

ARTICLE 200: GENERAL REGULATIONS APPLIED TO ALL DISTRICTS

Section 201: Jurisdiction and Zoning Map.

This ordinance shall apply within the corporate limits as now or hereafter fixed of the City of Henderson and its Extra- Territorial Jurisdiction Area, as established on the map entitled “Official Zoning Map of the City of Henderson, North Carolina.” Said map and amendments thereto and all explanatory matter thereon is hereby made a part of this ordinance.

Regardless of the existence of purported copies of the Official Zoning Map, which may from time to time, be made or published, the Official Zoning Map shall be located in the Office of the Zoning Administrator and shall bear his signature certifying that the map was prepared by him or under his supervision and is correct, together with the date when it was last amended.

Section 202: Establishment of Zoning Districts.

For purpose of this ordinance the City of Henderson’s Zoning Jurisdiction as set out in Section 201 above is divided into the following districts:

Residential and Agricultural Districts

RA Non Urban Residential and Agricultural Use District

Residential Districts

R40 Very Low Density Residential District

R20 Low Density Residential District

R15 Moderate to Low Density Residential District

R11 Moderate Density Residential District

R8 Moderate to High Density Residential District

R6 High Density Residential District

R15M Moderate to Low Density Residential-HUD Code Home District

R8M Moderate to High Density Residential-HUD Code Home District

Office-Institutional/ Multi-family Districts

OI Office Institutional District

OIA Office Institutional “A” District

Retail Business Districts

B1 Central Business District

B2 Highway Commercial District

B2A Highway Commercial “A” District

B3 Shopping Center Commercial District

B4 Neighborhood Commercial District

Wholesale, Storage, and Manufacturing Districts

I1 Industrial Park District

I2 Industrial Non-Park District

I3 Difficult Use District

Section 203: District Boundaries.

203.1 Construing Boundaries.

The boundaries of each zoning district are hereby established as shown on the official zoning map. Whenever uncertainty exists as to the boundaries of districts shown on said map the following guidelines shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets, utility easements, railroad lines, streams, property lines and the City limits shall be construed as following such lines.
- (2) Where any of the above features exist, it shall be presumed that the district line follows such a feature. Where two or more features exist, the boundary shall be construed to favor the interpretation that resolves any potential boundary questions that may arise in the broader area, or in the event that this does not resolve the issue, the boundaries shall be construed in the priority in which they are set out in paragraph (1) above.

203.2 Boundaries Dividing Lots.

Where a boundary line divides a lot or tract one-half acre or less in size, the lot shall be construed to lie entirely within the zoning district in which the majority of the lot resides. Where a boundary line divides any other lot, each part of the lot so divided shall be used in conformity with the regulations established by this ordinance for the district in which each part is located.

In determining the location of district lines, the Administrator shall be governed by dimensions, if any, appearing on the map. Where dimensions are not indicated, the location shall be determined by any zoning ordinance relating to the line and if there is no such ordinance, by scaling the map.

Section 204: General Requirements and Applicability.

Unless otherwise stated, the standards and requirements set out in this ordinance are minimum standards.

204.1 Zoning Affects Every Building and Use.

Except as hereafter provided, no structure shall be erected, reconstructed, or structurally altered, nor any site preparations commenced, nor shall any structure or land be used, except in compliance with all the regulations established by this ordinance for the district in which the structure or land is located.

204.2 Open Space Not Be Encroached Upon.

The minimum yard or other open space requirements, or off street parking, loading or vehicle accommodation area requirements, including those provisions regulating the intensity of use, for each and every structure hereafter erected or structurally altered shall not be encroached upon or considered as meeting the minimum yard or other open space, or parking, or other requirements for any other structure or use.

204.3 Every Lot Must Abut a Street.

No building, structure or use of land other than one for agricultural purposes shall be established on a lot within the City which does not either (1) abut a dedicated and accepted public street, or (2) abut a private street built to public road standards and approved as part of the Subdivision, Multi-family Development, Unified Residential Development, HUD Code Home Park, Unified Business Development, or Industrial Park, pursuant to this ordinance or Subdivision Regulations of the City of Henderson.

