



# MINUTES

September 7, 2023

## 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, Jerry Smith and Debbie O'Neal-Roundtree

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

Absent: City Clerk Jill Murray

### 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.*

Tom Appleby spoke against paid parking and the kiosks on Main Street.

Chris Walter spoke regarding history of diversity and inclusion and thinks we all have prejudices and we all tend to favor people that are like us.

Leonard Surprenant spoke regarding a housing issue at Magnolia Place and the increased costs that the new owners are imposing.

Marilyn Oertle spoke regarding the housing issue at Magnolia Place and said a lease was dropped on her front door to be signed by October 1<sup>st</sup> with a 41% increase in rent. This is wrong and someone needs to help.

Jeff Groh spoke against DEI and asked that the City disband the committee. He asked the city to sponsor a class that teaches the constitution and wants it offered to the public.

Tom Green spoke regarding the kudzu around his property and Shepherd Park and said that it is killing countless trees which are falling into the creek. He asked that the City help take care of getting rid of the kudzu around his property.

Lynn Williams spoke via Zoom electronic software regarding 1202 Greenville Highway and protecting the tree canopy and wildlife. She also spoke about lead in the water but sees that the city is looking into that. She still thinks that two of the council members should be voted in by citizens before city council votes on the Comp Plan. Lastly, she supports the DEI plan.

Ken Fitch spoke via Zoom electronic software regarding golf carts and speeding on local streets.

### CONSIDERATION OF AGENDA

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

#### 4. CONSENT AGENDA

*Council Member Lyndsey Simpson moved that City Council approve the consent agenda as presented. A unanimous vote of the Council followed. Motion carried.*

**A. Adoption of City Council Minutes – Jill Murray, City Clerk**

August 9, 2023 Regular Monthly Meeting

August 23, 2023 Second Monthly Meeting

**B. Annexation: Certificate of Sufficiency-Living Savior Evangelical Lutheran Church (C23-65-ANX) – Tyler Morrow, Planner II**

Resolution #23-93

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.2**

**WHEREAS**, a petition requesting annexation of the satellite area described herein has been received; and

**WHEREAS**, certification by the City Clerk as to the sufficiency of the petition has been made;

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

**Section 1.** A public hearing on the question of annexation of the satellite area described herein will be held at City Operations Center located at 305 William St. Hendersonville NC, 28792 at 5:45 p.m. October 5<sup>th</sup>, 2023, or as soon thereafter as it may be heard.

**Section 2.** The area proposed for annexation is described as follows:

Being all of that real property consisting of PIN 9578-90-1278 described in the plat recorded in Book 2023-\_\_\_\_ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9578-90-1278 being described by metes and bounds as follows:

Beginning on a 5/8" rebar, said rebar standing in the southern margin of Vine Road, NC State Road number 1782, and having NC Grid Coordinates of Northing 580599.81 and Easting 9799143.16, and proceeding thence from beginning point thus established, S 80°40'39" E 297.31' to a 1/2" iron pipe, thence S 26°04'49" E 276.79' to a 1/2" iron pipe, said point being located in the existing City of Hendersonville Satellite Limits, thence proceeding with the existing City of Hendersonville Satellite Limits, the following three calls: S 73°26'21" W 72.32' to a 1/2" iron pipe, thence N 14°06'44" 2.38' to a 1/2" iron pipe, thence S 82°49'15" W 111.28' to a 1/2" iron pipe, thence leaving the existing City of Hendersonville Satellite Limits, S 81°10'08" W 5.60' to a point, thence S 73°12'20" 156.49' to a point, thence on a curve to the right with a radius of 1158.20' and a length of 64.42' (chord S 89°17'36" E 64.41') to a point, thence S 83°59'25" E 102.70, S 10°59'23" E 7.12' to a point, thence N 89°21'02" W 105.09' to a point, thence S 89°01'43" W 60.81' to a point, thence S 89°01'43" W 25.34' to a point, thence S 83°44'40" W 97.00' to a point, thence S 80°05'40" W 73.77' to a point, thence S 78°18'45" W 62.76' to a point, thence S 79°58'47" W 68.44' to a point, thence N 42°47'57" W 20.30' to a point, thence N 14°48'09" W 20.91' to a point, thence N 17°46'58" E 19.04' to a point, thence N 22°53'57" 72.56' to a point, thence N 27°14'58" E 459.00' to the point and place of beginning. Containing 4.72 Acres and being all of that property as described in Deed Book 3426, Page 485 as shown on survey by Associated Land Surveyors & Planners, PC bearing job number S-21-172.

Re: Petition for Satellite Annexation  
Petitioner: Living Savior Evangelical Lutheran Church (Jon Vannice, Vice President and Secretary)  
File No. C23-65-ANX

**Section 3.** Notice of the public hearing shall be published once in The Hendersonville Times-News, a newspaper having general circulation in the City of Hendersonville, at least 10 days prior to the date of the public hearing.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 7<sup>th</sup> day of September, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

C. Contract Award Fleetwood Water Improvements Project – Adam Steurer, Utilities

Resolution #R-23-94

RESOLUTION BY THE CITY OF HENDERSONVILLE OF CONTRACT AWARD AND AUTHORIZATION FOR THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE CONSTRUCTION OF THE FLEETWOOD WATER IMPROVEMENTS PROJECT

WHEREAS, the Fleetwood Water Improvements Project (project) generally consist of installation of approximately 2,000 feet of water main and replacement of an aging and undersized pumping station with a dual domestic and high-service pumping station.; and

WHEREAS, after completion of the project, the Fleetwood Community in Laurel Park will have sufficient flow and pressure for peak domestic demands and fire protection; and

WHEREAS, on August 10, 2023, formal bids for construction of the project opened:

Cooper Construction Co., Inc.: \$1,276,330.00  
Carolina Specialties Construction: \$1,554,560.26  
TP Howard’s Plumbing Co., Inc.: \$1,653,000.00;and

WHEREAS, formal bids were reviewed for completeness and accuracy. Cooper Construction Co., Inc. is the lowest responsive, responsible bidder.

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 Fleetwood Water Improvements Project to Cooper Construction Co., Inc., the lowest responsive and responsible bidder in the total amount of \$1,276,330.
2. The City Manager is authorized to approve change orders which cumulatively do not exceed 5% of the approved contract amount of \$1,276,330, 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 7<sup>th</sup> day of September, 2023.

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

D. September 2023 Budget Amendments – Adam Murr, Budget Manager

TO MAYOR & COUNCIL

APPROVAL: September 07, 2023

FISCAL YEAR 2024

FORM: 09072023-01

BUDGET AMENDMENT

FUND 459 | 460

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
459-0000-470090	Fund Balance Appropriated	-	386,000	-	386,000
459-0000-598901	Transfer Out (to 460, #19014)	-	386,000	-	386,000
FUND 459	TOTAL REVENUES	-	386,000	-	386,000
	TOTAL EXPENDITURES	-	386,000	-	386,000
460-0000-470010-19014	Debt Proceeds ('23 Rev. Bond)	636,000	-	-	636,000
460-0000-470100-19014	Transfer in (from 459)	-	386,000	-	386,000
460-7055-550103-19014	Capital Outlay CIP	636,000	386,000	-	1,022,000
FUND 460	TOTAL REVENUES	636,000	386,000	-	1,022,000
	TOTAL EXPENDITURES	636,000	386,000	-	1,022,000

A budget amendment to increase the Church St. Sewer Project (#19014) for a total budget of \$1,022,000 using a \$386,000 transfer in from the Water & Sewer Capital Reserve Fund (459).

The City Manager and City Clerk certify budget ordinance amendment 09072023-01 was approved by City Council on September 07, 2023.

TO MAYOR & COUNCIL

APPROVAL: September 07, 2023

FISCAL YEAR 2024

FORM: 09072023-02

BUDGET AMENDMENT

FUND 410

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
410-0000-470100-21042	Transfer in (from 010, FY23)	53,401	-	53,401	-
410-0000-470010-21042	Debt Proceeds	-	53,401	-	53,401
410-1014-550102-21042	Capital Outlay- Fees and Services	53,401	-	-	53,401
FUND 410 (Blythe)	TOTAL REVENUES	53,401	53,401	53,401	53,401
	TOTAL EXPENDITURES	53,401	-	-	53,401
410-0000-470100-21043	Transfer in (from 010, FY23)	54,700	-	54,700	-
410-0000-470010-21043	Debt Proceeds	-	54,700	-	54,700
410-1014-550102-21043	Capital Outlay- Fees and Services	54,700	-	-	54,700
FUND 410 (Grove)	TOTAL REVENUES	54,700	54,700	54,700	54,700
	TOTAL EXPENDITURES	54,700	-	-	54,700

A budget amendment changing the revenue source for the Blythe and Grove projects to proceeds of debt.

The City Manager and City Clerk certify budget ordinance amendment 09072023-02 was approved by City Council on September 07, 2023.

