

CHAPTER 42, LAND DEVELOPMENT CODE

[Adopted by the Henderson County Board of Commissioners September 19, 2007;
As amended through August 1, 2016]

ARTICLE I

GENERAL PROVISIONS

§42-1. Title

This Chapter shall be known and may be cited as the “Land Development Code of Henderson County, North Carolina.”

§42-2. Statutory Authority

This Chapter is adopted pursuant to the authority vested in Henderson County, North Carolina by the North Carolina General Statutes, particularly Chapter 153A, Article 18; Chapter 143, Article 21; Chapter 160A-383.1 (made applicable to counties by Chapter 153A-341.1); Chapter 153A-121 and Chapter 113A-209.

§42-3. Purpose

These regulations have been adopted in accordance with the “Henderson County 2020 Comprehensive Plan,” as adopted and as may be amended, in order to promote the health, safety and general welfare of the community. These regulations are designed to: (1) provide adequate light and air; (2) prevent the overcrowding of land; (3) avoid undue concentration of the population; (4) lessen congestion on *roads*; (5) secure safety from fire, panic and dangers; and (6) facilitate the efficient and adequate provision of transportation, water, sewerage, *schools*, *parks* and other public requirements. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular *uses*, and with a view to conserving the value of *buildings* and encouraging the most appropriate *use* of land throughout the County. In addition, these regulations are made with reasonable consideration to expansion and development of incorporated areas within the County, so as to provide for their orderly growth and development. The *neighborhood* impact from certain *uses* will be mitigated through the *use* of general and development standards which provide the flexibility to impose a higher level of site-specific standards, dependent upon the degree of *neighborhood* impact.

§42-4. Jurisdiction

Unless otherwise noted, the provisions of this Chapter shall apply to the unincorporated areas of Henderson County lying outside the extraterritorial jurisdiction of any municipality and the incorporated areas and extraterritorial jurisdiction of any city or town specifically requesting its enforcement by Henderson County upon the agreement of the Henderson County Board of Commissioners, both in accordance with the *use districts* shown on the *Zoning Map* titled the "Official Zoning Map of Henderson County, North Carolina" and subsequent amendments thereto. (In making such a request, the city or town must comply with the requirements of NCGS §160A-360). In no instance shall this Chapter apply to any area which is not duly established and identified as a zoning area as shown on the “Official Zoning Map of Henderson County, North

Carolina.” Said map and all explanatory matter thereon accompany and are hereby made a part of this Chapter. This Chapter and Map shall be on file in the Office of the Commissioners.

§42-5. Rules of Construction

- A. **Meaning of Terms.** Unless specifically defined in this Chapter the words and phrases used in this Chapter shall have their customary meanings or shall be as defined in a standard dictionary. The specific definitions listed in Article XIV shall be applicable in all districts, unless specifically limited to particular districts or sections.
- B. **Tense.** Words used in the present tense include the future tense.
- C. **Number.** Words used in the singular number include the plural number and the plural number includes the singular number unless the context of the particular usage clearly indicates otherwise.
- D. **Shall, Must, Will, May and Should.** The words “shall,” “must” and “will” are mandatory in nature, implying an obligation or duty to comply with the particular provision. The word “may” is permissive in nature. The word “should” indicates that compliance is encouraged, but is not mandatory.
- E. **Used and Occupied.** The words "used" or "occupied" include the words "intended, designed or arranged to be used or occupied."
- F. **Fractional Requirements.** When any requirement of this Chapter results in a fraction of a unit, the fraction shall be disregarded.
- G. **Text Controls in Event of Conflict.** In the event of a conflict or inconsistency between the text of this Chapter and any heading, caption, figure, illustration, table, or map, the text shall control.

§42-6. Official Zoning Map

The “Official Zoning Map of Henderson County,” hereinafter the “Official Zoning Map” shall be maintained in the office of the *Planning Director* of Henderson County. This map shall be available for inspection by interested *persons* during normal business hours of the *Planning Director*. It shall be the duty of the *Planning Director* to maintain said map and post any changes thereto as they may be made. The *Planning Director* and *Zoning Administrator* may distribute unofficial copies of the “Official Zoning Map,” hereinafter “*zoning map*,” to the general public for reference purposes. Official records shall be maintained in the office of the Board of Commissioners regarding any actions of the Commissioners to amend district boundaries and these maps and records shall constitute the only official description of the location of district boundaries.

§42-7. Interpretation of District Boundaries

The following rules of interpretation shall be applicable to the *zoning map*:

- A. **District Designation.** A district name on the *zoning map* indicates the regulations pertaining to the district designated by that name, or abbreviation of same, and extending throughout the whole area bounded by the district boundary lines within which such name or abbreviation is shown, except as otherwise provided.

B. District Boundary Determination. Where uncertainty exists as to the boundaries of any district, the following general rules of interpretation shall apply. It is the duty of the *Zoning Administrator* to interpret the location of district boundaries. Any *appeal* from an interpretation or finding of the *Zoning Administrator* may be taken to the Zoning Board of Adjustment as specified in Article XII. General rules of interpretation include:

(1) District boundaries indicated as approximately following:

- a. The centerlines of *roads*, highways or *alleys* shall be construed to follow those centerlines;
- b. Platted *lot* lines shall be construed as following those *lot* lines;
- c. The centerlines of streams, rivers or other bodies of water shall be construed to follow those centerlines; and
- d. Railroad tracks shall be construed to be centerline of the main track(s).

(2) District boundaries indicated as approximately parallel to, perpendicular to or extensions of features indicated in §42-7 (Interpretation of District Boundaries) subsection B, items (1)a and (1)b above shall be so construed and at such distance therefrom as indicated on the *zoning map*. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

Where the *zoning map* shows a district boundary dividing a lot, the *lot* shall conform to the requirements established by this Article for the most restrictive district in which that part is located.

§42-8. Compliance

No *building*, premises or *structure* shall be constructed, erected, placed, moved, modified, converted, occupied or maintained, and no land *use* shall be maintained, modified or commenced, except as authorized by this Chapter. All development within the County shall comply with the development standards identified by this Chapter. The most restrictive local, state or federal laws pertaining to the establishment and operation of a *use* shall apply.

§42-9. Farm Exemption

Articles II, V, and VI shall in no way regulate, restrict, prohibit or otherwise deter any *use* of property for *agriculture*, *agritourism farm* or *bona fide farm*, and its related *uses* except that any *use* of such property for non-farm purposes shall be subject to this Chapter.

§42-10. Principal Use

One (1) *principal use/structure* may be erected on any one (1) *lot*, except as otherwise provided in this Chapter. *Accessory uses/structures* may also be erected and are limited in number as provided by this Chapter.

§42-11. Location of a Nonresidential Use

Unless otherwise provided or implied by the context or description/definition of a *use*, nonresidential *uses* shall be deemed to be located (1) where the customer goes to receive the services and/or product offered by the *use*; and/or (2) where the product/merchandise/supplies/equipment/furniture or other personal property associated with the *use* is kept, stored or otherwise housed.

§42-12. Relation to the Comprehensive Plan

The administration, enforcement and amendment of this Chapter shall be accomplished with consideration of recommendations presented in the documents comprising the “Henderson County 2020 Comprehensive Plan” hereinafter “*Comprehensive Plan.*”

§42-13. Reserved

§42-14. Reserved

§42-15. Reserved

§42-16. Reserved

§42-17. Reserved

§42-18. Reserved

§42-19. Reserved

§42-20. Reserved

§42-21. Reserved