204.4 One Principal Building Per Lot.

Except as permitted in a Unified Residential Development, Multi-family Development, HUD Code Home Park, Unified Business Development, or Industrial Park or as otherwise allowed through a Combination of Uses as set out in subsections 204.5 and Section 303A of this

ordinance, no more than one principal structure shall be constructed on any lot, and no more than one principal use shall be in any structure.

204.5 Combination of Uses.

When two or more principal structures occupy or propose to occupy the same lot in accord with Section 303A of this ordinance, each and every structure shall comply with the requirements of this ordinance. Furthermore, except as provided below, when two or more principal uses occupy the same structure on a lot in accord with Section 303A of this ordinance, the dimensional requirements of the most restrictive use, particularly any supplemental standards from Article 600B, shall apply to the entire structure. When the dimensional requirements of this ordinance are established in regard to the number of square feet of a particular use, such as the required number of parking spaces, then the space for each use shall be calculated separately and the separate totals aggregated to arrive at the requirement for the lot.

204.6 Applicability to Public Property.

All provisions of this ordinance shall be applicable to property owned by governmental agencies and other public and semi-public bodies, as well as to privately owned property.

204.7 Fractional Requirements.

When a requirement of this ordinance, other than that determining density, results in a fraction of a unit, a fraction of one-half or more shall be considered a whole unit and a fraction of one-half or less shall be disregarded. In determining density, any fraction shall be disregarded.

204.8 Exemptions.

The following structures are exempted from the requirements of this ordinance: gates and fences not exceeding 15 feet in height above ground level, water and sewer pump stations, utility facilities other than major public facilities, curbing, unenclosed and uncovered patios and porches, steps, driveways, plat apparatus other than in a park or with a multi-family residential use. The following structures are exempted from the setback and set-in requirements: gate attendant sheds and industrial loading docks. The following uses are specifically not excluded from (but are included within) this ordinance: statues, sculptures or other artistic objects exceeding eight (8') feet in height (including pedestals) above ground level which are not set back at least 1 foot (1') per linear foot in height from any property line, together with swimming pools, storage sheds, garages, accessory workshops, satellite dishes. (Amended December 17, 2001)

Section 204.9. Low Voltage Electric Fences

204.9.1. Types

1. Underground commercially manufactured electric fences designed for control of domestic animals shall be allowed in any zoning district, provided they are based on a

radio signal transmitted through a buried looped wire. Where this type of manufactured system can be installed above ground, it shall still be considered of the underground type for purposes of this ordinance.

2. Aboveground electric fences designed for securing an outdoor perimeter from human trespass shall be allowed only by special use permit. Where the parcel of such a proposed use shares one or more common boundaries with an existing day care or other regular assemblage of children, including schools of any kind; then such Special Use Permit shall be denied.
3. All other electric fencing including that for installation along the top of existing structures or walls, or as barriers to windows and skylights, is prohibited.
4. This permitted use is allowed in industrial and commercial districts (I-1, I-2, B-2, B-2A, & B-4) with a Special Use Permit. If a residential district abuts a commercial or industrial use, the setbacks are three (3) feet from the residential district or residential property line unless a solid fence / boundary or woven mesh fence with 1 inch openings or less is installed or exists.
5. Electric charged fences used for agriculture livestock application are exempt.

204.9.2 Specifications.

Allowed above ground electric fences must possess the following specifications:

1. They can only be battery powered with a maximum 12 volt potential difference direct current. The battery must be commercially manufactured. If the battery remains part of the electric fence circuit during recharging, such recharging may only be done by the trickle method using commercially available converters and/or low voltage solar panels.
2. The electric charge produced by contact with the fence shall not exceed energizer characteristics set forth in paragraph 22.108 and as depicted in Figure 102 of (IEC) standard no. 60335-2-76, latest edition.
3. No above ground electric fence shall be installed or used unless it is completely surrounded by a non-electric fence that is not less than six feet in height.
4. The above ground electric fence must be separated from the outer perimeter fence by either:
 - a. From at least four (4) to no more than eight (8) inches or
 - b. Equal to or more than thirty-six (36) inches
(Option “b” is required if the outer perimeter fence is not either solid or woven mesh with 1” or less opening abutting a residential district)
5. The above ground electric fence must be at least two (2) feet taller than the non-electric fence.

6. The above ground electric fence system must include a master cut-off switch capable of disconnecting the system in its totality from all energizers. Such switch shall be clearly marked and located within the protected perimeter so as to be easily observable and accessible from a primary path of entry by emergency and/or law enforcement personnel.

204.9.3 Screening

Whoever is granted permission by the City to install an electric fence shall comply with screening requirements applicable to the type of business and permitted use, including the following: contractor's offices with outside storage, wholesales with outside enclosed structures, retail with outside display, auto repair with outside storage, boat repair with outside storage, flea markets with outside sales or display, manufacturing produce outside, difficult uses, and any uses similar that have products, equipment, and services outside. In the event the type of business and permitted use does not have a specific screening requirement, then the requirements of 640B outside storage shall apply.

204.9.4 Installation & Maintenance Requirements

1. Electrical fencing shall be located in such a way that it maintains horizontal and vertical clearance from all overhead electrical conductors in accordance with National Electrical Code specifications, and no fence shall be directly connected to such conductors, their supporting poles or guy wires.
2. Above ground electric fences shall be clearly identified with warning signs at intervals of not more than fifty (50) feet along the non-electric fence perimeter, but not less than one sign on each primary leg of the perimeter.
3. All electric fencing shall be maintained in a state of good repair and above ground fencing shall be kept free of contacting vegetation or debris. Whenever it shall appear to the Building Inspector or Zoning Administrator that any such fencing has been constructed or is being maintained in violation of the terms of this section or is unsafe or insecure, such fencing shall either be made to conform with all applicable regulations or it shall be removed at the expense of the owner, within fourteen (14) days after written notification thereof by the Building Inspector or Zoning Administrator.

204.9.5 Application

1. The Special Use Permit application shall include a sketch or site plan appropriately dimensioned showing adjacent parcels and their zoning; the location of the proposed electric fence and its non-electric companion (fence) ; the proposed location of warning signs and the master cut-off switch.
2. In addition, the applicant shall include the fence manufacturers' specifications to show compliance with the requirements of this ordinance.

204.9.6 Nonconforming Electric Fences

Electric fences erected and in place prior to adoption of this Zoning Ordinance are illegal as the City Code, up to adoption of this ordinance, prohibited electric fences of any kind. They must either be removed or the land owner must apply for and receive a special use permit under this ordinance. A fence that is erected by Special Use Permit but which does not conform to an amendment of this ordinance enacted subsequent to the erection of said fence is declared a non-conforming electric fence. (Amended 12/12/2016)

Section 205: Unusual Situations.**205.1 Corner Lots.**

Any structure on any corner lot shall comply with the minimum setback requirements of both streets. If compliance with this requirement would preclude a reasonably sized building from being reasonably placed on the lot, the Permit Issuing Authority shall reduce the setback on the accessible street designed to carry the least volume of traffic by up to fifty (50%) percent, provided that as a condition for said reduced setback, the property owner must bind itself and its successors in title that it will apply for access on the other cornered street within a period of 10 years. (Amended 9/24/07)

205.2 Visibility.

Nothing shall be erected, planted, or situated on any corner lot adjacent to a non-signalized intersection where the object would impede the view of a motor vehicle driver from a point ninety feet from the intersection of the centerlines of the intersecting streets so that he could not see another motor vehicle within 90 feet of the intersection. Furthermore, any earthen slope that similar impedes the view shall be removed.

205.3 Conditional Zoning District

Initiation. Conditional Zoning is primarily intended for unique contiguous multi-use tracts or areas, or for large development tracts or areas. The reclassification of any specific property to a conditional district may be initiated only by the property owner(s), or an agent authorized by affidavit to act on the owner's behalf and shall follow the same requirements of law as all such rezoning amendments, except as expanded or modified herein.

Petition. A request for rezoning to a conditional district shall include an official petition consisting of the following:

- (a) A completed application form and conditional zoning application fee of \$1,000.00 per acre or fraction thereof (up to a maximum of \$5,000.00) in the proposed development.
- (b) A description of all individual tracts covered by the conditional district, and the owners of each individual tract or parcel included.

- (c) A metes and bounds site plan prepared by a professional engineer showing all natural, man-made, political and recorded features of the property deemed by the City Zoning Administrator and Planning Director to be necessary to indicate the location, type, scale, size, height, and general extent of the proposed development and its physical, financial, environmental, and use impacts upon any on-site or adjacent natural and historic resources, public infrastructure and facilities, and/or existing or approved or proposed development(s) as may be regulated or protected by this ordinance. Such plan shall be at a scale so that all features can be easily readable and sufficient to meet the intent of this section. Site specific use development elements such as existing and proposed buildings, building facades, landscaping, parking configuration, setbacks, drainage, utilities, accessory structures, topography, types and areas of paving or any impervious surfaces, types and location of any screening, buffer zones, common areas, lighting, dumpsters, signage, as well as any other elements as required by City staff shall all be clearly defined on the site plan and accompanied by elevations of the proposed development.
- (d) A written description or notation on the map explaining the proposed use of all land and structures, including the square footage of each residential unit and of each nonresidential unit, and the total square footage of all buildings in the development.
- (e) A time schedule for completion of the total development (and also of each and every phase, if in phases).
- (f) A copy of any proposed restrictions (whether by restrictive covenants or otherwise) on any property or building or use.
- (g) Any other information deemed necessary by the Zoning Administrator, Planning Board or City Council.

The Petition is to be addressed directly to the City Council (rather than to the Board of Adjustment). The Planning Board shall first review the proposal and hold a duly advertised public hearing on the proposed Plans and send its recommendations to the City Council. The City Council thereafter will hold at least one public hearing thereon (with at least 10 days public notice of the same published in the Daily Dispatch, or its successor) at a time deemed appropriate by the City Council. Final approval or disapproval of the final plan shall be made by the City Council within 120 days of the public hearing; if not so approved in said 120 day period, the petition shall be deemed denied.

Conditions. Prior to the final action on the proposed petition (whether before or after any required public hearing), any planning or zoning or utility staff person, the Planning Board, the City Manager, or the City Council or a delegation therefrom may meet with the petitioner to discuss the proposed plan and suggest features to be included in the conditional zoning proposal. The specifics of the proposed plan may be negotiated to address community issues or concerns and to insure that that spirit and intent of the City ordinances are preserved. At any time before final approval, the City Council may suggest additional features to be included or reflected in the proposal.

Workshops. In addition to any meeting that may occur informally between any group and the petitioner and the public hearings that are required, the Planning Board or City Council may require the petitioner to hold one or more formal workshops with neighbors and other stakeholders. The petitioner shall be responsible for providing adequate public notice, arranging for meeting space, documenting attendance, and creating a written summary of the comments received at the workshop. The City Zoning Administrator and the City Planning Director shall also receive written invitations to the workshop. Proof of meeting notice, attendance logs, and the comments summary including the petitioner's response to each of the same shall be forwarded to the City Planning Director for inclusion in any appropriate City Council or Planning Board agenda packet. Adequate public notice for any workshop shall include a written notice mailed at least to the owners of all adjoining properties (as disclosed by the County Tax records) and a written notice and a sign posted on the property in a manner that is visible to the public providing the day, time and location of the workshop meeting, both of which must occur not less than 10 nor more than 21 calendar days prior to the workshop. Workshop meeting space should be reasonably near the affected property and should be accessible to everyone.

Development Not Started Within Two Years. Upon approval of the final Conditional Zoning Permit, the Conditional Zoning shall take effect, and the prior zoning classifications applicable to the Conditional District shall thereupon be suspended. The property owner or developer shall commence construction in strict accordance with the approved site plan within two (2) years after the Conditional Zoning Permit is approved. If the construction has not commenced within such time period, or if the approved Plan is not completed within the time set forth for its completion, or if the approved plan is ever altered or not fully adhered to by the developer without the approval of the City Council, or if the use of any of the property is discontinued for any 12 month period in violation of the Plan, or if any use is changed within the area covered by the approved Plan, then and in any such event, the Conditional Zoning Permit will be revoked and the property will be rezoned, nunc pro tunc, back to the zoning classification(s) it had at the time the Conditional Zoning petition was originally submitted. The original petitioner or developer may request an extension of time not to exceed one (1) additional year by submitting such request to the Henderson City Council. (Amended 6/13/2011)

(RESERVED)