TO MAYOR & COUNCIL  
APPROVAL: September 07, 2023

FISCAL YEAR 2024  
FORM: 09072023-03

BUDGET AMENDMENT

FUND 010   020   021   060   064   067   068					
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ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-534999	Contingency	146,211	-	76,240	69,971
010-1002-502056	COH Retirement Match (401k)	-	9,205	-	9,205
010-1005-502056	COH Retirement Match (401k)	-	2,730	-	2,730
010-1008-502056	COH Retirement Match (401k)	-	4,265	-	4,265
010-1010-502056	COH Retirement Match (401k)	-	885	-	885
010-1014-502056	COH Retirement Match (401k)	-	3,500	-	3,500
010-1200-502056	COH Retirement Match (401k)	-	6,100	-	6,100
010-1300-502056	COH Retirement Match (401k)	-	7,175	-	7,175
010-1400-502056	COH Retirement Match (401k)	-	24,775	-	24,775
010-1502-502056	COH Retirement Match (401k)	-	4,000	-	4,000
010-1521-502056	COH Retirement Match (401k)	-	2,550	-	2,550
010-1523-502056	COH Retirement Match (401k)	-	3,000	-	3,000
010-1525-502056	COH Retirement Match (401k)	-	1,625	-	1,625
010-1555-502056	COH Retirement Match (401k)	-	5,450	-	5,450
010-1560-502056	COH Retirement Match (401k)	-	870	-	870
010-7855-502056	COH Retirement Match (401k)	-	110	-	110
FUND 010	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	-	76,240	76,240	-
020-0000-534999	Contingency	7,600	-	2,365	5,235
020-1502-502056	COH Retirement Match (401k)	-	70	-	70
020-1523-502056	COH Retirement Match (401k)	-	160	-	160
020-1525-502056	COH Retirement Match (401k)	-	95	-	95
020-1560-502056	COH Retirement Match (401k)	-	45	-	45
020-2102-502056	COH Retirement Match (401k)	-	1,860	-	1,860
020-7855-502056	COH Retirement Match (401k)	-	135	-	135
FUND 020	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	-	2,365	2,365	-

021-0000-534999	Contingency	750	-	690	60
021-1502-502056	COH Retirement Match (401k)	-	20	-	20
021-1521-502056	COH Retirement Match (401k)	-	40	-	40
021-1525-502056	COH Retirement Match (401k)	-	25	-	25
021-1556-502056	COH Retirement Match (401k)	-	20	-	20
021-2202-502056	COH Retirement Match (401k)	-	555	-	555
021-7855-502056	COH Retirement Match (401k)	-	30	-	30
FUND 021	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	-	690	690	-
060-0000-534999	Contingency	214,297	-	81,603	132,694
060-1002-502056	COH Retirement Match (401k)	-	5,176	-	5,176
060-1005-502056	COH Retirement Match (401k)	-	2,727	-	2,727
060-1008-502056	COH Retirement Match (401k)	-	9,075	-	9,075
060-1010-502056	COH Retirement Match (401k)	-	2,879	-	2,879
060-1014-502056	COH Retirement Match (401k)	-	8,766	-	8,766

060-1502-502056	COH Retirement Match (401k)	-	380	-	380
060-1521-502056	COH Retirement Match (401k)	-	1,543	-	1,543
060-1523-502056	COH Retirement Match (401k)	-	2,972	-	2,972
060-7002-502056	COH Retirement Match (401k)	-	15,318	-	15,318
060-7032-502056	COH Retirement Match (401k)	-	4,997	-	4,997
060-7035-502056	COH Retirement Match (401k)	-	5,244	-	5,244
060-7050-502056	COH Retirement Match (401k)	-	3,072	-	3,072
060-7055-502056	COH Retirement Match (401k)	-	8,535	-	8,535
060-7132-502056	COH Retirement Match (401k)	-	2,461	-	2,461
060-7135-502056	COH Retirement Match (401k)	-	2,475	-	2,475
060-7150-502056	COH Retirement Match (401k)	-	1,778	-	1,778
060-7155-502056	COH Retirement Match (401k)	-	4,205	-	4,205
FUND 060	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	-	81,603	81,603	-

064-7455-534999	Contracted Services	5,000	-	155	4,845
064-1560-502056	COH Retirement Match (401k)	-	155	-	155
FUND 064	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	-	155	155	-
067-0000-534999	Contingency	5,600	-	5,300	300
067-1008-502056	COH Retirement Match (401k)	-	325	-	325
067-1014-502056	COH Retirement Match (401k)	-	150	-	150
067-1502-502056	COH Retirement Match (401k)	-	325	-	325
067-1525-502056	COH Retirement Match (401k)	-	600	-	600
067-1555-502056	COH Retirement Match (401k)	-	1,300	-	1,300
067-7555-502056	COH Retirement Match (401k)	-	2,600	-	2,600
FUND 067	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	-	5,300	5,300	-
068-0000-534999	Contingency	29,600	-	5,910	23,690
068-1502-502056	COH Retirement Match (401k)	-	850	-	850
068-1521-502056	COH Retirement Match (401k)	-	460	-	460
068-7855-502056	COH Retirement Match (401k)	-	4,600	-	4,600
FUND 068	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	-	5,910	5,910	-

A budget amendment to move budgeted funds from Contingency accounts across various funds to appropriately budget for a Council-adopted 401k match following the creation of needed account codes.

The City Manager and City Clerk certify budget ordinance amendment 09072023-03 was approved by City Council on September 07, 2023.



TO MAYOR & COUNCIL  
APPROVAL: September 07, 2023

FISCAL YEAR 2023  
FORM: 09072023-04

BUDGET AMENDMENT					
FUND 060					
ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
060-7002-534000	Non-Capital Equipment	172,175	-	2,500	169,675
060-7002-551000	C/O - Land/Easement/ROW	118,500	2,500	-	121,000
FUND 060	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	-	2,500	2,500	-
An FY23 budget amendment related to the City Operations property acquisition - the amendment allocates FY23 funds for the earnest money needed from the Water and Sewer Fund (\$2,500).					

The City Manager and City Clerk certify budget ordinance amendment 09072023-04 was approved by City Council on September 07, 2023.

TO MAYOR & COUNCIL  
APPROVAL: September 07, 2023

FISCAL YEAR 2023  
FORM: 09072023-05

BUDGET AMENDMENT					
FUND 010   060   080					
ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-1002-534000	Non-Capital Equipment	96,120	-	18,000	78,120
010-1002-539005	Health & Welfare Expenditures	179,785	18,000	-	197,785
FUND 010	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	-	18,000	18,000	-
060-7002-534000	Non-Capital Equipment	169,675	-	60,000	109,675
060-7002-539005	Health & Welfare Expenditures	132,241	60,000	-	192,241
FUND 060	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	-	60,000	60,000	-
080-0000-435001	H&W Charges	312,026	78,000	-	390,026
080-3101-519200	Contracted Services	93,526	-	23,400	70,126
080-3101-539006	MERP Claims - General Fund	110,400	32,200	-	142,600
080-3101-539007	MERP Claims - Water & Sewer Fund	75,500	69,200	-	144,700
FUND 080	TOTAL REVENUES	-	78,000	-	-
	TOTAL EXPENDITURES	-	101,400	23,400	-
An FY23 budget amendment to cover higher than anticipated MERP claims using resources from the General Fund and Water and Sewer Fund.					

The City Manager and City Clerk certify budget ordinance amendment 09072023-05 was approved by City Council on September 07, 2023.

TO MAYOR & COUNCIL  
APPROVAL: September 07, 2023

FISCAL YEAR 2023  
FORM: 09072023-06

BUDGET AMENDMENT					
FUND 010   060					
ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-470025	Lease & Sub. Debt GASB 87+96	176,054	293,035	-	469,089
010-0000-470010	Debt Proceeds	521,000	396,130	-	917,130
010-1010-557001	Lease & Sub.GASB 87+96	67,522	129,610	-	197,132
010-1300-557001	Lease & Sub.GASB 87+96	-	163,425	-	163,425
010-0900-560011	Debt Prin. GASB 87+96	-	101,790	-	101,790
010-0900-560511	Debt Int. GASB 87+96	-	1,660	-	1,660
010-1010-531210	Permits, Licenses, and Fees	236,000	-	69,010	166,990
010-1300-554001	C/O - Equipment	127,000	396,130	34,440	488,690
FUND 010	TOTAL REVENUES	-	689,165	-	-
	TOTAL EXPENDITURES	-	792,615	103,450	-
060-0000-470025	Lease & Sub. Debt GASB 87+96	67,522	552,080	-	619,602
060-1010-557001	Lease & Sub.GASB 87+96	67,522	552,080	-	619,602
060-0900-560011	Debt Prin. GASB 87+96	-	118,700	-	118,700
060-0900-560511	Debt Int. GASB 87+96	-	1,655	-	1,655
060-1010-531210	Permits, Licenses, and Fees	432,000	-	120,355	311,645
FUND 060	TOTAL REVENUES	-	552,080	-	-
	TOTAL EXPENDITURES	-	672,435	120,355	-
An FY23 budget amendment correcting the General Fund and Water and Sewer Fund related to GASB 87 and 96 rules (accounting standards).					

The City Manager and City Clerk certify budget ordinance amendment 09072023-06 was approved by City Council on September 07, 2023.

TO MAYOR & COUNCIL  
APPROVAL: September 07, 2023

FISCAL YEAR 2023  
FORM: 09072023-07

BUDGET AMENDMENT

FUND 010   020   060					
ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0900-560001	Debt Principal	1,501,267	59,000	-	1,560,267
010-1010-534000	Non-Capital Equipment	71,000	-	12,000	59,000
010-1200-519000	Contracted Services	240,000	-	97,000	143,000
010-1300-519200	Contracted Services	54,450	-	24,000	30,450
010-1300-534000	Non-Capital Equipment	135,014	-	23,000	112,014
010-1400-501001	Salaries Regular	2,290,678	46,700	-	2,337,378
010-1400-501010	Salaries Overtime	147,000	35,900	-	182,900
010-1400-501011	Salaries-Holiday	86,453	-	24,290	62,163
010-1400-501013	Salaries Halftime	78,756	2,780	-	81,536
010-1400-502001	FICA	195,070	7,000	-	202,070
010-1400-502005	Group Med & Life	412,265	9,000	-	421,265
010-1400-502050	Retirement	299,271	21,000	-	320,271
010-1400-502091	Worker's Comp Ins	53,040	600	-	53,640
010-1502-501001	Salaries Regular	308,173	4,200	-	312,373
010-1523-524020	R&M Equipment	11,000	-	10,000	1,000
010-1525-501002	Salaries-Board/Part Time/Temp/Aux	20,000	-	10,000	10,000
010-1555-501001	Salaries Regular	505,860	12,600	-	518,460
010-1556-524040	R&M Streets and Sidewalks	600,000	28,000	-	628,000
010-1560-501001	Salaries Regular	140,624	-	20,000	120,624
010-1560-524020	R&M Equipment	17,000	-	6,490	10,510
FUND 010	TOTAL REVENUES		-	-	
	TOTAL EXPENDITURES		226,780	226,780	
020-0900-560500	Debt Interest	14,366	326	-	14,692
020-2102-519104	Prof Services- Engring	2,000	-	326	1,674
FUND 020	TOTAL REVENUES		-	-	
	TOTAL EXPENDITURES		326	326	

060-1008-501001	Salaries Regular	707,958	7,520	-	715,478
060-1010-501001	Salaries Regular	190,551	1,095	-	191,646
060-7035-501001	Salaries Regular	679,851	2,630	-	682,481
060-7050-501001	Salaries Regular	463,093	5,270	-	468,363
060-7055-501010	Salaries Overtime	114,000	11,665	-	125,665
060-7155-501001	Salaries Regular	542,115	6,890	-	549,005
060-7155-554001	Capital Outlay- Other Than Vehicles	-	5,660	-	5,660
060-7155-555002	Capital Outlay-Line	12,140	1,250	-	13,390
060-7002-519200	Contract Services	328,990	-	41,980	287,010
FUND 060	TOTAL REVENUES		-	-	
	TOTAL EXPENDITURES		41,980	41,980	

An FY23 budget amendment making corrections for the annual audit process.

The City Manager and City Clerk certify budget ordinance amendment 09072023-07 was approved by City Council on September 07, 2023.

E. Resolution to Apply for Funding for Lead Service Line Investigation and Replacement Project – Gracie Erwin, Environmental Compliance Coordinator

Resolution #R-23-95

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPLY FOR FUNDING FOR THE LEAD SERVICE LINE INVESTIGATION AND REPLACEMENT PROJECT

WHEREAS, The City of Hendersonville has need for and intends to construct, plan for, or conduct a study in a project described as Lead Service Line Investigation and Replacement.

WHEREAS, The City of Hendersonville intends to request State loan and/or grant assistance for the project.

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

- That City of Hendersonville, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.
- That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.
- That the governing body of the Applicant agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Hendersonville to make scheduled repayment of the loan, to withhold from the City of Hendersonville any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.
- That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.

5. That John Connet, City Manager, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project described above.
6. That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.
7. That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 7<sup>th</sup> day of September, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

**F. Resolution Accepting Award of DEQ LASII Planning Funds – Michael Huffman, Stormwater Division Manager**

Resolution #R-23-96

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ACCEPT FUNDING FROM THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY FOR THE COMPREHENSIVE STORMWATER MASTER PLANNING PROJECT**

**WHEREAS**, the American Rescue Plan Act (ARPA), funded from the State Fiscal Recovery Fund, was established in Session Law (S.L.) 2021-180 to assist eligible units of local government with meeting their drinking water and/or wastewater and/or stormwater infrastructure needs, and

**WHEREAS**, the North Carolina Department of Environmental Quality has offered LASII ARPA funding in the amount of \$400,000 to perform the work detailed in the submitted application, and

**WHEREAS**, the City of Hendersonville, NC intends to perform said project in accordance with the agreed scope of work,

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

1. That the City of Hendersonville, NC does hereby accept the ARPA grant offer of \$400,000; and
2. That the City of Hendersonville, NC does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Funding Offer and Acceptance (award offer) will be adhered to; has substantially complied, or will substantially comply, with all federal, State of North Carolina (State), and local laws, rules, regulations, and ordinances applicable to the project; and to federal and State grants and loans pertaining thereto; and
3. That John Connet, City Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the North Carolina Department of Environmental Quality, Division of Water Infrastructure.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 7<sup>th</sup> day of September, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

**G. Consideration of Resolution of Support to Name the U.S. 64 Bridge in Honor of Deputy Ryan P. Hendrix – Jennifer Hensley, Council Member**

Resolution # R-23-97

**RESOLUTION OF SUPPORT ENDORSING BRIDGE NAMING IN HONOR OF DEPUTY RYAN P. HENDRIX**

**WHEREAS**, the Henderson County Sheriff's Office has requested the North Carolina Department of Transportation (NCDOT) to name the US64 bridge over Interstate 26 in honor of Deputy Ryan P. Hendrix; and

**WHEREAS**, Deputy Ryan P. Hendrix was killed in the line of duty in service to the citizens of Henderson County on September 10, 2020; and

**WHEREAS**, in 2004 Deputy Ryan P. Hendrix enlisted with the United States Marine Corps and volunteered to serve a tour of duty in Iraq in 2006; and

**WHEREAS**, Deputy Ryan P. Hendrix began his career with the Henderson County Sheriff's Office as a Detention Officer in June 2012, and rose through the ranks as a patrol deputy, a field training officer, an active member of the SWAT team and was assigned as a Patrol Detective on his squad; and

**WHEREAS**, even in death, Deputy Ryan P. Hendrix continued to exemplify a servant's heart, as an organ donor helping countless strangers; and

**WHEREAS**, NCDOT requires a Resolution of Support from local governing boards to consider the bridge naming request.

**NOW, THEREFORE, BE IT RESOLVED** the City Council of the City of Hendersonville offers its support and endorses the naming of the US64 bridge over Interstate 26 in honor of Deputy Ryan P. Hendrix.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the City of Hendersonville to be affixed.

Adopted this, the 7<sup>th</sup> day of September, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

#### **H. Purchase of Chlorine – Ricky Levi**

Resolution #R-23-98

#### **RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE SOLE-SOURCE PURCHASE OF CHLORINE FOR THE WATER TREATMENT PLANT**

**WHEREAS**, the City's Water Treatment Plant utilizes Chlorine; and,

**WHEREAS**, Chlorine is required by the state for certain levels in the treatment train for certain CT/Contact Times and a certain residual level must be maintained in the distribution system; and,

**WHEREAS**, there are no other suppliers in our region. If we did go outside of our region – product availability, cost, safety, and would be an issue; and,

**WHEREAS**, requesting department has been looking for additional chlorine suppliers each year. When current staff took over position, staff was informed by other staff that there weren't any suppliers/vendors close enough that could provide chlorine in the containers nor amount used by the City. Requesting department has made several attempts to locate additional suppliers and has inquired to everyone in the industry contacts – with no success. Attached are example emails of the latest search efforts. Additionally, requesting department has also brought in Brenntag chemical in the past to look things over. It was learned that the vendor is unable to supply the amount needed by the City in ton containers and is not equipped to supply currently. This was basically the only lead requesting department had, and this vendor is not located in NC. The others with applicable capabilities were in either Florida or South Georgia. They, however, have to keep their regional customers supplied, so the City would not have a place of priority if that route was selected. The cost would also be higher due to shipping. In addition to increased cost, this distance is not in line with best safety practices; and,

**WHEREAS**, the City's RMP Risk Management Plan (which is filed with the USEPA, NCDEQ) and Emergency Management require certain safety training along with training at City facilities to be documented. The inspectors are more pleased when you stick with the same vendor as much as possible from a safe handling aspect.; and,

**WHEREAS**, Overall, there are no other viable options other than JCI Jones Chemical (out of Charlotte, NC) who can provide chlorine gas in the ton containers and in the volume the City requires for water treatment disinfection at the City's 12 million per gallon a day rated water treatment facility. The City uses 2000 lb. cylinders and one ton will last about 10 days. The City's maximum allowed facility storage amount at any one time is 8 tons/16,000 lbs. This is regulated by the State and Federal government. The current market price is \$2,158 per ton delivered. The volatile market is continuing at this time. The City also has much email documentation regarding extensive market volatility and price increases over the past year. Due to the cost escalation in the current market, chlorine costs are now exceeding formal bid thresholds. Costs have nearly quadrupled over the past year. Therefore, we are seeking council approval to continue use of JCI Jones Chemicals in order to ensure that we are able to consistently source this chemical safely and to ensure effective operation of our facilities; and,

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hendersonville, North Carolina that the City's Water Treatment Plant is authorized to continue to utilize JCI Chemical as the source for Chlorine.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 7<sup>th</sup> day of September, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

## 6. PRESENTATIONS

### A. **Proclamation-Childhood Cancer Awareness** – *Barbara G. Volk, Mayor*

No one showed up to accept the Proclamation, therefore the Clerk will be sure to mail the signed proclamation.

#### **Proclamation Childhood Cancer Awareness Month**

**WHEREAS**, the month of September is designated as National Childhood Cancer Awareness Month and serves as an outlet to honor the young lives taken too soon, and as a means to increase public awareness of this disease affecting children across the United States; and

**WHEREAS**, childhood cancer is the leading cause of death by disease in children with 1 in 260 children in the United States being diagnosed by their 20th birthday; and

**WHEREAS**, the average age of diagnosis is 6 years old, compared to 66 years for adults' cancer, 80% of childhood cancer patients are diagnosed late and with metastatic disease; and

**WHEREAS**, in 2018, 47 children per day or 17,293 children (age 0-19) were diagnosed with cancer in the U.S More than 95% of childhood cancer survivors will have chronic health conditions as a result of their treatment toxicity, with one quarter being classified as severe to life-threatening; and

**WHEREAS**, approximately one half of childhood cancer families rate the associated financial toxicity due to out-of-pocket expenses as considerable to severe; and

**WHEREAS**, in the last 20 years only four new drugs have been approved by the FDA to specifically treat childhood cancer, and

**WHEREAS**, recognizing the unique research needs of childhood cancer and the associated need for increased funding is critical to allow healthcare professionals to work diligently dedicating their expertise to treat and cure children with cancer; and

**WHEREAS**, many parents and family members feel terrified and are overwhelmed following a child's cancer diagnosis therefore it is important to encourage additional non-profit organizations at the local and national level to assist children with cancer and their families in coping through educational, emotional and financial support.

**NOW, THEREFORE**, I, Barbara Volk, Mayor of the City of Hendersonville hereby proclaim the month of September, 2023 as

#### **"Childhood Cancer Awareness Month"**

in the City of Hendersonville and I encourage citizens, government agencies, private businesses, nonprofit organizations, the media, and other interested groups to increase awareness of what citizens can do to support the fight against childhood cancer.

**PROCLAIMED** this 7<sup>th</sup> day of September, 2023.

## 7. PUBLIC HEARINGS

### A. **Annexation: Public Hearing-2203 and 2205 N. Stoney View Court (Bullets Contracting, LLC) (C23-61-ANX)** – *Tyler Morrow, Planner II*

Tyler Morrow explained that the City of Hendersonville has received a petition from Chris Miller, Manager of Bullets Contracting LLC for contiguous annexation of PINs 9569-47-1183 and 9569-47-2203 located on N. Stoney View Court that is approximately 0.64 acres.

On August 9<sup>th</sup>, 2023, City Council accepted the City Clerk's Certificate of Sufficiency for the petition submitted by Bullets Contracting LLC and set September 7, 2023, as the date for the public hearing.

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes.

The public hearing was opened at 6:15 p.m.

The public hearing was closed at 6:15 p.m.

*Council Member Jerry Smith moved that City Council adopt an ordinance of the City of Hendersonville to extend the Corporate Limits of the City as a contiguous annexation, to annex that property owned by Bullets Contracting, LLC, identified as PINs 9569-47-1183 and 9569-47-2203, finding that the standards established by North Carolina General Statute 160A-31 have been satisfied and that the annexation is in the best interest of the City. A unanimous vote of the Council followed. Motion carried.*

Ordinance #O-23-52

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO EXTEND THE CORPORATE LIMITS OF THE CITY AS A CONTIGUOUS ANNEXATION**

IN RE: Petition for Contiguous Annexation

Parcel Number: 9569-47-1183 and 9569-47-2203.

2203 and 2205 N. Stoney View Court (File# C23-61-ANX)

**WHEREAS**, The City of Hendersonville has been petitioned by Chris Miller, Manager of Bullets Contracting, LLC pursuant to North Carolina General Statutes (NCGS) 160A-31, as amended, to annex the area described herein below; and

**WHEREAS**, the City Clerk has investigated and certified the sufficiency of said petition; and,

**WHEREAS**, a public hearing on the question of this annexation was held at 305 Williams Street (City Operations Center), Hendersonville, NC at 5:45 pm, on the 7<sup>th</sup> day of September 2023, after due notice by publication as provided by law on August 20<sup>th</sup>, 2023; and

**WHEREAS**, the City Council further finds the areas described therein meets the standards of N.C. G.S. 160A-31.

**WHEREAS**, the City further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

**WHEREAS**, the City further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City and of the area proposed for annexation will be best served by annexing the area described;

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

1: By virtue of the authority granted by N.C.G.S. 160A-31, as amended, the following described contiguous area is hereby annexed and made part of the City of Hendersonville as of the 7<sup>th</sup> day of September 2023.

Being all of that real property consisting of PINs 9569-47-1183 and 9569-47-2203 described in the plat recorded in Book 2023-\_\_\_\_\_ [to be inserted at recording of the plat] of the Henderson County Registry, said PINs 9569-47-1183 and 9569-47-2203 being described by metes and bounds as follows:

Being Lots 3 & 4 of Block A of Stoney Crest Subdivision, as shown on the plat thereof recorded in Plat Cabinet C at Slide 23, in the Office of the Register of Deeds for Henderson County, North Carolina, and being more particularly described as follows:

Beginning at a point on the northwestern right of way line of North Stone View Court at the common corner of Lots 4 & 5 of the aforementioned subdivision; thence along the common line between Lots 4 & 5 running North 74°31'01" West for 141.80 feet to a point on the southeastern limits of the City of Hendersonville; thence along the southeastern limits of the City of Hendersonville the following three (3) course to wit: (1) North 15°23'02" East for 74.40 feet; (2) North 14°50'43" East for 24.81 feet; (3) North 14°50'43" East for 99.55 feet to a point at common corner of Lots 2 & 3 of the aforementioned subdivision; thence leaving the limits of the City of Hendersonville and along the common line between Lots 2 & 3 running South 74°39'12" East for 141.09 feet to a point on the Northwestern right of way line of North Stone View Court; thence along the northwestern right of way line of North Stone View Court the following two (2) courses to wit: (1) South 14°53'55" W for 99.55 feet; (2) South 14°53'55" W for 99.55 feet to the Point of Beginning. Containing 0.64 acres (28,074 square feet), more or less.

2: Upon and after the seventh day of September 2023, the above-described territory, and its citizens, and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Hendersonville and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-58.10, as amended.

3: The Mayor of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Henderson County Board of Elections, as required by G. S. 163-288.1.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 7<sup>th</sup> day of September, 2023.



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

**B. Annexation: Public Hearing-Townes at Martha Kate (C23-62-ANX) – Tyler Morrow, Planner II**

Tyler Morrow explained that the City of Hendersonville has received a petition from Rick Moore, Manager of the Townes at Martha Kate LLC. for satellite annexation of PIN 9569-75-0342 located on Queen Street that is approximately 14.20 acres.

On August 9<sup>th</sup>, 2023, City Council accepted the City Clerk's Certificate of Sufficiency for the petition submitted by Rick Moore, Manager of the Townes at Martha Kate LLC. and set September 7, 2023, as the date for the public hearing.

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes.

The public hearing was opened at 6:18 p.m.

The public hearing was closed at 6:18 p.m.

*Council Member Jennifer Hensley moved that City Council adopt an ordinance of the City of Hendersonville to annex noncontiguous property owned by Townes at Martha Kate LLC, identified as PIN 9569-75-0342, finding that the standards established by North Carolina General Statute 160A-58.1 have been satisfied and that the annexation is in the best interest of the City. A unanimous vote of the Council followed. Motion carried.*

Ordinance #O-23-53

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO EXTEND THE CORPORATE LIMITS OF THE CITY AS A SATELLITE ANNEXATION**

Re: Petition for Satellite Annexation  
Petitioners: Townes at Martha Kate LLC (Rick Moore, Manager)  
File No. C23-62-ANX

**WHEREAS**, The City of Hendersonville has been petitioned by Rick Moore of Townes at Martha Kate LLC pursuant to North Carolina General Statutes (NCGS) 160A-58.1, as amended, to annex the area described herein below; and,

**WHEREAS**, the City Clerk has investigated and certified the sufficiency of said petition; and,

**WHEREAS**, a public hearing on the question of this annexation was held at the City Operations Center at 305 Williams Street, Hendersonville, NC at 5:45 pm, on the 7<sup>th</sup> day of September 2023, after due notice by publication as provided by law on August 20, 2023; and

**WHEREAS**, the City Council further finds the areas described therein meets the standards of N.C. G.S. 160A-58.1(b), to wit;

- a. All of the proposed satellite corporate limits are less than three miles from the primary corporate limits of Hendersonville. The map distance is approximately 6.5 feet.
- b. No point on the proposed satellite corporate limit is closer to the primary corporate limits of another city than to the primary corporate limits of Hendersonville.
- c. The area described is so situated that the City of Hendersonville will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- d. The area proposed for annexation is subject to subdivision regulation as described N.C.G.S. § 160D-802 and all of the subdivision is included in the petition.
- e. The area within the proposed satellite corporate limits, when added to the areas within all other satellite corporate limits does not exceed 10 percent (10%) of the area within the primary corporate limits of the City of Hendersonville.

**WHEREAS**, the City further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

**WHEREAS**, the City further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City and of the area proposed for annexation will be best served by annexing the area described;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville, North Carolina:

1: By virtue of the authority granted by N.C.G.S. 160A-58.2, as amended, the following described noncontiguous area is hereby annexed and made part of the City of Hendersonville as of the seventh day of September 2023.

Being all of that real property consisting of PIN 9569-75-0342 described in the plat recorded in Book 2023-\_\_\_\_ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9569-75-0342 being described by metes and bounds as follows:

#### Tract 1

Beginning on a 1/2" rebar, said rebar bearing NC Grid Coordinates of Northing – 596039.0349 and Easting – 966861.2601, and proceeding thence from beginning point thus established, S 21°59'23" E 26.02' to a 1/2" rebar, thence S 28°05'48" E 69.57' to a point in Queen Street, thence along with Queen Street the following five calls, S 46°01'56" E 13.80' to a point, S 57°10'21" E 210.36' to a point, S 46°42'31" E 113.30' to a point, S 38°33'02" E 135.50' to a point, S 38°10'56" E 267.63' to a point, thence leaving Queen Street S 20°04'32" E 100.50' to a 1/2" rebar located in the northern margin of North Main Street, thence with the northern margin of North Main Street on a non-tangent curve to the left with a radius of 291.69' and an arc length of 98.42' (chord - S 39°38'46"W, 97.95') to a point, thence S 29°58'49"W 429.16' to a point, said point being the easternmost point of "Possible Overlap Area" as described below, thence leaving the margin of North Main Street, N 13°10'06" W 18.25' to a point, thence N 28°49'16" W 126.13' to a point, thence N 60°17'30" W 232.38' to a point, thence N 33°05'56" W 596.69' to a point, thence N 55°47'26" passing a 1/2" rebar at a distance of 25.19' for a total distance of 175.08' to a 1" iron pipe, thence N 57°55'43" 277.19' to the point and place of beginning. Containing 12.21 Acres Total and depicted as Tract 1 on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

#### Possible Overlap Area

Beginning on a point in the northern margin of North Main Street, said point being the southeastern corner of Tract 1 as described above, and proceeding from said beginning point thus established, S 29°58'49" W 61.59' to a point, thence N 38°29'37" W 379.20' to a point, thence S 60°17'30" E 232.38' to a point, thence S 28°49'16" E 126.13' to a point, thence S 13°10'06" E 18.25' to the point and place of beginning. Containing 0.47 Acres and depicted as Possible Overlap Area on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

#### Tract 2

Beginning on a point located in the southern margin of North Main Street, said point being located S 47°18'15" 61.51' from the southeastern corner of the "Possible Overlap Area" as described above, and proceeding from beginning point thus established with the southern margin of North Main Street, N 29°58'49" E 363.42' to a point in the centerline of Ochlawaha Drive, thence with the centerline of Ochlawaha Drive, S 17°13'56" E 67.56' to a mag nail, thence S 18°39'06" E 157.80' to a point, thence on a curve to the right with a radius of 125.00' and an arc length of 97.34' (chord S 03°39'25" W 94.90') to a point in the western margin of Ochlawaha Drive, thence S 25°58'04" W 47.05' to a point, thence N 60°14'45" W 82.23' to a point, thence N 53°13'35" W 58.00' to a point, thence N 64°07'55" W 90.81' to a point, thence N 56°54'56" W 68.43' to the point and place of beginning. Containing 1.52 Acres and depicted as Tract 2 on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

2: Upon and after the seventh day of September 2023, the above-described territory, and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Hendersonville and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-58.10, as amended.

3. The Mayor of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Henderson County Board of Elections, as required by G. S. 163-288.1.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 7<sup>th</sup> day of September, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

### **C. Zoning Text Amendment: Small Scale Multi-Family in the MIC (P23-49-ZTA) –** *Matthew Manley, AICP Strategic Projects Manager*

The City of Hendersonville is in receipt of an application to amend the list of Permitted Uses in the MIC (Medical, Institutional, & Cultural) Zoning District to include "Residential, Multi-family" as a permitted use.

To facilitate the inclusion of "Small-Scale" multi-family in the MIC district, staff has developed additional dimensional and design standards that aim to achieve compatibility with the existing

neighborhood as part of this proposed text amendment. These proposed standards include a reduction in minimum setbacks, architectural design standards, site design standards, screening of parking, and pedestrian connectivity requirements, to name a few. While there is no proposed maximum density, the maximum height, maximum footprint, minimum setbacks, minimum common space, parking requirements, and landscaping standards will all work in combination to limit the overall scale of any development.

A definition for Small-Scale Multi-Family will also be added to Article 12 - Definitions.

The Planning Board voted 8-1 in favor of the proposed text amendment.

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes.

The public hearing was opened at 6:55 p.m.

Ken Fitch spoke via Zoom electronic software in favor of the rezoning however is concerned about existing trees and hopefully the tree ordinance will help with that. The other is the parking issue which will hopefully be discussed during comp plan discussions.

Lynne Williams spoke via Zoom electronic software regarding incentivizing impervious concrete and is worried about the tree canopy. She asked if we can we turn one of the vacant lots into a park or greenspace.

The public hearing was closed at 7:04 p.m.

*Council Member Jerry Smith moved that City Council adopt an ordinance amending the official City of Hendersonville Zoning Ordinance, Article V. – Zoning District Classifications, Section 5-10. ‘Medical, Institutional and Cultural Zoning District Classification (MIC)’ and Article XII. – ‘Definition of Terms’ and Article XVI. – ‘Supplementary Standards for Certain Uses’, 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 2030 Comprehensive Plan Land Use and Development Chapter calls for minimal front setbacks and recommends multi-family as a secondary use for properties within the Urban Institutional Future Land Use Designation. Goal PH-3 of the Population & Housing Chapter further supports the proposed Supplementary Standards for Small-Scale Multi-Family.*

*2. 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:*

- 1. The addition of multi-family residential as a permitted use will allow for greater infill development in a zoning district with a mix of intense land uses.*
- 2. The addition of multi-family residential as a permitted use will place more residents within close proximity to goods and services.*
- 3. The addition of multi-family residential as a permitted use will allow for a mixture of housing types at different price points. We also amend the proposed amendment such that it states that 42 feet and three stories, or less, and any chain link fencing in the back or side of the yard must also have a vegetative buffer on the outside of the fence.*

*A unanimous vote of the Council followed. Motion carried.*

Ordinance #O-23-54

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND ARTICLE V. – ‘ZONING DISTRICT CLASSIFICATIONS’, SECTION 5-10 ‘MEDICAL, INSTITUTIONAL AND CULTURAL ZONING DISTRICT CLASSIFICATION (MIC)’ AND ARTICLE XII. – ‘DEFINITION OF TERMS’ AND ARTICLE XVI. – ‘SUPPLEMENTARY STANDARDS FOR CERTAIN USES’ TO INCLUDE SMALL-SCALE MULTI-FAMILY RESIDENTIAL USES WITH SUPPLEMENTARY STANDARDS IN THE MIC ZONING DISTRICT**

**WHEREAS**, the Planning Board reviewed this petition for a zoning text amendment at its regular meeting on August 10, 2023; voting 8-1 to recommend City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance, and

**WHEREAS**, City Council took up this application at its regular meeting on September 7, 2023, and

**WHEREAS**, City Council has found that this zoning text amendment is consistent with the City's Comprehensive Plan, and that it is reasonable and in the public interest for the reasons stated, and

**WHEREAS**, City Council has conducted a public hearing as required by the North Carolina General Statutes on September 7, 2023,

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville to amend Article V. – 'Zoning District Classifications', Section 5-10 'Medical, Institutional and Cultural Zoning District Classification (MIC)' and Article XII. – 'Definition Of Terms' and Article XVI. – 'Supplementary Standards for Certain Uses' to include small-scale multi-family residential uses with supplementary standards in the MIC Zoning District.

## **ARTICLE V. - ZONING DISTRICT CLASSIFICATIONS**

### **Section 5-10. - Medical, Institutional and Cultural Zoning District Classification (MIC).**

#### **5-10-1. Permitted uses.**

The following uses are permitted by right in the MIC Medical Institutional Cultural Zoning District Classification, provided they meet all requirements of this section and all other requirements established in this appendix:

Accessory dwelling units subject to supplementary standards contained in section 16-4 below

Accessory uses and structures

Adult care centers registered with the NC Department of Health and Human Services (DHSS)

Adult care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling

Banks and other financial institutions

Child care centers subject to supplementary standards contained in section 16-4, below

Child care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling

Congregate care facilities subject to supplementary standards contained in section 16-4, below

Home occupations

Hospitals

Laundries, coin-operated

Music and art studios

Neighborhood community centers

Nursing homes subject to supplementary standards contained in section 16-4, below

Offices, business, professional and public

Parking lots and parking garages

Parks

Personal services consistent with the purposes of this classification, such as barber and beauty shops, medical and dental labs and clinics, opticians and optical services and prosthetics & orthopedics

Planned residential developments (minor)

Progressive care facilities subject to supplementary standards contained in section 16-4, below

Public and semi-public buildings

Religious institutions

Residential care facilities subject to supplementary standards contained in section 16-4, below

Residential dwellings, single-family

Residential dwellings, two-family

Residential dwellings, small-scale multi-family subject to supplementary standards contained in section 16-4, below

Rest homes subject to supplementary standards contained in section 16-4, below

Retail stores consistent within the purposes of this classification, such as gift shops, florist shops and pharmacies

Schools, post-secondary, business, technical and vocational

Signs, subject to the provisions of article XIII

Telecommunications antennas, subject to supplementary standards contained in section 16-4, below



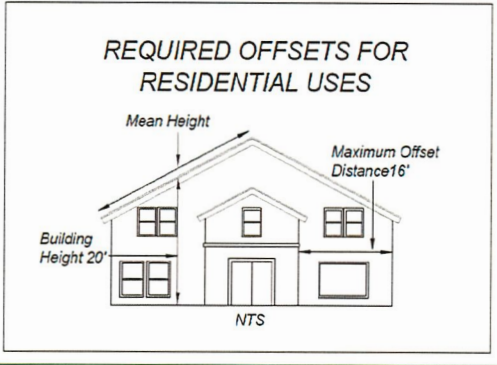
5-10-3. Dimensional requirements.

Minimum lot area in square feet:	8,000
<del>Lot area per dwelling unit in square feet:</del>	<del>10,000 for the first; 5,000 square feet for each additional dwelling unit in one building.</del>
Minimum lot width at building line in feet:	<del>750</del>
Minimum yard requirements in feet:	Front: <del>30</del> 10
	Side: 20 total for lot; with minimum of 5; on any side
	Rear: 20
<u>Accessory Structure Minimum Setbacks</u>	Front: Shall be located to the side or rear of principal structure
	Side & Rear: 5
Maximum height in feet:	50

ARTICLE XVI. - SUPPLEMENTARY STANDARDS FOR CERTAIN USES

16-4-31 – Residential Dwellings, Small-scale multi-family

- a) For the purposes of these standards, small-scale multi-family shall include all developments not subject to the N.C. Residential Code for One- and Two-Family Dwellings including triplexes, quadplexes, and other small apartment buildings. The standards below may be implemented voluntarily for single-family attached (townhomes) constructed subject to N.C. Residential Code for One- and Two-Family Dwellings.
- b) Maximum Height for any structure shall be 42’.
- c) Maximum footprint for any principal structure shall be 4,000 square feet.
- d) All street-facing sides of a corner lot are considered fronts
- e) Building Placement
  - a. Buildings shall be situated as close to the minimum front setback as practicable.
  - b. Buildings shall be situated to provide off-street parking to the rear and/or side of the building(s).
  - c. Buildings shall be situated to protect and accentuate important mountain vistas and views of significant historic sites.
  - d. Buildings shall be situated to provide well-defined, street-facing entrance(s) with a connecting walkway with a direct, safe, pedestrian connection to the street.
    - i. For buildings on corner lots, an entrance may be placed at the corner, thereby eliminating the need for side entrances.
  - e. Buildings shall offset front-loading garages and carports, if provided, behind the front façade by a minimum of 10’.
    - i. Front-loading garages and carports shall be visually designed to form a secondary building volume.
    - ii. The width of an attached garage shall not exceed 50 percent of the total building façade.
  - f. Canopies, awnings, cornices, balconies, front-facing covered porches and stoops and similar architectural accents are permitted to extend from the building up to five feet (5’) into a required minimum setback and/or required Common Open Space.
- f) Architectural Design Standards
  - a. The following standards apply to all facades (front, rear and side) of buildings:
    - i. No wall shall exceed 16 feet in length without an offset. A building façade which is less than 16 feet in length shall not require an offset.
    - ii. Offsets shall have a minimum depth or projection of one and one half feet (1.5’).



- iii. Each façade shall use fenestration and do so in a manner which is proportional to the overall scale of the building.
- iv. All building facades shall contain at least two building materials which shall contrast in color and texture.
- v. When multiple wall materials are combined on one façade, the designer is encouraged to place the heavier material(s) below

- vi. Building materials shall be used consistently on the exterior of the building. The following building materials are prohibited for exterior façade application:
  - 1) Plain concrete block (with or without paint);
  - 2) Reflective glass;
  - 3) More than 50 percent glass on any façade;
  - 4) Vinyl siding; and
  - 5) Any other materials not customarily used in conventional construction.
- vii. Exposed foundations shall consist of stone, stucco, brick or decorative block. If crawlspaces of porches are enclosed, they shall be enclosed with similar materials or lattice or any combination thereof.
- viii. Windows. Windows shall either be (1) recessed a minimum of three inches (3") from the façade or (2) trimmed. If trim is used, it shall be a minimum of four inches (nominal) in width and shall project beyond the façade.
- b. The following standards apply to all street-facing facades (fronts) of buildings:
  - i. Detailed design shall be provided by using at least two (2) of the following architectural features on all elevations.
    - i. Dormers
    - ii. Gables
    - iii. Recessed entries
    - iv. Cupolas or towers
    - v. Pillars, columns or posts
    - vi. Corbels
    - vii. Bay windows
    - viii. Balconies
    - ix. Decorative patterns on exterior finish (e.g. scales/shingles, wainscoting, ornamentation)
    - x. Parapets / Decorative cornices and roof lines (required for buildings with flat roofs)
    - xi. Wood siding with two and a half inch to four and a half inch reveal (2.5"-4.5")
  - c. Pitched roofs on residential buildings shall have a pitch between 5:12 and 12:12. Eaves (with a minimum twelve-inch (12") projection) shall be provided with a pitched roof.
  - d. Useable porches and/or stoops, at least eight feet (8') in width and six feet (6') in depth, shall be located on the front and/or side of the home. Porches and stoops may encroach into front setback up to five feet (5').
  - e. Accessory buildings with a floor area greater than 150 square feet shall be clad in materials similar in appearance to the principal structure and with similar roof pitch.
  - f. Walls and fences located in the front yard shall be no more than four feet (4') above grade. The use of chain link fencing is prohibited in front yards. For corner lots, both street-facing sides shall be considered fronts. Rear yard and side yard fences are not subject to these standards.
- g) On-street parking. On-street parking is encouraged for all local streets and thoroughfares.
  - a. On-street parking abutting the development parcel shall count toward meeting the off-street parking requirements for the district.
  - b. On-street parking may take the form of parallel or angle parking and shall be built according to city or state standards as applicable in order to count towards minimum parking requirements.
- h) Off-street parking.
  - a. All off-street parking lots shall be provided at the side or rear of buildings or the interior of a block of buildings and not closer to the street than the edge profile of the structures.
  - b. Off-street parking shall not be adjacent to street intersections.

## ARTICLE XII. - DEFINITION OF TERMS

### Sec. 12-2. - Definition of commonly used terms and words.

Dwelling, small-scale multi-family: A building with eight (8) or fewer dwelling units

Adopted by the City Council of the City of Hendersonville, North Carolina on this 7<sup>th</sup> day of September, 2023.



## 8. UNFINISHED BUSINESS

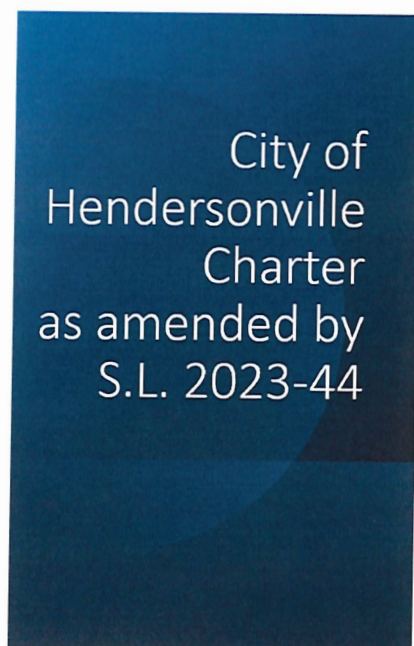
### A. Consideration of City Council Primary Election – *Angie Beeker, City Attorney*

Attorney Beeker showed a PowerPoint presentation explaining the city's charter and how it relates to elections.

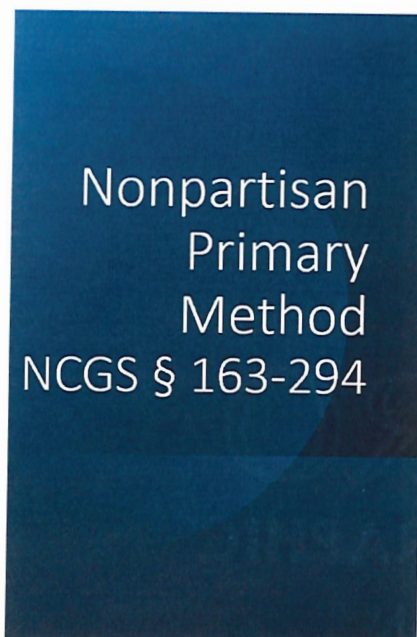


- Local Bills
  - City Charter
  - SL 2023 – 44
- General Statutes
  - Chapter 163 of the General Statutes, Articles 23 and 24 apply to municipal elections.

NOT ALL OF CHAPTER 163 OF THE GENERAL STATUTES APPLY



- Article IV – Election Procedures
  - **Sec. 4.1. Regular Municipal Elections.** Regular municipal elections shall be held at the time of the general election in each even-numbered year. The Mayor and Council Members shall serve until their successors are elected and qualified.
  - **Sec. 4.2. Regular Municipal Primaries.** The Mayor and Council Members shall be elected on a nonpartisan basis and results determined by the primary method as provided in G.S. 163-294.
  - **Sec. 4.4. Regulation of Elections.** All municipal elections shall be conducted in accordance with the uniform municipal election laws in Chapter 163 of the General Statutes, except as otherwise provided by this act.



- Goal: 2 candidates on ballot per open seat
  - If 1 seat open, 1 or 2 candidates file – no primary
  - If 1 seat open, 3 or more candidates file – primary, top 2 vote getters put on ballot.
  - If 2 seats open, 4 candidates file – no primary
  - If 2 seats open, 5 or more candidates file, primary, top 4 vote getters put on ballot.
- Election – top vote getters for number of seats open win
  - If 1 seat open, 2 candidates on ballot, top vote getter wins.
  - If 2 seats open, 4 candidates on ballot, top 2 vote getters win.
- No districts
- All qualified voters in the City get to vote for all seats in both primary and general election.



## Articles 23 and 24 of Chapter 163 of the North Carolina General Statutes

- Article 23, NCGS 163-279, Time of Primaries and General Elections [for municipal elections]
  - Election – 1<sup>st</sup> Tuesday after 1<sup>st</sup> Monday in November;
  - Primary 4<sup>th</sup> Tuesday before the election.
- Article 24, NCGS 163-294.2(c) Filing Period [for municipal elections]
  - Noon on first Friday in July, until noon on third Friday in July preceding election.

Under the current law, choice of election method does not affect either of these.

## Plurality Method NCGS § 163-292

- No primary
- Election – top vote getters for number of seats open win
  - If 1 seat open, 2 or more candidates on ballot, top vote getter wins.
  - If 2 seats open, 3 or more candidates on ballot, top 2 vote getters win.
- No districts
- All qualified voters in the City get to vote for all seats in general election.

## Steps to Change Method of Election

- Adopt Resolution of Intent
  - State intent
  - Call public hearing (no more than 45 days out)
- Publish Notice of Public Hearing
  - Summarize Resolution
  - Publish at least 10 days prior to PH
- Hold Public Hearing
- Adopt Ordinance at Next (or subsequent) Regular Meeting after Public Hearing (but not more than 60 days later)
- Publish Notice of Adoption within 10 days
- Must be adopted at least 90 days before 1<sup>st</sup> election held under new ordinance.

## NCGS § 163- 199(c)

- Can adopt resolution asking that candidates names be rotated on the ballots.
  - Must adopt no later than 60 days before primary or election for which it is effective.



*Council Member Jerry Smith moved that the City Council adopt a Resolution of Intent to Amend the City Charter for the City of Hendersonville to use the Plurality Method of Elections. A unanimous vote of the Council followed. Motion carried.*

## **9. NEW BUSINESS**

**A. Consideration of Allowing Golf Carts on Public Street** – Council Member Hensley & City Manager John Connet.

City Manager Connet said that he and Council Member Hensley have had a lot of conversations regarding golf carts on public street and has requested that staff investigate the development of an policy or ordinance to allow golf carts to be driven on public streets. Prior to asking staff to work on this project, I would like to ensure there is support from the majority of City Council to develop this policy or ordinance.

Council members Jerry Smith, Debbie O’Neal-Roundtree and Mayor Barbara Volk all said no. Council Member Simpson did not say anything, nor did Council member Hensley, as the vote was already 3-2.

**B. Rescheduling of November Workshop Meeting** – John Connet, City Manager

City Manager John Connet explained that the November workshop meeting is scheduled for Wednesday, November 23, 2023, which is the night before Thanksgiving. The Community Development Team would like hold a “Joint Workshop” meeting between the Planning Board and City Council to discuss the Comprehensive Plan. Therefore, we are proposing to move your workshop meeting to Monday November 20, 2023 at 4:00 PM.

*Council Member Lyndsey Simpson moved that City Council schedule their November workshop meeting on Monday, November 20, 2023. A unanimous vote of the Council followed. Motion carried.*

**C. Nonconsensual Towing Ordinance** – Angela S. Beeker, City Attorney

City Attorney Beeker explained an ordinance that is before Council for non-consensual towing and booting and showed a PowerPoint presentation explaining it in further detail.



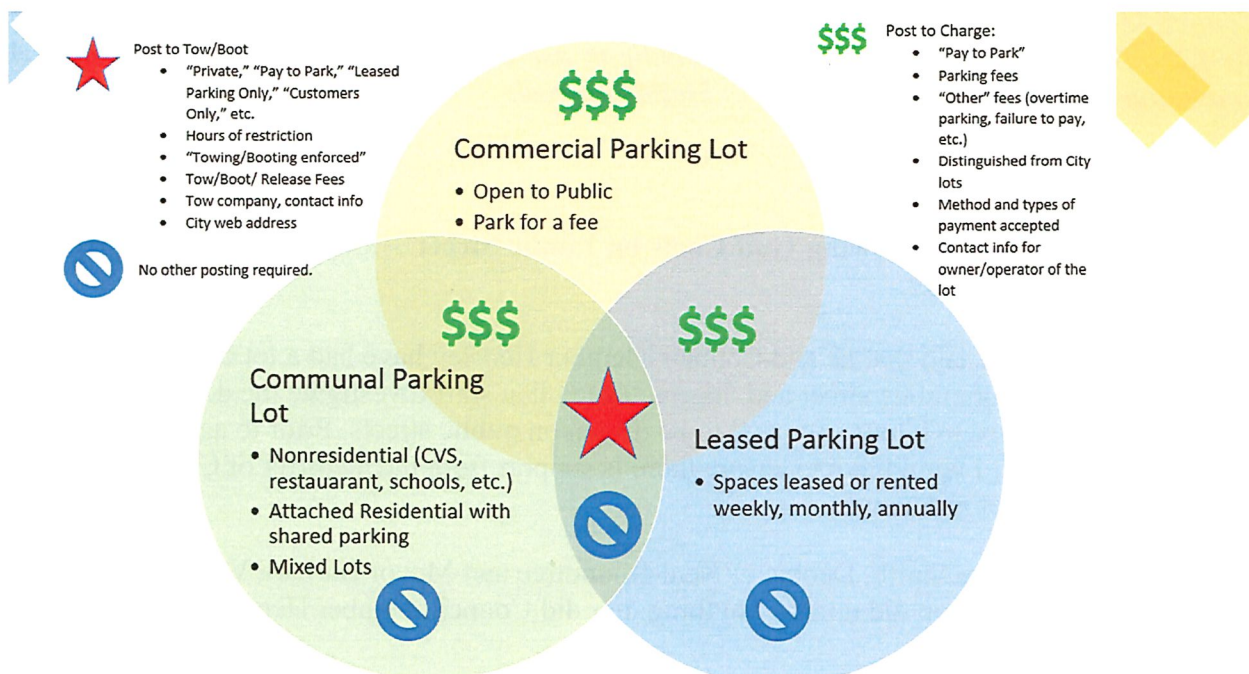
## **Findings:**



The City Council for the City of Hendersonville makes the following findings:

- (a) The City Council of the City of Hendersonville has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving the public order.
- (b) G.S. 160A-174 allows a municipality by ordinance to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of the public, and the peace and dignity of the municipality.
- (c) Some practices related to the non-consensual towing or booting of motor vehicles from private parking lots have exposed the public or members of the towing industry to harm. Non-consensual towing or booting can leave unknowing drivers without means of transportation and can lead to altercations between vehicle owners and towing personnel.
- (d) Inadequate notification of parking restrictions and fees for private parking lots can lead to inadvertent unauthorized parking on the lot and nonconsensual towing or booting of vehicles.
- (e) The Hendersonville City Council desires to minimize the harmful and adverse effects resulting from the non-consensual towing of motor vehicles from private parking lots, while also protecting the lot owners’ and lessees’ property rights, by enacting an ordinance that will assist in making sure that:
  - i. Parking is available to those lawfully present on the private parking lots.
  - ii. The public is aware that their vehicle may be towed or booted if they park in a private parking lot without permission, or without paying applicable fees.
  - iii. If a vehicle parked on a private parking lot is subject to nonconsensual towing or booting, the vehicle owner or operator has a reasonable means of securing the return of the personal property within the motor vehicle and the motor vehicle itself, without being subjected to coercive practices.





## Private Parking Lots

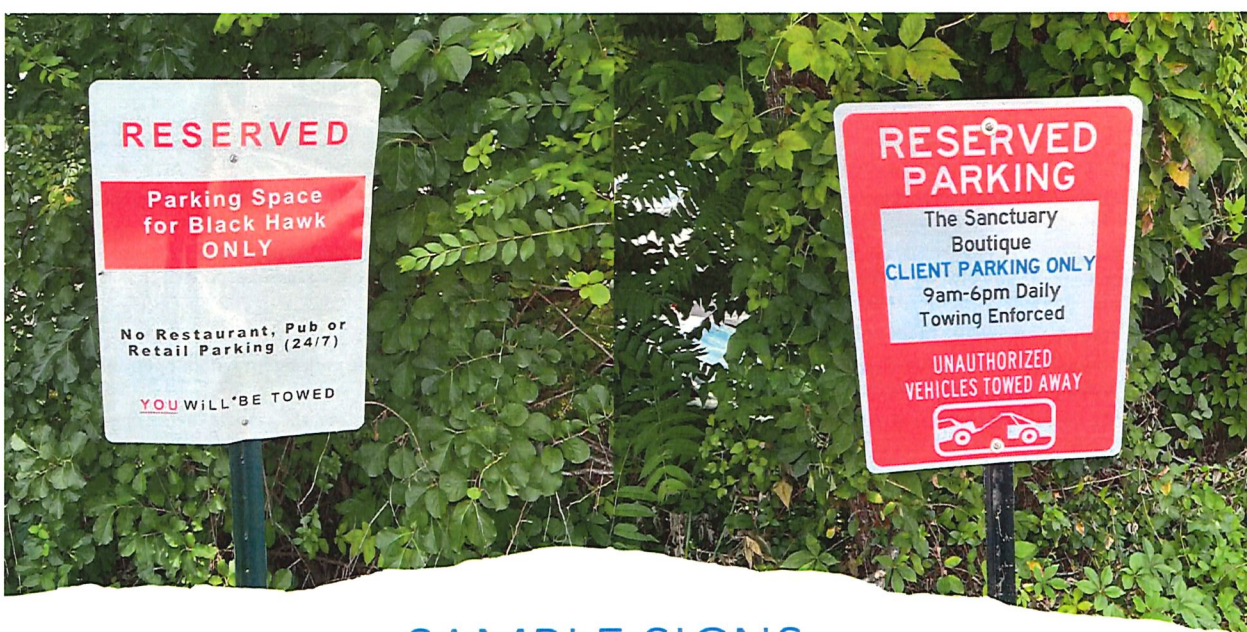
### Other Posting Requirements (Size & Location):

#### All Private Lots (Post to tow)

- 18x24 min, 6 sq.ft max
  - Each access into the lot & at least 1 other location on the lot (or enough to be visible from every space) OR
  - At each restricted parking space
- Combination of signs (adjacent) can be used.
- Existing signs can be "added to"; exempt from lettering size (updates must comply)

#### Commercial Parking Lots (Post to Charge)

- 18x24 min, 6 sq.ft max
  - At least 1 sign must be visible from every space) AND
  - A minimum of 2 signs on the lot
- Combination of signs (adjacent) can be used.
- Existing signs can be "added to"; exempt from lettering size (updates must comply)



### SAMPLE SIGNS:





## Requirements for Towers\*

- Only tow from properly posted private parking lots
- Accept cash, debit and 2 major credit cards
- Only tow to storage lots that:
  - Within 15 miles from point of tow
  - Secured, signed and lighted
  - Accept cash, debit and 2 major credit cards
- Respond to calls within 15 minutes, 24/7; make vehicle available within 30 minutes of response; no more than 45 minutes from call.
- Report tows to HPD
- Place bright orange notice on wind shields if boot
- Get permit from HPD and provide information to be kept on file at HPD
- Carry liability insurance
- Have fee schedule (posted and on file with HPD)
- Give itemized receipts with tower's name and reason for tow/boot
- Release for the posted fee if owner returns before tow or boot complete
- Allow retrieval of personal property from vehicle.

\*Note: Any person who causes or permits a tow from private lot is also held to posting standard, i.e. owners and operators of lot.

## Requirements for Owners and Operators of Private Lots

- Only allow/call for tow if lot is properly posted (Post to tow)
- If a commercial lot (Post to charge):
  - Post all fees charged
  - Accept debit and 2 major credit cards for payment.
  - Post telephone number; respond M-F during normal business hours.
  - Provide method of customer to contest fees.



## Exceptions to Notice Requirements for Private Parking Lots

- Tow is made pursuant to Chapter 36, Article VI of City Code: Abandoned and Junked Vehicles
- Towing is authorized by NC General Statutes (e.g. repossession)
- Tow is court ordered
- Tow is pursuant to order of a law enforcement officer

## Penalties

- Enforced by HPD, including unsworn employee if designated by Chief
- Civil Penalties:
  - \$300 first offense
  - \$600 if 2<sup>nd</sup> offense in 1 year period
  - \$1200 if 3<sup>rd</sup> or more offense in 1 year period
- Permit revocation if 3 or more offenses in 1 year period (90 days, must reapply)
- Equitable remedies
- Not criminal

## Other Points:

- Proposed Effective Date: November 1, 2023
- Only applies to tows from private lots, as defined in the Ordinance
- Can't use words that would tend to deceive the public into thinking that fees/invoice/lot are the City's.

*Council Member Jennifer Hensley moved that City Council to adopt an Ordinance of the City of Hendersonville City Council Adopting Certain Provisions Regarding the Nonconsensual Towing of Motor Vehicles from Privately Owned Lots, as presented. A unanimous vote of the Council followed. Motion carried.*

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

#### **A. August 2023 Contingency Report – John Connet, City Manager**

City Manager Connet said your contingency report is included in your packet for your review in accordance with State Statute 159-13(b) it is required that all expenditures resulting from a



contingency appropriation budget be reported to the governing board at its next regular meeting and recorded in the minutes.

The following contingency appropriations were made due to an insufficient budget for IT Permits, Licenses, and Fee costs:

1. Decrease Fund 010 contingencies by \$20,000 for IT Permits, Licenses, and Fees
  - a. Increase 010-1010-531210 by \$20,000
2. Decrease Fund 010 contingencies by \$12,000 for IT Permits, Licenses, and Fees
  - a. Increase 010-1010-531210 by \$12,000
3. Decrease Fund 010 contingencies by \$16,000 for NC Association of Police Chiefs
  - a. Increase 010-1300-519200 by \$16,000

He added that he would like to thank City staff for a great Labor Day weekend with the apple festival. We had a great weekend and you couldn't ask for better weather.

## 12. CITY COUNCIL COMMENTS

Council Member Jerry Smith asked does the DEI Committee cost money? They don't have a budget right? We have staff time. City Manager said no, they don't have a budget, they're not spending any money. Not anything out of the ordinary that we do for others boards and commissions.

Council member Lyndsey Simpson said the Tree Ordinance Board has had two meetings and they were very productive and our next meeting is October 3<sup>rd</sup>. Daniel has been crushing it with all of the changes that we talk about in the meetings. I'm hopeful that we'll be able to get something together for everyone to see very soon but there are some major things that we may need to have longer discussions on.

Council member O'Neal-Roundtree thanked Gen H for attending Back to School Fest.

Mayor Volk thanked all of staff for their help during Labor Day weekend and Apple Fest.

## 13. CLOSED SESSION


*Council Member Lyndsey Simpson moved that City Council enter closed session pursuant to NCGS § 143-318.11 (a) (1) 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, And the public body and to consider the qualifications, competence, performance, character, fitness of an individual public officer or employee.*

## 14. ADJOURN

There being no further business, the meeting was adjourned at 8:48 p.m. upon unanimous assent of the Council.

ATTEST:

  
Jill Murray, City Clerk

  
Barbara G. Volk, Mayor

