above the sidewalk surface. Sidewalk café stanchions/posts must be constructed of metal (aluminum, steel, wrought iron, etc.), wood (wood must be painted or stained) or commercial grade planters. Commercial planters used as vertical support posts may not exceed 3' in height and vegetation within the planter may not exceed 6' from ground level. Sidewalk café railings must be steel chain coated with black plastic, heavy duty black plastic chain, heavy duty black rope or black velour rope.
 - (10) The sidewalk in and around the sidewalk café area must be kept clean and unblemished. Spills and stains from general use must be removed on a weekly basis. Café furnishings and barricades must be cleaned and properly maintained at all times. Café furnishings and barricades must receive regular maintenance of fit and finish as required by the nature of the material being used. Damaged or deteriorating furnishings, barricades or elements of either must be repaired or replaced in a timely manner. All planters must contain live plants in healthy condition.
- (e) *Alcoholic beverages.* Notwithstanding any other provisions of this Code, alcoholic beverages may be served in approved sidewalk cafes provided that the following requirements are met:
- (1) The sidewalk café shall be part of a **food or beverage establishment** ~~restaurant~~ and shall otherwise be authorized, permitted, or licensed under the state law and this Code to serve and sell alcoholic beverages for on-premises consumption.
 - (2) The sidewalk café must be included as part of the premises for which an ABC permit is issued pursuant to state law, for the purpose of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.
 - (3) Signs shall be posted, visible at all exit points from the sidewalk café, that it is unlawful to remove alcoholic beverages from the premises.

- (4) The restaurant operator shall not have violated any law, regulation, or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the three years preceding the commencement of the sale of alcoholic beverages at the sidewalk café.
- (5) No outdoor bar is allowed within the sidewalk café, nor shall outdoor preparation of alcoholic beverages be permitted except that unfortified wine may be decanted or beer poured at a table as part of a meal.
- (f) *Denial.* A permit may be denied if it is found that the application does not demonstrate compliance with this section and/or that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk café shall receive a written statement outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to city council within 15 working days after the date of the written denial, and city council may take such action as it shall find necessary. The finding and determination of city council shall constitute final action by the city.
- (g) *Terms and transfer.* Permits for a sidewalk café issued in accordance with the provisions of this article shall be issued for the period beginning July 1 or thereafter and expiring June 30 of each year. If a permittee discontinues the restaurant operation or the sidewalk café, no refund of the permit fee shall be made. Permits issued pursuant to this section shall not be transferable or assignable. Permits may prohibit operation of sidewalk cafes during special events and contain other conditions and restrictions as may be necessary to protect the public health, safety and welfare.
- (h) *Permit suspension.* The city manager may suspend a permit issued pursuant to this section if he finds one or more of the following conditions exist:
 - (1) Violation of any provision of the county health department regulations or of this section.
 - (2) Violation of any law, regulation, or ordinance regarding the possession, sale, transportation, or consumption of intoxicating beverages or controlled substances.
 - (3) Operation of the restaurant or sidewalk café in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare; specifically including failure to keep the café area clean and free of refuse.
 - (4) Operation of the restaurant or sidewalk café in violation of any city, county or state law, ordinance, or regulation.

Such permit suspension shall take effect immediately upon delivery of a citation to the restaurant operator or, in his absence, the person with supervisory authority over the operation of the restaurant. The City Manager shall designate a period of time for the suspension to be in effect up to 45 days from the date of violation, and shall include the length of the suspension in the notice of suspension. In designating a suspension period pursuant to this section the City Manager shall consider the factors set forth in this subsection (h) and subsection (i) below.

Such decision of the city manager may be appealed to the city council by written notice thereof filed with the city clerk within fifteen days of the date of receipt of notice of suspension.

- (1) *Permit revocation.* The city manager may revoke a permit issued pursuant to this section if he finds that the restaurant operator has:
 - (1) Deliberately misrepresented or provide false information in the permit application.
 - (2) Violated any provision of the county health department regulations or of this section.
 - (3) Violated any law, regulation, or ordinance regarding the possession, sale, transportation, or consumption of intoxicating beverages or controlled substances.
 - (4) Operated the sidewalk café in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare; specifically including failure to keep the café area clean and free of refuse.
 - (5) Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business.
 - (6) Fails to consistently maintain the sidewalk café in a neat and trash free manner.
 - (7) Operated the restaurant or sidewalk café in violation of any city, county or state law, ordinance, or regulation. In the event the city manager determines good grounds exist for the revocation of a permit issued under this section, he shall provide the restaurant operator a notice to show cause, stating with particularity the grounds therefore, why the sidewalk café permit should not be revoked. The restaurant operator shall be provided an opportunity for a hearing, following which the city manager shall render an order in writing. The restaurant operator may appeal any such order by filing a written appeal with the city clerk within 15 days of receipt thereof. City council shall conduct a hearing on the appeal and render its decision thereon. The finding and determination of city council shall constitute final action by the city.

[Key: deletions are ~~struck through~~; additions are underlined and red]

2. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 1-6 of the City Code of Ordinances.
3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.
4. If any section, subsection, paragraph, sentence, clause phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.
5. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions or otherwise cure and existing violations.

This ordinance shall be in full force and effect beginning with the new permit year on July 1st, 2018.

~~Adopted this sixth of February, 2018.~~

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Tammie K. Drake, MMC, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney